



Paola Planning Commission / Board of Zoning Appeals Agenda

Tuesday, April 18, 2023 - 5:00 PM

Paola Justice Center - 805 North Pearl

YouTube Link:

https://www.youtube.com/channel/UCElqDJjzXvXznUfKQomw/featured?view_as=subscriber

1. Pledge of Allegiance.

2. Approval of the minutes from the March 21, 2023 meeting.

★ Motion_____ Second_____ Vote_____

★ DeGrande__ McLean__ Cowman__ Parks__ Maurer__ Upshaw__ Dees__

3. Consideration and vote to recommend approval of a Zoning Map Amendment, 302 N Oak, Brady Brothers, LLC, applicant.

★ Motion_____ Second_____ Vote_____

★ DeGrande__ McLean__ Cowman__ Parks__ Maurer__ Upshaw__ Dees__

4. **PUBLIC HEARING** - Consideration and vote to recommend approval of a Conditional Use Permit for "Light Industry" at 118 S Silver, Legacy Properties & Development, LLC, applicant.

5. **PUBLIC HEARING** - Consideration and vote to recommend approval of a Zoning Text Amendment, Tiny Home Clusters, City of Paola, applicant.

6. Discussion on Conditional Use Permit, Paola Auto Care LLC, 102 S Hospital Dr.

7. Community / Economic Development Director Report.

8. Adjournment.

★ Motion_____ Second_____ Vote_____

★ DeGrande__ McLean__ Cowman__ Parks__ Maurer__ Upshaw__ Dees__

Note: When addressing the Commission, please step to the podium and state your name and address so that it can be recorded in the minutes of the meeting. In compliance with the American with Disabilities

**NEXT SCHEDULED MEETING
MAY 16, 2023**

**PLANNING COMMISSION /
BOARD OF ZONING APPEALS
MARCH 21, 2023 MEETING MINUTES**

Commissioners Present: Cowman, Dees, DeGrande, McLean, Maurer, Parks, Upshaw

Commissioners Absent:

Others Present: Jessica Newton, Randi Shannon, Leigh House, Debbie Hayes, LeAnne Shields - City of Paola

302 N Oak Applicants: Ike Brady - Brady Brothers, LLC, Eric Kallevig - Platinum Realty, Blake Harris - The Haven

501 W Chippewa Applicants: Tyler Luckey, Josie Jones, Donnie Jones

Others: Gordon Geldhof, Terry Courtney, Walt Bishop, Stephanie Connell, Stuart Connell, Pete Bell, Melanie Elliott, Justin Elliott, Jackie Eatinger, Howard Alfrey, Judy Welter, Mike Welter, Alan Hire, Nancy Geiger, Mark Fuchs, Kris Fuchs, Ramona Jones

Item 1: **Pledge of Allegiance.**

Item 2: **Introduction of New Planning Commissioner - Jennifer Dees**

Item 3: **Consideration of minutes from the January 17, 2023 meeting.**

Commissioner Cowman called the meeting to order. The next order of business was the consideration and approval of the minutes from the February 21, 2023 meeting.

Commissioner DeGrande made a motion to approve the February 21, 2023 meeting minutes. The motion was seconded by Commissioner Upshaw and all voted aye with Commissioners McLean, Parks, and Dees abstaining.

Item 4: **PUBLIC HEARING - Consideration and vote to recommend approval of a Zoning Map Amendment, 302 N Oak, Brady Brothers, LLC, applicant.**

Commissioner McLean made a motion to open the Public Hearing. The motion was seconded by Commissioner DeGrande with all Commissioners voting aye.

Planner Newton stated that the memo put together for the Zoning Map Amendment was based on information Brady Brothers, LLC submitted and asked the applicant to present any changes in information.

Eric Kallevig with Platinum Realty represents the property for sale at 302 N Oak on behalf of

Brady Brothers, LLC. Kallevig stated that formerly Brady Brothers, LLC was seeking the rezoning for use of multi-family at the property but as of yesterday the building is under contract for an event space for weddings with Blake Harris of The Haven event space.

Ike Brady represents Brady Brothers, LLC and stated the building was originally purchased for the use of either an event space or child care facility but the cost of code updates caused the sale of the property. A recent potential buyer was looking to turn the old building into an apartment building however an offer was recently received and accepted from The Haven.

Alan Hire represents Triangle Builders and suggests that tabling the meeting for another day to allow for more research information may be the best idea.

Blake Harris represents The Haven event space in Louisburg, KS and within the last 48 hours has placed an offer on the property at 302 N Oak. Mr. Harris has recently applied for a rural tourism grant in the amount of \$1.5 million to help with renovations of the property. This event space would help support other local businesses such as restaurants, gas stations, and the hotel. Mr. Harris states that he would develop contracts with wedding guests that would be cognizant of the neighborhood. The goal is to add suites upstairs so guests would have a place to stay overnight on the property. Events would end by 10 pm during the week and 11 pm on the weekends.

Planner Newton clarified that an event space could operate with a Conditional Use Permit (CUP) in the current NC-R1 zoning district or if the Zoning Map Amendment was approved the event space would not need to apply for the CUP.

Terry Courtney, 310 N Walnut, read her letter she mailed to each Commissioner. See "Attachment A"

Mark Fuchs, 9 Tower St., concerned about traffic especially the corner of Tower St. and Pearl St. This intersection is awkward and narrow and would not handle traffic well.

Justin Elliott, 307 N Oak, concerned about the change to Thoroughfare Access as mentioned in his letter attached. See "Attachment B"

Pete Bell, 209 N Castle, concerned about traffic and out of town drivers utilizing the existing hilly roads. Mr. Bell states that whatever economic development comes to town we should welcome.

Stuart Connell, 110 Tower St., concerned about traffic and late nights of an event center. Mr. Connell also submitted a letter that is attached. See "Attachment C"

Kyle Windler, 304 N Walnut, stated kids and animals utilize the green space and playground on the property that belongs to Brady Brothers, LLC. Windler stated an event space is good but not for this area, he also submitted a letter. See "Attachment D"

Stephanie Connell, 110 Tower St., is concerned about utilities, especially water pressure.

Ike Brady, Brady Brothers, LLC., addressed the public and stated since there were comments and concerns he would like to ask the Commissioners to table the decision to allow for more information surrounding the event space at a later date.

Commissioner McLean made a motion to close the Public Hearing. The motion was seconded by Commissioner Upshaw with all Commissioners voting in aye.

Commissioner Cowman made a motion to defer the Zoning Map Amendment, Brady Brothers, LLC., applicant, until the April 18, 2023 Planning Commission meeting. The motion was seconded by Commissioner Cowman and all Commissioners voted aye. The motion passed 7 to 0.

Item 5: PUBLIC HEARING - Consideration and vote to approve a Variance, 501 W Chippewa, Tyler Luckey, applicant.

Commissioner Parks made a motion to open the Public Hearing. The motion was seconded by Commissioner McLean with all Commissioners voting aye.

Planner Newton presented background information on the application for a Variance to the maximum permitted building size of an accessory structure. Tyler Luckey would like to build a 3,500 square foot accessory structure on his property at 501 W Chippewa. The maximum permitted size of an accessory structure on lots of one acre or more is equal to the main floor living area of the primary residence, in this case it would be 1,976 square feet. Planner Newton went over criteria that must be met for a variance to be approved. The Board of Zoning Appeals can grant variances in accordance with K.S.A. 12-759(e)(1) when literal enforcement of the zoning regulation would result in an unnecessary hardship and must meet these conditions:

1. Condition is unique to property
2. No adverse effect to adjacent owners
3. Strict application results in hardship
4. No adverse effect to public health and safety
5. Variance not in conflict with the general spirit and intent of zoning regulations

It is important to note that granting a variance is intended to remedy unique, undue and unnecessary hardships and are not to be approved based on convenience for the property owner. Staff does not recommend approval of the variance as this is seen as a convenience to the property owner.

Commissioner DeGrande asked the applicant, Tyler Luckey, where access to the potential building would be from. Luckey stated access would come off W. Chippewa from their second drive entrance.

Commissioner McLean asked Luckey if the building would be for commercial use or personal storage. Luckey stated that it would be used for storage.

Donnie Jones stated the property owner would like to build the accessory structure in the west side yard of the property.

Commissioner McLean made a motion to close the Public Hearing. The motion was seconded by Commissioner DeGrande with all Commissioners voting aye.

Commissioner McLean feels the location of the property and where the potential building will be built would be acceptable for the large building.

Commissioner DeGrande agreed with Commissioner McLean and also stated that the building would not hinder any future development.

Commissioner Cowman stated his concern would be that approving this variance would set a precedent and that would create a problem moving forward.

Commissioner Upshaw agreed with Commissioner Cowman and also stated the applicant does not have a hardship and it is not consistent with the LDO.

Commissioner DeGrande stated that he did not feel approving the variance would be detrimental to anyone in the area.

Commissioner McLean stated this was a unique situation in a unique part of the city.

Planner Newton reiterated that the applicant can build a building the same size as the main floor area of the residence which is 1,976 square feet and this would be a convenience to approve the building size of 3,500 square feet.

Commissioner DeGrande made a motion to approve a variance from the maximum permitted size of an accessory structure at 501 W Chippewa, Tyler Luckey, applicant. The motion was seconded by Commissioner McLean. Commissioners DeGrande and McLean voted aye and Commissioners Cowman, Parks, Maurer, Upshaw, and Dees voted nay. The motion failed 2 to 5.

Item 5: Community / Economic Development Director Report

City Planner Newton presented the following:

1. 73 permits year to date
2. Building Inspection
 - a. Ballfields - substantially complete as of 03/08/2023
 - b. Paola Crossings - asphalt on the roads have started
 - c. Casey's - interior finishes are been installed
 - d. Lakemary - starting to pour concrete footings
3. April Planning Commission
 - a. Public Hearing for tiny homes LDO update
4. March City Council
 - a. Approved CUP at 508 W Shawnee
 - b. Dangerous Structures - 115 W Wea and 809 S Silver
 - c. False fire alarms - new ordinance passed

Item 6: Adjournment

Commissioner McLean made a motion to adjourn. The motion was seconded by Commissioner DeGrande and all voted aye. The motion passed 7 to 0.

ATTACHMENT A

March 12, 2023

Paola Planning Commission Chairman
Steve Cowman
104 Overhill Drive
Paola, KS 66071

Dear Commissioner Cowman:

This letter is to advise you of substantial concerns regarding the proposed rezoning of the property located at 302 N. Oak Street (commonly known as the Old North School) from NC-R1 to Thoroughfare Access (TA).

I live across the street, to the west, of the school building. The area is an older, established neighborhood that enjoys a sense of well-being, safety, security, and tranquility. People of diverse ages choose to live in the neighborhood because of those features, which epitomize the language of Kansas Statute 12-741 relative zoning authority to protect the public health, safety and welfare: The Neighborhood Conservation District exists to protect the residential character of existing neighborhoods or platted subdivisions that were or are being developed under previous zoning regulations.

In contrast, Thoroughfare Access (TA) provides for high quality, moderate density development with a full range of residential and non residential uses. This district shall be used in areas designated TA in the Comprehensive Plan. TA districts are associated with access to arterial or collector streets.

Arterial or collector streets do not surround 302 N. Oak or the immediate area, however. In addition, the traffic a TA zoning would invite will further diminish the structure of the current streets, increase safety issues for the many children playing in the area, and endanger adults who use the area for walking. Compounding the safety issue are the blind intersections that provide access to the area (i.e. Pearl Street and Tower Street), which open the potential for increased vehicle and pedestrian accidents.

The Planning Paola 2050 Comprehensive Plan Vision Statement reads as follows:

"Paola has a real sense of community – it is a place people want to come back to and raise a family or start a new life. Paola is a place where you can see the stars at night but still access city amenities with an easy drive.

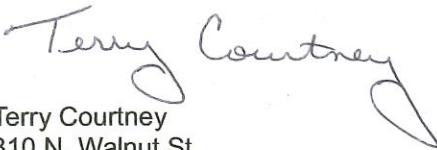
Paola takes advantage of opportunities to improve its quality of life through investments in housing, parks and recreation, and access to amenities. Paola stands out against its neighbors as a place that does not just provide a house but a home.

In short, Paola is a place where people and business thrive."

While Paola is in need of affordable housing, rezoning an existing Neighborhood Conservation district to appeal to an outside investor, with no ties or vested interest in the community other than financial gain, goes against the Guiding Principle for Growth & Development set forth in the Comprehensive Plan - "The community character will not be lost as the community grows because growth will be thoughtful and planned....Paola is a community on the move, but it does not forget where it came from."

I ask that you weigh these considerations in your decision making and deny this request.

Respectfully,


Terry Courtney
310 N. Walnut St
Paola, KS 66071

ATTACHMENT B

March 8th, 2023

Re: 302 N Oak St. (Old North School)

Dear Paola Planning Commission members,

I am writing this letter out of concern for the future plans for the property located at 302 N Oak St, commonly known as the Old North School. The information we have received from the City of Paola includes a request for a change of zoning from NC - R1 to Thoroughfare Access.

My family and I live at 307 N Oak St., directly across the street to the East of the Old North School. Two years ago when we purchased this property, one of our concerns was the zoning restrictions that were in place. Prior to making the decision, I researched what the school property was zoned as. When the Old North School was purchased from USD 368, the buyers were aware of the zoning as well.

According to Kansas Statute 12-741 the State of Kansas gives local municipalities zoning authority for three reasons; protection of the public health, safety and welfare. Safety is a primary concern I have about a zoning change to Thoroughfare Access. The streets surrounding 302 N Oak St in all directions are not considered to be arterial or collector streets. Increasing traffic on the narrow streets surrounding this address put the existing families, many of whom have young children, at risk. We have been informed that the request for a zoning change includes a reference of adding up to 18 apartment units in the property. How would 18 apartments protect the welfare of an established neighborhood?

Part of the rationale used in the request is the need for affordable housing options in Paola. I think we can all agree that Paola lacks affordable housing. I am in favor of exploring options for growth in Paola but please don't put the interests of an outside investor that has no ties or vested interest in Paola other than financial, in front of the long standing patrons of the community.

Thank you,



Justin K Elliott

ATTACHMENT C

To: Paola Planning Commission Members

Re: 302 N Oak – Zoning Change Request

Dear Planning Commission Members,

I would like to air my thoughts with respect to the current requested change for a portion of our neighborhood, specifically the rezoning of 302 N Oak from its current status of Neighborhood Conservation R1 (NC – R1) to Thoroughfare Access (TA).

My wife and I have lived in this beautiful Paola neighborhood for the past 28 years and have enjoyed raising our family here. Even though our family is grown, there are still many families with children in this neighborhood. One of my concerns, if multifamily housing is approved, is for the safety of the children and older people that walk and play in and around these streets. Traffic would surely increase and put our most vulnerable and precious individuals at risk.

Another concern is that apartments and other multifamily housing units tend to decline in value and in the people that rent them. Which could lead to increased crime and a lowering of property values in our neighborhood.

Neither my wife or I support this request for change and as long standing residents of Paola, respectfully urge you to turn down this request.

Sincerely,

Stuart Connell

Stuart Connell

Stephanie Connell

Stephanie Connell

Dear City Planning Commission,

We are writing to express our deep concern about the proposed rezoning of a block in our community - 302 N. Oak St. - to thoroughfare access. As residents of this neighborhood, we believe this change could have serious consequences for the safety and welfare of all who live here.

Our main concern is the impact that such a development would have on the safety of our community. With increased vehicle traffic, there would be a higher risk of accidents and injuries, particularly for children and the elderly who live in the area. Additionally, the potential for crime would increase as more people would be coming and going from the block.

In addition to the safety concerns, the increased noise and traffic would negatively impact the quality of life for all who live here. Our neighborhood is known for its peaceful, quiet streets, and we fear that this change would disrupt that tranquility and make it a less desirable place to live. This change would also make it difficult for us to maintain the value of our homes in such an environment.

We urge you to consider the long-term consequences of this proposed rezoning and to prioritize the safety and well-being of our community. There may be alternative solutions that would not require such a significant change to our neighborhood, and we encourage you to explore those options before making a final decision.

Thank you for your time and attention to this matter.

Sincerely,
Kyle & Heather Windler

RECEIVED
MAR 13 2023