

MINUTES OF THE REGULAR PLANNING COMMISSION MEETING

**PLANNING COMMISSION/
BOARD OF ZONING APPEALS
October 21, 2008**

Commissioners Present: Cowman, McLean, L. Smith, Gage, Wrischnik, Bonner, King
Commissioners Absent: None

Others Present: Amy Barenklau, Jay Wieland, Brian McCauley, Margie Reeder, Mary E. Kaiser, David Lee, Steven Haffener, Ryan DeBok, Lyle and Roberta Briley, David Dietrich and others

Item 1: Consider minutes from the September 16, 2008 meeting

Chair Cowman called the meeting to order with the first order of business the consideration of the minutes from the September 16, 2008 meeting. Commissioner McLean asked to be removed from those in attendance at the meeting, as he was absent.

Commissioners Cowman and Gage made a motion to approve the minutes with noted changes. Commissioner Smith stated he was abstaining from the vote. All other Commissioners voted in favor.

Item 2: Re-Plat of Paola Business Park No. 3 (08-PLAT-03)–Kaiser property at the SE corner of Baptiste Drive and Hedge Lane

Amy Barenklau stated the applicant and property owners were in attendance and then presented the staff brief. Rosened, LLC proposes the re-plat of 8.66 acres of Paola Business Park No. 3. After the concept plat was submitted for your review during the September 16, 2008 meeting, the applicants decided to re-plat only one lot at this time.

During review of the plat, it was found that the lot split for Arby's was not recorded after initial submission to the city in 2003. Staff contacted Taylor Design Group and they have since submitted a lot split for that one lot which will be reviewed and filed prior to the filing of this re-plat. They preferred not to include that parcel in the re-plat, as they had concerns about getting Arby's to sign the plat and any potential concerns that might arise. The revised plat includes two parcels (Lots 1 and 2) in the area where no individual parcels been shown on the final plat. The lots meet the minimum standards required by the Land Development Ordinance. The remaining lot (Lot 2) will most likely be re-platted in the future as potential developers look to purchase parcels from the property owners.

Infrastructure and utilities are present at proposed Lot 1; there are some developmental concerns that will need to be addressed during future platting and/or development discussions with property owners or developers. All applicable requirements for site development such as walks, parking, lighting, signage, etc., will be discussed during individual site development discussions.

A few small technical changes need to be to the plat document prior to going to the City Council. Changes include:

1. There were several technical items (measurements, notes) that need to be corrected or verified prior to filing of the re-plat.
2. Application and completed filing of the lot split for the Arby's lot that has a recorded deed at Miami County.

The landowner has agreed to all the changes.

Lot Sizes

Potential use, at this time, for Lot 1 is a 'commercial office'. The LDO minimum lot requirements are 10,000 square foot lots with a minimum 80-foot lot width. 'All Other' uses in Thoroughfare Access require a one-acre lot with 150-foot lot width. The proposed lot will meet the minimum lot requirements for most uses that will develop in this location.

Sidewalks

Sidewalks will be required and will be addressed with individual lot development. Staff will ensure that staff and applicants work together for best utilization of walks and drives.

Access Standards

A private street provides access to the parcels from Hedge Lane. The future owners of parcels will have to agree to take access from the private street, as well as to participate in maintenance of the private street.

The minimum access spacing between driveways or between the centerline of an intersection and driveway on Hedge Lane and Peoria Street is 150'. Any additional driveways for future parcels will need to meet access spacing standards.

Floodplain

None of this property is located in the 100-year floodplain.

Topography, Drainage, Soil Conditions

As with any parcel of land, there are concerns about drainage and some challenges to determining locations for city services on future parcels. However, staff and the developers are

aware of some potential concerns and will work closely during future platting/development of the remaining parcels.

Commissioners Gage and Smith made a motion to recommend approval of the re-plat with resolution of the two items. All Commissioners voted in favor.

Item 3: Preliminary/Final Site Plan – change of use (08-PPC-03): Consider an application from Leon Briley for parking lot for new use of space at existing non-conforming building

Amy Barenklau stated the applicants and members of the church were in attendance and then presented the staff brief. The applicant owns the building at 1101 Industrial Park Drive and for the past several years has operated the Briley family’s Sonic offices and warehouse in the existing structure. The Lighthouse Presbyterian Church has exhausted space at their current meeting location at 15 West Wea and was looking for a location to hold youth ministry activities. The Briley’s have offered a portion of the warehouse in which to hold youth services until a time in the future when a building can be built to house all Lighthouse activities. Section 23.230 of the Land Development Ordinance defines youth ministry services and youth center under ‘Assembly and Worship’.

Staff initially determined this would require a Conditional Use Permit (based on very limited information provided once work had been stopped) and began the process and publishing of the public hearing. After meeting with applicants and those involved in the project, more thorough information was presented and at that time, staff determined this would be an allowed use. Letters were sent to all property owners indicating that a public hearing was not necessary at this time.

In the Thoroughfare Access zoning district, ‘Assembly and Worship’ are an allowed use. However, since it is a change of use from ‘warehouse/office’, Section 21.265 of the Land Development Ordinance requires a site plan review.

Note: It is Staff’s understanding that this use has been occurring in the building for several months prior to our knowledge. It was only when staff was made aware that construction work was occurring in the warehouse space and a stop work order placed by building department staff that the applicants made contact with city staff. This seems to be a reoccurring issue with this particular group. Staff has made several attempts to reiterate the necessity to contact staff prior to making decisions, or starting a project so that city adopted regulations can be enforced.

It should also be noted that the applicant considers youth ministry activities to potentially include, but not be limited to the following:

1. Evening activities: Battle of the Bands, pitch tournament, chess tournament, movie nights, pop for a quarter, video game tournaments, dances, etc.

anticipated that Industrial Park Drive will be improved to a curb/gutter standard with enclosed storm system at some point in the future. These improvements will change the approach to this business. However, improvements to the approach were to be made in 2004.

- 3) **Exterior storage:** Exterior storage is not allowed.
- 4) **Trash Enclosure:** Must comply with Landscaping for Waste or Trash Storage Areas (Figure 03.212-Article 3 of the LDO). Currently applicant is utilizing a roll out cart which is stored inside. If a larger, more permanent cart is needed, or if this is left outside a trash enclosure shall be required.
- 5) **Landscaping:** This is an existing building. The use is changing and intensifying, a landscape plan review was performed in 2004. Former Planner Faust recommended at that time some landscaping be delayed until Industrial Park Drive reconstruction was complete. Current staff agrees with that recommendation provided a current landscape plan meets any additional requirements for the added use.
 - Applicant was granted a waiver in 2004, pending Industrial Park Drive. They are again requesting a waiver.
- 6) **Sidewalks:** Sidewalks are required along Hospital Drive and Industrial Park Drive. Currently, there is an existing sidewalk that terminates at the north property line of Heatherwood Estates. This sidewalk is to be extended northward to the west side of the entrance to this business (this also corresponds to the area where a curb line currently exists). In 2004, future improvements to Industrial Park Drive included sidewalks to the east of the existing entrance. Current construction plans do not include sidewalks on this side of Industrial Park; sidewalks would be the responsibility of the property owner. If the sidewalk is located immediately behind the curb, a 6' width is required.
- 7) **HVAC and Utility Screening:** Required if rooftop HVAC units are installed in the future.
- 8) **Signs:** No signs are proposed as part of the site plan. Any additional signage would require an approved sign plan and permits. All applicable requirements will apply at time of application.
- 9) **Drainage:** Must meet requirements of APWA 5600.
- 10) **Lighting:** No additional lighting is proposed at this time. If lighting is added in the future, permits will be required and all applicable requirements will need to be met at that time.
- 11) **Nonconforming Building:** Per Section 9.130 of the LDO, the building can remain in 'as is' condition. Any remodeling must comply with the LDO and all other applicable laws of the City.

Planning Commission Action:

The Planning Commission may take action on one of the following options:

- 1) Recommend approval of the site plan allowing Assembly and Worship at 1101 Industrial Park Drive, but establish conditions if warranted (see section below).
- 2) Recommend rejection of the site plan.
- 3) Table the matter for further study.

Conditions

- 1) All activities shall take place on applicants' property, unless written permission is received from surrounding property owners.
- 2) Hours of operation shall be limited to 8am – 12am Sunday through Saturday.
- 3) The maximum decibel level shall not exceed 70 decibels at the property line.
- 4) If a permanent trash dumpster is added, it shall be properly enclosed in a trash enclosure.
- 5) Parking area to be striped and ADA sign posted on building and on pavement as well.
- 6) Garage/bay doors shall not be left open during times of building occupancy.
- 7) Exterior activities to occur only during daylight hours.

Recommendation:

Staff feels that most of the site requirements for the change of use could be accomplished prior to the completion of the Industrial Park Drive reconstruction. The parking area could be improved and very minimal (if any) disturbance would occur during the reconstruction project. Additionally, parking lot landscaping and lot landscaping could be installed. Street trees will need to be installed at the end of the project. The approach will be installed during the project, so it seems reasonable to wait until the project to complete that item.

If the Planning Commission recommends approval of the site plan for Assembly and Worship at 1101 Industrial Park Drive, staff recommends the above conditions be included.

Staff noted that new developments had occurred since the brief sheets had been prepared. The City Council will be making a decision on the status of the project at next Tuesday's meetings. Staff recommended at this time the Commission table a decision on the approval of the site plan until next month so the status of the project can be determined.

City Manager Wieland added that the Council had studied the project and it is currently scheduled for bid letting in January. Due to the changes in the project and costs, the Council is not sure if they want to move forward with the project, or if they prefer to delay the project. This will be an item they discuss at next Tuesday's meeting. Manager Wieland stated he felt at a minimum the Council will delay the project for a year or longer based on cost share amounts.

Commissioner Gage inquired if continued use of the building would be allowed, because it would affect how he would vote. He stated he would like to see them be able to continue the use until a decision is made.

City Manager Wieland stated he would recommend that the applicant secure building permits first. His feelings are that traffic for the use will mainly be in and out. He is still waiting for answers on the approaches for this site from engineers.

Commissioner Cowman stated there were a lot of decisions to make, including parking and he felt it was appropriate to table the decision until next month.

Commissioners Cowman and Gage made a motion to table a recommendation on the site plan and requested waivers until next month.

Ryan DeBok, youth minister for the Lighthouse Presbyterian Church stated that he wanted to get permits to get in the space as soon as possible. Commissioner Cowman inquired if he understood the need to come to the Planning Commission for site plan approval and the requirements for building permits. Mr. DeBok stated that he did, and that the building department had come at his invitation to view work they were proposing.

Commissioner Cowman stated that there was a motion and second to table the decision. All Commissioners voted in favor of tabling the recommendation until next month.

Item 4: Site Plan – Weather Station (08-PPC-04): K-State University sponsored weather station site at Lake Miola

Amy Barenklau presented the staff brief. The Miami County Conservation District contacted staff several weeks ago about K-State University's interest in placing an automated weather station in Miami County. The conservation district was given guidelines for preferred soils, and two prominent locations in Miami County were located; one being an area near the upper camping spots at Lake Miola.

The area being considered is on the hill just to the south of the southwestern edge of the camping area. This is an area utilized during the fireworks display for parking. During other times of the year, it is an open 'pasture' and is mowed by a local farmer for hay. The K-State representative, Mary Knapp, met with staff on site on October 9, 2008, to discuss exact locations and to discuss the project in further detail.

City offices would have access to information obtained from the weather station. The information could be linked to our website and public works employees would have access to the information during wind, flooding, and cold weather events to help with planning and work schedules. The information harvested from the site would be part of a mesonet of numerous other counties across Kansas that provides important weather statistics for not only municipalities, but those in agriculture and other weather-related fields.

The LDO as currently written does not contain specific requirements associated with automated weather stations. A possible comparison between a weather station and a commercial communication tower (Section 3.334) could be made but there are a number of differences. The proposed weather station is approximately 30 feet (10 meters) in height. Most instruments are located at 2 feet, 6 feet or on top of the structure. The tower is anchored by three guy wires, which triangulate at 17 foot distances.

In looking at the requirements for a commercial communication tower, the only substantial item that cannot be met with this site is the requirement for a fence, as K-State has indicated they would prefer not to install a fence if possible.

STREETS AND SIDEWALKS:

No new streets are being proposed.

LOT STANDARDS:

The site being proposed is approximately 17 x 17 feet. The LDO does not specify any lot standards for this type of use. As no lot split or separation is being requested, staff feels there is adequate space for this requested use.

ACCESS:

Access to this site is from the upper camping area. There is a gravel road that is close to the site, but K-State wishes to leave the area as close to a natural state as possible. They have requested that there not be road access. K-State staff will perform quarterly checks, or more as necessary. Their staff will utilize existing drives and walk the short distance to the station.

HVAC:

No HVAC is required for this application.

DRIVE:

K-State does not need or desire a drive to the exact site location as site visits are limited.

PARKING REQUIREMENTS:

No parking is needed by K-State. There is ample space for parking in the camping area for the quarterly visits.

UTILITIES:

The weather station is powered by battery and solar power. Informational downloads occur via cellular telephone. There is no need for any utilities at the site.

OPEN SPACE:

The LDO does not address this use, but there is ample open space at the lake.

LANDSCAPING:

K-State wishes to maintain the site in its natural state, and the prairie grass/native grasses that surround the proposed site are preferred for this application. For accurate information and historical purposes the undisturbed site is ideal.

FENCING:

Typically, we would require fencing around a tower, and Public Works had hoped for fencing based on initial location. Once the exact location of the site was determined, staff feels comfortable that there is not an immediate need for fencing. K-State has indicated that past experience has shown that there is minimal disturbance and less interest in the equipment if it is left un-fenced. K-State has proposed to install the tower fence free, and monitor for any future need. They have indicated they would be willing to place temporary fencing (orange snow fence or similar) around the tower and guy wires prior to the annual fireworks presentation.

RECOMMENDATION:

Staff recommends that the Preliminary/Final Site Plan for the K-State sponsored weather station be approved, pending an agreement with K-State and the City of Paola.

All Commissioners voiced concerns with the site not being enclosed by a fence. The main concern was the City's liability since it is located on City property.

Commissioner Smith inquired as to the type of fencing that would be required. Amy replied that typically for towers, fencing material with a 1.00 opacity is required, but that the Commission had approved a site plan for the new water tower with a chain link fence for visibility reasons, if a fence was installed. Amy stated she believed 6-foot would be the height necessary.

Commissioners Bonner and Gage made a motion to recommend approval of the site plan for the weather station, upon resolution of the agreement with K-State and with the condition that a fence be installed. All Commissioners voted in favor.

Item 4: Staff Items

Staff updated Commissioners on the following items:

- 1) Comprehensive Plan update:** Previous staff did not present this to the county for review or any necessary approval. Current staff has submitted a copy of the finished plan for county staff review. They have confirmed with their attorney that they do not feel there is a need for the Board of County Commissioners to approve the Comprehensive Plan. Staff has confirmed this interpretation with Jim Kaup. County and city staffs agree county staff should review for any potential questions, concerns or disputes with county documents.
- 2) Hard Surface Driveway:** Staff is dealing with three separate issues. Below is a short synopsis of the issue and two have provided letters for your consideration.

- a. 603 E Osage – Former planner Givens approved a permit for a new garage at this address. During the final inspection, current staff indicated that per Section 15.525D of the LDO all driveways with access on public streets shall be hard surfaced. The homeowner is disputing the requirement, as they state former planner told them it would not be required as the drive exits to an alley. This drive exits to Ryan Street and is a hard surface street. The homeowner has submitted a letter for your consideration.

The Planning Commissioners asked staff to determine if there is a currently platted alley in this block. If the alley is platted, though currently un-maintained, the Commissioners felt comfortable that the accessory structure was not required to have a hard surface drive as it did not directly exit to a public street.

- b. 501 S. Pearl – Former planner Givens approved a permit for a new garage at this address. Again during final inspection, the need for a hard surface drive was noted on their final inspection. They stated that they were aware hard surface was required, but thought gravel was considered hard surface. This particular garage also requires a curb cut and for the homeowner to replace the sidewalk which is currently covered with gravel and being driven over. They have not provided a letter. Staff will send a letter with all requirements. Do you wish to give them a waiver to complete the drive within 6 months, or similar?

Planning Commissioners felt that the property owners would not have had reason to believe that a hard surface drive was not a requirement. They indicated they would like to see the drive installed in a timely manner, as well as replacement of the existing sidewalk.

- c. 1005 Baptiste Drive – Staff has been working with property owner since initial purchase to get the front lot striped and ADA marked, as well as to hard surface parking areas in back of building. Property owner has submitted a letter for your consideration.

The Commissioners felt that given circumstances and the fact that some of the required parking in the rear of the building is already hard surfaced that this was a reasonable request from the property owner. The Commissioners did ask staff to contact the property owner in regards to striping and marking handicap parking in the front parking area in a timely manner.

3) 3 North Paola Street setback: Staff approved a minor deviation in setback at this property as it is an in-fill lot in an existing neighborhood based upon setbacks provided on a plot plan during the permit application process. Building department staff alerted planning staff of an issue during an inspection for walls. A front porch and stoop were not shown on the plot plans and would have extended the footprint of the house to approximately 14-feet and was not

consistent with surrounding properties. Due to the situation, staff felt a compromise of allowing the front porch, but not the stoop would match the character of the neighborhood and allowed the builder to proceed with the porch only.

4) Political Signs: Staff has mailed two more letters to property owners that have large (4x8) signs, and had contact with a commercial property in town. Staff will continue to work with property owners throughout the election period.

5) Kodiak nuisance/zoning violations: Staff met with the planning director and building inspector that have been working with former planner Givens on this issue. After research and a meeting, it was determined that the county will continue to research and deal with nuisance vehicles on the Stewart Lane property. City planning staff will be sending a letter to Kodiak, LLC, on Old KC Road to determine exactly what uses take place at that property. Once that is established, a review of uses (allowed and not) will be made and a letter sent explaining that when the growth area was established and LDO adopted, somehow this slipped through the CUP process. The city will initiate the CUP and attempt to get a handle on this use through that process.

6) Illegal signs (flashing and home occupation): Staff has requested in the past that these be addressed, but no action was taken. Planning and building staff will be making a thorough list and sending letters to property owners that are in violation. Staff has been asked to make personal contact with those that may not be aware of regulations on flashing signs. Staff will be making visits in the near future to those that have not received verbal warnings in the past.

7) Expired Conditional Use Permits: Staff has been researching expired CUPs and making a list to research files to determine if action is necessary. A list will be provided to commissioners in the near future.

8) Outstanding variance items: Staff sent letters and has had contact with owners of Paola Auto Center and they have indicated they will remove the 'parts and service' sign from their building.

9) Re-zoning: Staff has been in contact with county planning staff and the residents. The county questioned if the city really wanted residential development in that area, especially with Doherty Ornamental Iron down the road. Once staff explained Thoroughfare Access and that it allowed some retail development along with the residential, county staff seemed comfortable with the re-zoning. Staff will begin obtaining legal descriptions and the application and notification process. Hopefully this will come before the commissioners next month if all deadlines can be met.

10) Mural: City Council adopted Ordinance No. 2980 pertaining to murals on October 14, 2008. Staff has included a copy of the ordinance with this brief.

Staff answered Commission inquiries on specific items.

Item 5: Items from Commissioners

The Commissioners inquired about the Planner position. City Manager Wieland stated that there were 39 applicants from 12 different states. He and the HR Manager have narrowed them down to ten applicants. A screening by an interview panel will narrow that to five applicants that will be interviewed for the position.

Item 6: Adjourn

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