

**MINUTES OF THE PLANNING COMMISSION MEETING**

**PLANNING COMMISSION/  
BOARD OF ZONING APPEALS  
May 19, 2009**

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

**Commissioners Absent:** Gage, Bonner, King

**Others Present:** Mike Gotfredson, Amy Barenklau, Jack Crossland, Joe Plummer, Barbara Courtney, Terry Courtney, Clint Stewart, Brian McCauley, Chad Oehlert

**Item 1: Pledge of Allegiance**

**Item 2: Consider minutes from the May 5, 2009 meeting**

Chair Cowman called the meeting to order. The first order of business was the consideration of the minutes from the May 5, 2009 meeting.

*Commissioners McLean and Wrischnik made a motion to approve the minutes as submitted. All commissioners voted in favor.*

**Item 3: 09-CUP-05 - Consideration and vote on renewal of a Conditional Use Permit for Design 4 Sports, Inc, at 7 South Agate.**

*Commissioners Smith & McLean made a motion to open the public hearing with all commissioners voting in favor.*

Planner Gotfredson presented the staff brief. He explained that the applicant desires to renew the Conditional Use Permit for Light Industry at the applicant's property. He stated that in reviewing the ordinance and stipulations for the conditional use, he feels the applicant is in compliance.

Mr. Gotfredson stated the only modification to the permit is to remove the requirement for the applicant to come back for renewal in the future. He stated that staff can monitor for any items that might need to be reviewed with the applicants.

Mr. Gotfredson stated his findings are that the application is consistent with conditions given in Ordinance No. 2927, the application is consistent with Section 21.220 of the LDO and that the application will not be detrimental to the health, safety or general welfare of the community.

Chair Cowman asked if anyone in attendance had any comments or questions. There were no comments from those in attendance.

*Commissioners Cowman and McLean made a motion to close the public hearing. All commissioners voted in favor.*

*Commissioners Cowman and Smith made a motion recommend approval of the renewal of the Conditional Use Permit for Design 4 Sports, Inc. at 7 South Agate Street with the following conditions:*

- 1. All work shall be completed within an enclosed structure.*
- 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. All printing and embroidery products not bio-degradable to be disposed of by approved methods and shall not enter the sanitary sewer system.*
- 5. If a permanent trash dumpster is added, it shall be properly enclosed in a trash enclosure.*
- 6. Parking area to be striped and ADA sign posted on building and on pavement as well.*
- 7. Property venting of production area to be provided that would not impact surrounding properties. Both the dryer and for any possible fumes from inks/dyes.*
- 8. Parking spaces to be established so as to maximize the site distance for drivers exiting onto Agate Street from the alley.*
- 9. At any time, the City may institute revocation of the conditional use permit for violations of the conditions of approval, expiration or the reasons specified in Section 21.225 of the Land Development Ordinance. The City shall provide notice to the landowner and public in the same manner as was provided for the establishment of the conditional use permit.*

*All commissioners voted in favor.*

**Item 4:           09-CUP-06 – Review of a Conditional Use Permit for Lonny Brewer, 404 North East Street.**

Planner Gotfredson presented the staff brief. He explained that the annual review of the Conditional Use Permit for this property had not been done in some time. He stated that there is no definition of review in the LDO. He stated that since it is not a renewal, the original permit was reviewed so that everyone was aware of expectations.

Mr. Gotfredson explained that he had met the applicant at the property and went through the business with Mr. Brewer. He felt the only issue was the total number of cars and inoperable vehicles on site. Mr. Gotfredson explained that due to the nature of a towing business that from time to time, the number of vehicles will spike. He felt that the fence on the property mitigates the negative impact to surrounding properties.

Mr. Gotfredson stated that if the commissioners felt there was enough of a problem to revoke the permit, then it could be pursued. He stated that he did not feel there was sufficient need to begin

a revocation process and that encouraging the applicant to correct issues as they are observed is the best way to work with the applicant going forward.

Mr. Brewer was in attendance to answer any questions.

**Item 5:**       **09-CUP-03** – Consideration and vote on application for a Light Auto Service business at 1121 E Kaskaskia Street, John O’Connor applicant.

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

Planner Gotfredson presented the staff brief. He reminded the commissioners that a similar request was granted in 2006, but since the property owner has changed, a new site plan submitted and conditions are different, the applicant was asked to submit a new application. He also explained that a site plan would be presented tonight as well. He provided an overview of what Conditional Use Permits are and that the proposed use is an allowed use, but that the planning commission and council can impose conditions that will lessen impacts on neighboring properties.

Mr. Gotfredson reviewed some pictures of the site and explained how conditions can help ameliorate some of those concerns expressed by property owners. The LDO provides criteria for imposing conditions upon the permit applicant. He read off the proposed conditions and stated that concerns from property owners brought up were the proximity of the entrance and parking to adjoining properties and the front façade.

Mr. Gotfredson stated that his findings were that the application is consistent with Section 21.220 of the LDO, the conditions of approval are consistent with Section 21.222 of the LDO and the application will not be detrimental to the health, safety or general welfare of the community.

Chair Cowman asked if there were any comments from those in attendance. Jack Crossland, 1119 E Kaskaskia explained that he will be the closest neighbor. He voiced his concerns about the location of the entrance and how it is so close to his property. He is concerned about blocking headlights and traffic. He asked if there were any plans for tire storage, as he had concerns about mosquitoes and asked if the proposed storm drainage was sufficient. He would like to see the building flipped to help eliminate his concerns.

Chad Oehlert, 810 Redbud, owner of the car wash inquired about the entrance and if there were going to be separate drives for entrance and exit, or just one. Mr. Gotfredson explained that there is only one proposed drive.

Joe Plummer, 1111 E Kaskaskia, inquired about fencing and trees. Mr. Gotfredson stated that a 6-foot sight obscuring fence is required. Clint Stewart, Taylor Design Group, engineering firm for Mr. O’Connor explained that they will not know exactly how many or which trees will be

removed until construction begins. Mr. Stewart explained that it was in the applicant's interest to leave as many trees as possible, so that they do not have to re-plant new ones at the end of the project.

Mr. Plummer inquired about a berm in addition to the fence to help eliminate the noise from the site. Mr. Stewart explained the amount of space needed to have a berm that could be maintained. He also explained that a berm would interfere with storm water detention and drainage on the west side of the property.

Barb Courtney, 1122 E Peoria, inquired about the type of privacy fence that is proposed and that she would like something presentable and a dumpster enclosure. Mr. Gotfredson and Mr. Stewart indicated that they would work with the applicant to ensure a nice looking fence would be installed.

There were no other comments from those in attendance.

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

Commissioner Cowman inquired about moving the entrance to the east side of the property, by the car wash. Mr. Stewart explained that after consideration and concerns about traffic flow, exiting, but that they had placed the entrance on the west side for good reasons.

Mr. Crossland inquired about increase in traffic along Kaskaskia Street. Mr. Stewart, commissioner Cowman and Mr. Oehlert all agreed that there will be at least a slight increase of volume heading west on the street.

Commissioner Cowman inquired about the possibility of a vinyl fence along the rear of the site and tire storage. Mr. Stewart indicated that he did not know the additional cost associated with vinyl fencing, but stated that he was sure the applicant and the firm would work to ensure that it would look nice. Mr. Gotfredson stated that the LDO does not allow exterior storage in the Thoroughfare Access zoning district.

Mr. Stewart stated that he was comfortable with the conditions that are proposed and that if the commissioners are comfortable with the request, he would like to move forward with the project.

Commissioner Cowman mentioned that in the past, there was an air compressor running after hours and he would like to see that addressed as one of the conditions for the use. Commissioner McLean inquired about the requirement for metal siding. Mr. Gotfredson indicated that the LDO requirements are for the street façade to be of decorative materials.

Commissioner Smith inquired about fencing requirements. Mr. Gotfredson indicated that wood or vinyl would be allowed. Commissioner McLean asked if waste and oil had been addressed on similar uses in the past. Commissioner Cowman recalled that some requirements had been imposed on Heritage Tractor in the past.

Commissioner Wrischnik stated that he did not like the location of the drive. Mr. Stewart stated that there is a fire hydrant along the east property line.

*Commissioner Cowman made a motion to recommend approval of the Conditional Use Permit for the light auto service business at 1121 East Kaskaskia Street with the following conditions:*

- 1. Construct a 6' privacy fence around the south and west section of the building.*
- 2. All work shall be completed within an enclosed structure.*
- 3. The maximum decibel level may not exceed 70 decibels at the property line.*
- 4. Normal hours of operation shall be limited 7 am – 7 pm Monday through Saturday and Noon – 5 pm on Sunday.*
- 5. At any time, the City may institute revocation of the conditional use permit for violations of the conditions of approval, expiration, or the reasons specified in Section 21.225 of the Land Development Ordinance. The City shall provide notice to the landowner and public in the same manner as was provided for the establishment of the conditional use permit.*
- 6. After business hours the air compressor shall be shut off.*

Commissioner Smith asked for more discussion on the privacy fence and stated that he preferred wood or vinyl fencing. Mr. Stewart stated that privacy fences are typically wooden and reminded the commissioners that if the applicant fails to provide the privacy fence, the City has the right to revoke the Conditional Use Permit.

*Commissioner Cowman asked for a second to the motion. Commissioner Smith seconded the motion as presented. All commissioners voted in favor.*

**Item 6:**        **09-PPC-01** – Consideration and vote on a preliminary/final development plan for a light auto service business at 1121 East Kaskaskia, John O'Connor, applicant.

Planner Gotfredson presented commissioners with comments from the engineering review. Mr. Gotfredson stated that there are not any major issues, but there are some things to work out. He stated that he would recommend adding a fifth condition; that the applicant satisfactorily comply with comments of the city engineer.

Mr. Gotfredson stated that his findings are that the application is consistent with Section 21.600 of the LDO and that the application will not be detrimental to the health, safety or general welfare of the community.

Mr. Gotfredson indicated that construction plans for the property will address some of the items recommended as conditions for the development plan.

*Commissioner Cowman made a motion to recommend approval of the development plan for the light auto service business at 1121 East Kaskaskia Street with the following conditions:*

1. *Provide landscaping plan consistent with the LDO.*
2. *Front façade and building colors to be consistent with the LDO.*
3. *Provide sidewalk as per City standards along Kaskaskia.*
4. *Provide lighting plan, as needed, consistent with the LDO.*
5. *Applicant satisfactorily comply with comments of the city engineer.*

*Commissioner Wrischnik seconded the motion. All commissioners voted in favor.*

**Item 7:**       **09-LDO-01** – Consideration and vote on an amendment to Section 03.362 Farmstands of the Land Development Ordinance (LDO) related to the location of the Farmer’s Market, City of Paola, applicant.

*Commissioners Smith and McLean made a motion to open the public hearing. All commissioners voted in favor.*

Planner Gotfredson presented the brief and explained that this is one of the housekeeping ordinance items that has been in need of change. Currently the LDO only allows farmer’s markets on the park square. He explained the changes that are proposed and recommended that Section 03.362 Farmstands be removed and Section 23.290(G) be modified.

Mr. Gotfredson stated that his findings are that the application is consistent with Section 21.212 of the LDO and that the application will not be detrimental to the health, safety or general welfare of the community.

There were no comments from those in attendance.

*Commissioners Cowman and McLean made a motion to close the public hearing. All commissioners voted in favor.*

Commissioner Cowman stated that he remembered when this was placed in the LDO; it was to deal with everyone that parks around town selling produce. He stated he didn’t feel it is a problem.

*Commissioners Cowman and McLean made a motion to recommend approval of the proposed amendments regarding farmstands. All commissioners voted in favor.*

**Item 8:**       **09-LDO-02** – Consideration and vote on amendments to various sections of the LDO related to special use permits on fairgrounds, City of Paola, applicant.

*Commissioners Cowman and McLean made a motion to open the public hearing. All commissioners voted in favor.*

Planner Gotfredson presented the brief. He explained that in working with the Miami County Fair Association to make improvements for life safety items, special use permits were found in need of modification. He explained that currently the LDO limits special events to twice a year per property.

Mr. Gotfredson explained the proposed changes. He explained that the changes would exempt the fairgrounds from the special use section. Special events will no longer be limited to twice a year, as it seems that this was not enforced and upon reviewing permits being issued, it does not appear that the number of events at any one location seem unreasonable. The last change is that sanitary provisions will be approved by the City and not Miami County.

Mr. Gotfredson stated that changes to Section 23.250 provide a definition for fairground and modify the definition of outdoor recreation to include fairgrounds. He stated that Section 23.290 will be amended to clarify further what a special event is and who must obtain a permit.

Section 21.212 provides criteria for evaluating text amendments. Mr. Gotfredson recommended that Sections 03.337, 23.250 and 23.290 be amended as proposed. His findings are that the application is consistent with Section 21.212 of the LDO and that the application will not be detrimental to the health, safety or general welfare of the community.

There were no comments from those in attendance.

*Commissioners Cowman and McLean made a motion to close the public hearing. All commissioners voted in favor.*

*Commissioner Smith made a motion to recommend approval of the amendments regarding fairgrounds. Commissioner McLean seconded the motion. All commissioners voted in favor.*

## **Item 9: City Planner Report**

Planner Gotfredson explained that he decided to postpone the review and public hearings on the Comprehensive Plan due to the number of items on this agenda. He asked that any comments or suggestions be forwarded to staff to be included in the review.

Mr. Gotfredson that there may be some discussion of the LDO at the next meeting, depending upon time. He stated that it is his intention to limit the discussion to major substantive changes. Plans are to discuss a few points at each meeting.

Mr. Gotfredson asked that commissioners notify staff if they are planning to be gone for meetings, so if there is a need to notice for a public hearing, we will be aware if a quorum will be present. This will help eliminate multiple noticing and costs associated with that process.

**Item 10: Items from Commissioners**

There were no items from the commissioners.

**Item 11: Adjournment**

*Commissioners Cowman and Smith made a motion to adjourn the meeting. All commissioners voted in favor.*