

# MINUTES OF THE REGULAR PLANNING COMMISSION MEETING

## PLANNING COMMISSION/ BOARD OF ZONING APPEALS

March 20, 2007

**Commissioners Present:** Cowman, McLean, Gage, L. Smith, Rhodes, Wrischnik

**Others Present:** Justin Givens, Ross VanderHamm, Brian McCauley, Amy Barenklau, Brian Faust, Teresa Faust, Dr. & Mrs. Kenneth Head, John Kramer, Jr., Jack Rowlett, Jim Pritchard, Mayor Stuteville, Ericka Smith, Chad Wiswell, Edith Johansen, Rose Ann Taylor, and others

**Item 1: Consider minutes from the February 20, 2007 meeting**

Chair Cowman called the meeting to order with the first order of business the consideration of the minutes from the February 20, 2007 meeting.

*Commissioners McLean and Cowman made a motion to approve the minutes as submitted with all Commissioners voting in favor.*

**Item 2: Conditional Use Permit – Consider a Conditional Use Permit Application for Longhorn Ranch Trailer Sales at 803 Baptiste Drive**

*Commissioners Gage and McLean made a motion to open the Public Hearing with all Commissioners voting in favor.*

Planner Givens stated that the applicants, Chad Wiswell and Ericka Smith were in attendance, then presented the staff brief. Applicants Erica Smith and Chad Wiswell have applied for a Condition Use Permit for the outdoor storage of materials in a thoroughfare access district. Mr. Wiswell originally approached staff and inquired about locations in or around Paola for his newly formed trailer sales business. A site was selected on Baptiste next to the existing Dodge Dealership. The business has been open as it is also a retail sales store for Western Décor and Accessories. The applicants we given permission to temporarily store trailers (for less than 24 hours) on the site and worked out an arrangement with the neighboring property to store trailers for an extended period. The dealership has approval for outdoor storage.

**Analysis:** The outdoor storage of sale items or materials is listed as a conditional use in the LDO. The area is zoned retail and the sale of trailers blends with the neighboring property. Section 21.220 of the LDO provides standards for the Planning Commission to consider when making a recommendation to the City Council. Those standards are as follows;

**9. APPROVAL STANDARDS**

Approval of a conditional use application by the Planning Commission shall be dependent upon finding that the proposed use fully complies with the Land Development Ordinance. The following additional standards shall be met:

- A. The proposed use shall be consistent with the Comprehensive Plan's purposes, goals, objectives, and policies, including standards for building and structural intensities and densities, and intensities of use.**

The use would be encouraged under the Comprehensive Plan in that it uses existing business land to help promote retail business in the community and that the business provides a service or product that is not currently available in the area.

- B. The proposed use shall be compatible with the character and land in the immediate vicinity.**

Several businesses in the area have outdoor storage of goods including the property adjacent to the building (Dodge Dealership) and across the street (Family Center)

- C. The proposed use's design shall minimize adverse effect, including visual impact of the proposed use on the adjacent lands.**

As state above the business adjacent to this property is a car dealership and has, numerous vehicles stored outdoors. This proposed use would have no more adverse impact that that of its neighbor.

- D. The proposed use shall minimize adverse impacts on the environment, traffic and congestion, infrastructure, or governmental services.**

The area for the proposed use is in a commercial district and all services are existing. The area is also undergoing extensive work on the roads to help improve traffic. This use would not add to the any congestion that there might be in the area.

**Issue:** Does the Commission wish to issue the Conditional Use Permit and if so, what if any conditions on the storage of materials does it wish to impose.

**Actions:** Recommend the Conditional Use Permit to the City Commission  
Not Recommend the Conditional Use Permit  
Table the Matter for further study or information

**Recommendation:** It is staffs recommendation that the Commission recommend the approval of the Conditional Use Permit to the City Council

Edith Johansen, neighboring property owner, inquired about the number of trailers that would be stored and where they would be stored. Ms. Johansen and Rose Ann Taylor inquired if there would be a buffer zone required and how close to neighboring properties trailers could be parked. Planner Givens stated that there would be a 20-foot setback for storing trailers, which could be accomplished with landscaping or fencing.

Applicant Chad Wiswell indicated that they had no way to anticipate the number of trailers they would store, as they hope to grow the business. However, immediately they anticipate 10-15 trailers being stored at the property.

Brian Faust inquired about a site plan which would help identify parking, setbacks, buffer yards.

Commissioners Cowman and Gage stated they felt there were some missing pieces. Commissioners Cowman said that a change of use should trigger hard surface parking, bufferyard, lighting, signage, parking for Customers.

Commissioner Gage stated he felt he needed a site plan, and would like to give the applicants time to submit that item. Commissioner Cowman stated he thought it would be best to table the public hearing to give the applicant time to submit a site plan.

*Commissioners Gage and Cowman made a motion to table the public hearing for the Conditional Use Permit until the April 17<sup>th</sup> meeting. All Commissioners voted in favor.*

Ms. Johansen told the members that she is not against the business, she just wants to understand their intentions.

**Item 3:           Conditional Use Permit** – Consider a renewal for a Daycare Conditional Use Permit at 29300 W. 303<sup>rd</sup> – Angela Frizzell

*Commissioners Gage and McLean made a motion to open the public hearing with all Commissioners voting in favor.*

Planner Givens stated that the applicant was in attendance and then presented the staff brief. Ms. Frizzell originally was issued a Daycare Conditional Use Permit in March of 2006. The Conditional Use Permit is valid for one year after it is first issued. If this renewal is approved Ms. Frizzell would not have to apply for another three (3) years.

**Analysis:** The following are approval standards from Section 21.220 of the LDO

## **APPROVAL STANDARDS**

Approval of a conditional use application by the Planning Commission shall be dependent upon finding that the proposed use fully complies with the Land Development Ordinance. The following additional standards shall be met:

- A. The proposed use shall be consistent with the Comprehensive Plan's purposes, goals, objectives, and policies, including standards for building and structural intensities and densities, and intensities of use.
- B. The proposed use shall be compatible with the character and land in the immediate vicinity.
- C. The proposed use's design shall minimize adverse effect, including visual impact of the proposed use on the adjacent lands.
- D. The proposed use shall minimize adverse impacts on the environment, traffic and congestion, infrastructure, or governmental services.

## **ADDITIONAL APPROVAL STANDARD**

In addition to the general standards for evaluating a Conditional Use Permit application, the following standards shall be considered when the application is for a day care center:

- A. Outside play areas shall be fenced.
- B. The day care provider shall be licensed by the State of Kansas.
- C. The maximum number of children or adults allowed will be determined as part of the conditional use permit. Any increase in the number of children or adults shall require a new conditional use permit.
- D. Prior to the approval of a day care center, location for the center shall be inspected for compliance with any applicable building and/or fire codes. If any deficiencies are found, they shall be corrected prior to the Planning Commission's recommendation to the City Council.
- E. The first conditional use permit shall be valid for a maximum of one year from the date of approval. The first renewal of the conditional use permit may be approved for three years. Subsequent renewal may be approved for up to five years. Renewals are subject to the publication, notification, and public hearing requirements of the initial approval.
- F. Such other conditions, as determined by the Planning Commission, to be necessary to protect the public health, safety, and welfare.

**Issue:** Does the Commission wish to recommend the renewal of the Daycare CUP for this property?

**Actions:** Recommend approval of the renewal to the City Council  
Not recommend the approval of the renewal to the City Council  
Table the matter for further study or information

**Recommendation:** It is staff's recommendation that the permit be extended.

There were no additional comments from those in attendance.

*Commissioners Gage and Cowman made a motion to close the public hearing with all Commissioners voting in favor.*

*Commissioners Cowman and Gage made a motion to approve the three-year renewal for the Daycare Conditional Use Permit at 29300 West 303<sup>rd</sup>. All Commissioners voted in favor.*

**Item 4:       Rezoning Application** – Consider a request from Miami Realty to rezone certain property from Suburban (S-1) to Neighborhood Conservation (NC-R1) (Property is adjacent to Country Club Estates, a full legal description is on file at City Hall)

*Commissioners Gage and Cowman made a motion to open the public hearing with all Commissioners voting in favor.*

Planner Givens stated that the applicant, Harold Sevy, was in attendance, then presented the staff brief. Miami Realty is requesting property that it owns to be rezoned from Suburban to NC-R1. When the LDO was established un-platted residential areas were zoned Suburban to accommodate future growth. Some areas that were not platted especially the area being requested to be rezoned are directly adjacent to Neighborhood Conservation Districts

**Analysis:** Section 21.210 of the LDO provides that a landowner, the City Council, or Planning Commission may propose Zoning Map Amendments. Section 21.211 provides standards to evaluate all proposed Zoning Map Amendments. The following are those standards.

- A.     The proposed change is consistent with the City's Comprehensive Plan and the purposes of this Ordinance. In areas of new development, consistency with the Comprehensive Plan shall be considered to meet the standards in B., C., and D. below, unless the proposed amendment would threaten public health, safety, and welfare if so designated as planned in the Comprehensive Plan.
- B.     The proposed change is consistent with the character of the neighborhood.
- C.     The extent to which the property is consistent with the zoning and use of nearby properties.
- D.     The suitability of the property for the uses to which it has been proposed or restricted.
- E.     The extent to which the proposed use would substantially harm the value of nearby property.

- F. The length of time a property has remained vacant as zoned, where the zoning is different from nearby developed properties.
- G. The gain, if any, to the public health, safety and welfare due to denial of the proposed amendment as compared to the hardship imposed upon the landowner, if any, as a result of denial of the proposed amendment.
- H. Recommendations of permanent or professional Staff.

The rezoning request is applicable in almost all of the above criteria. It is consistent with the Comprehensive Plan as new development should be encouraged in areas with existing infrastructure before developing those areas that would require extensive and long extensions of services. The parcel of land would be rezoned to the same classification as that land to the west of the property. There would be no harm to the value of the adjacent land owners and it is more suited to the NC-R1 zoning than Suburban and there is no gain for public benefit if the parcel is not rezoned.

**Issue:** Does the Planning Commission wish to recommend the rezoning of this parcel of land?

**Actions:**       Recommend the Zoning Map Amendment to the City Council  
                           Not recommend the Zoning Map Amendment to the City Council  
                           Table the matter for further discussion or more information

**Recommendation:** It is staffs recommendation that the Planning Commission recommend the Zoning Map Amendment to the City Council

Mr. Sevy spoke about the zoning classifications and that the requested zoning, NC-R1, protects the residential character of surrounding neighborhoods. The plans are to match the last several phases of Country Club Heights with the larger lots.

Dr. Head inquired if the main difference in the 2 zoning classifications was lot sizes, to which Planner Givens agreed and indicated that setbacks and lot widths varied, as well.

Commissioner Gage inquired if this had been platted previously and now re-zoning request was being submitted after it was completed. City Manager VanderHamm indicated that the Commissioners had only seen a conceptual plan on this parcel.

Mayor Stuteville inquired if green space requirements were the driving reason for requesting the rezoning? Mr. Sevy indicated it was and that the layout with the railroad made it difficult to meet the green space requirements as currently zoned.

Brian Faust stated that he had seen the concept plat and it looked nice, and then inquired why NC-R2 zoning was requested as it allows duplexes. He stated his concern that if it was rezoned as NC-R2, then sold, someone else could develop as multi-family or with the smaller 6,000 square foot lots.

Commissioner Gage inquired about potential water drainage issues. Mr. Faust indicated that there was an area between this plat and Cedar Heights where detention ponds would be necessary.

Mr. Sevy stated he thought that the notification letters had stated NC-R1 as the rezoning request. Planner Givens stated that the brief sheet had a typographical error and that NC-R1 was the correct zoning classification that was requested.

Councilman Jim Pritchard stated that he had only received one call in regards to the rezoning and it had been in regards to lot sizes and if they could be bigger; if there were restrictions on size and height of homes. Mr. Sevy indicated that the covenants would address home sizes and height. Planner Givens stated that the LDO also places restrictions on minimum sizes of homes and height limitations.

There were no additional comments from those in attendance.

*Commissioners Cowman and Gage made a motion to close the public hearing with all Commissioners voting in favor.*

*Commissioners Gage and Smith made a motion to approve the request to rezone the property as NC-R1. All Commissioners voted in favor.*

**Item 5: Discussion of Farmers Market**

Planner Givens stated that he pulled this item prior to the meeting.

**Item 6: Discussion of 50 Ft. Right of Ways**

Planner Givens presented the staff brief. As an ongoing discussion topic, several developers have requested that staff and the Planning Commission look into dropping the Right of Way requirement from 60' to 50'. The Planning Commission has had several discussions on the matter including a work-study session.

**Analysis:** At this time, several developers are holding on future plats, as they are not sure what the R-O-W requirement will be. One alternative to changing the requirement would be for a variance for any particular development. In this situation, we would be able to safeguard against future Indian Hills type developments and the problems that have occurred in this area. By controlling the setbacks, density, street width and other requirements would help to protect the city against future problems or issues.

**Issue:** Would the Planning Commission be receptive to variances of 50 foot Right of Ways?

**Actions:** No action is required at this time. This matter is merely for discussion purposes.

There was discussion about the reasons the item was brought for discussion and a brief review of the history and reasoning for the item. Commissioner Cowman voiced his concern about increasing setbacks if the decision to go to 50-foot ROW was made.

Brian Faust said he was concerned about utilities and that having a narrower ROW would create tighter working space for the utility providers. Harold Sevy indicated that KCPL was in the process of sending letters to all municipalities stating a requirement to put all of their stuff in the front ROW. The letter indicates that an ordinance would be necessary for rear lot line easements in municipalities.

There was additional discussion about concerns from Commissioners. Planner Givens indicated he was trying to get a feel if the Commissioners were receptive to the change.

John Kramer, Jr. stated that he is a partner in a piece of property that is currently land locked. The only existing entry is a platted 50-foot ROW. The partners had been told by previous city staff that 50-foot ROW for the development would be considered. Jack Rowlett, another partner, expressed his concern about incurring additional costs to the project if they tell their engineer to design with 50-foot ROW and then it is not allowed.

Commissioners Gage, McLean, Smith and Cowman expressed that they would not like to change Right-Of-Way requirements in the LDO, but would rather look at variances to the requirements when applications were received.

Commissioners Gage and Cowman stated they would be comfortable reviewing a variance request for 50-foot Right-Of-Way with 35-foot setbacks when necessary for development.

**Item 7:           Text Amendment to the LDO - Consider an amendment to the Land Development Ordinance – Landscaping Requirements**

***Commissioners McLean and Cowman made a motion to open the public hearing with all Commissioners voting in favor.***

As part of the standard review process that we should maintain to keep our LDO a working document, staff has been asked to review the requirements for the numbers and size of shrubs that are required in a Standard Plan Unit and all Alternative Plant Units. Often times the size of the shrubs delays the issuance of a Final Certificate of Occupancy. A public hearing was scheduled at the last commission meeting to consider a text amendment for changing the requirements from three (3) foot high shrubs to a gallon based size shrub.

**Analysis:** Shrubs are required to be 3 feet high and vary in number from 3 to 13 depending on the type of plant unit being used. The intention of the landscaping requirements in the LDO is to provide ground cover and minimize run-off as well as creating mature looking sub-divisions. I

feel that the numbers of shrubs is effective at this but the size requirement is restrictive in price and sometimes unachievable. After discussing this matter with Master Gardeners, Landscape Designers, and Builders an alternative to the height requirement would be a gallon size.

**Issue:** Does the Planning Commission want to recommend this text amendment to the City Council?

**Actions:**       Recommend the text amendment to the City Council  
                      Not Recommend the text amendment to the City Council  
                      Table the matter for further discussion or more information

**Recommendation:** It is staffs recommendation that the Planning Commission recommend the text amendment to the City Council.

There was discussion about what is readily available in the landscaping market for the builders. Brian Faust agreed that in the past it has been hard to enforce due to the difference in the height of newly planted shrubs. Staff in the past has enforced that the mature height of the shrub be 3-feet.

Harold Sevy agreed that gallon sizing is more standard. He stated that in his communications with nurseries they are not aware of caliper regulations. He indicated that there are a lot of open occupancies due to landscaping requirements.

***Commissioners Cowman and Smith made a motion to close the public hearing with all Commissioners voting in favor.***

***Commissioners Cowman and Gage made a motion to approve the proposed text amendment change to the LDO for shrub requirements. All Commissioners voted in favor.***

**Item 8:       Review and Recommendation of Planning Fee Increases -** Consider a recommendation for an increase in the fees associated with Planning and Zoning

The Planning and Zoning fees that the city charges are set by the City Council and have not been reviewed in some time. Staff has been asked to review our fee schedule and in conjunction with the Planning Commission make a recommendation on appropriate fees. During the last commission meeting, increases were discussed and some parameters and guidance from the Commission was given.

**Analysis:** Staff reviewed the current fees schedule versus other communities in the area. The City's rates were among the lowest in the area. After reviewing the rates of other cities I believe that an acceptable rate increase can be accomplished while remaining lower with some of the area cities. I have provided a comparison chart that shows the current rates of Paola, proposed increase and how those fees sit in relationship to other communities. The increases range from \$50 to \$125 but keep Paola's fees lower than many communities in the area.

**Issue:** Does the Planning Commission wish to recommend a fee increase to the City Council.

**Actions:** Recommend the fee increase to the City Council  
Not recommend the fee increase to the City Council  
Table the matter for further discussion or information

**Recommendation:** It is staffs recommendation that the Commission recommend the fee increase to the City Council

Commissioner Cowman asked when the last increase to the fees had occurred. Brian Faust stated they had been reviewed three years ago, but no increases had occurred. He said his best recollection for the last change would have been in the early 1990's when they were established.

*Commissioners Cowman and Wrischnik made a motion to recommend approval of the planning fees to the City Council. All Commissioners voted in favor.*

**Item 9: Items from Staff**

**A.) Front Loading Houses**

Past additions to the LDO eliminated the "Snout House" and made front loading garaged houses very difficult to accomplish under the new regulations. This has been a topic of discussion in past meetings as well. The following sections of the LDO regulate these types of houses.

**SECTION 08.140 STREET YARD SETBACKS**

3. The front wall of the house shall be at the minimum setback line. The garage shall have a minimum setback of 25'.(Ordinance 2789, 11/27/01)

**SECTION 11.250 RESIDENTIAL ACCESS DRIVES**

Residential access drives shall meet the following:

D. Where alley access is available, the garage or carport shall take access from the alley. *Exceptions.* When the Public Works Director determines alley access cannot reasonably be provided, and the access will not create safety problems, the Public Works Director may approve an alternate access plan. (Ordinance 2789, 11/27/01).

**Analysis:** Where there is no alley access available, this type of house is certainly an option for builders. However, in discussing this issue with the Public Works Director he would not be apposed to all houses having access from the street as opposed to the alley. In addition, several builders have designs that reduce the length of the garage in the front, especially those designs that can meet setbacks with the front walls as well as with the garage.

**Issue:** Does the Planning Commission wish to consider text amendments to the LDO to allow for these types of houses in all areas.

**Actions:** No action is required at this time; this is for discussion purposes only.

Planner Givens said that he felt there were certain areas they make sense. He indicated that Gerry Bieker preferred entrances and exits be made to the street instead of alleys. Givens then asked if the Commissioners wanted to consider amendments to allow for front loading houses.

Commissioner Cowman stated he believes in the neighborhoods and character in the City of Paola. He stated he felt access should be taken from the alley if there is or can be access. Commissioners Wrischnik, Gage and McLean voiced their agreement.

### **B. Doherty Ornamental Iron Expansion**

Doherty Ornamental Iron was issued a Conditional Use Permit #99CUP1 for an existing use when the Land Development Ordinance was made effective. Under Ordinance # 2722, they were granted the right to expand his business as long as he met the required setbacks of 100 feet on the north, south and west property lines until a time when the neighboring properties are zoned industrial. The company is planning an expansion and has provided a preliminary site plan and elevations drawings.

**Analysis:** The addition will be metal framed and skinned which is generally allowed in the Estate District as well as allowed in any I zone. Additionally, the site plan shows that the expansion stays within the required bufferyard of 100 feet from the property line.

**Issue:**

**Actions:** None

**Recommendation:** None

The Commissioners were pleased to see the expansion of an existing business.

### **Item 10: Items from Commissioners**

Planner Givens updated the Commissioners on the Rent-A-Center storage containers. Staff had mailed a letter to the business and property owner.

Givens stated that Mark Minden has asked to resign from the Planning Commission. He noted that he had given some suggestions for replacements to staff.

Commissioner McLean inquired about his three items that he had mentioned previously.

**Item 11: Adjourn**

*Commissioners Cowman and McLean made a motion to adjourn the meeting with all Commissioners voting in favor.*