

**PLANNING COMMISSION /
BOARD OF ZONING APPEALS
MAY 16, 2023 MEETING MINUTES**

Commissioners Present: Cowman, DeGrande, McLean, Maurer, Upshaw
Commissioners Absent: Dees, Parks
Others Present: Jessica Newton - City of Paola
404 N East - Kristin & Ismet Kural
Paola Crossings - Steve Warger
Others - LeAnne Shields, Larry Fulk, Rob George

Item 1: Pledge of Allegiance.

Item 2: Consideration of minutes from the April 18, 2023 meeting.

Commissioner Cowman called the meeting to order. The next order of business was the consideration and approval of the minutes from the April 18, 2023 meeting.

Commissioner McLean made a motion to approve the April 18, 2023 meeting minutes with amendments. The motion was seconded by Commissioner DeGrande. Commissioner Upshaw abstained due to absence at the previous meeting, all remaining Commissioners voted in favor.

Item 3: PUBLIC HEARING - Consideration and vote to recommend approval of an amendment to a Conditional Use Permit for “Heavy Retail and Service” at 404 N East, E&K Diesel, applicant.

Commissioner DeGrande made a motion to open the Public Hearing. The motion was seconded by Commissioner Upshaw with all Commissioners voting in favor.

Planner Newton presented background information on the property at 404 N East. Due to the type of business, auto repair, this is considered “Heavy Retail and Service” in the Thoroughfare Access zoning district and requires a Conditional Use Permit (CUP) according to the Land Development Ordinance (LDO). There is an existing CUP for this property that requires amendments since its original approval in September 2001.

Planner Newton stated Ordinance 2813 approved the original CUP for the property and includes the following:

1. Hours of operation shall be 7 am to 7 pm, Monday through Saturday
2. All customer and employee parking shall be located in the off-street parking lot or in the fenced area
3. All overnight parking, except for four after-hours drop-off spaces, shall be in the fenced area

4. The total number of cars in the fenced area shall be limited to 20 vehicles. No more than two vehicles shall be inoperable
5. An annual review before the Planning Commission shall be conducted. Such reviews are not subject to publication, notification, and public hearing requirements
6. 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

LDO Section 21.224 allows for a CUP to be amended pursuant to the standards and procedures for the approval of the original use set forth.

Planner Newton stated the following were staff recommendations for updated conditions:

1. The hours of operations shall be 7:00 am to 7:00 pm, Monday through Saturday.
2. All customer and employee parking shall be located in the off-street parking lot or in the fenced area.
3. All overnight parking, except for four after-hours drop-off spaces, shall be in the fenced area.
4. The total number of cars in the fenced area shall be limited to 25. Inoperable vehicles may be stored no longer than ten (10) consecutive calendar days.
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.

No public comment.

Commissioner McLean made a motion to close the Public Hearing. Commissioner DeGrande seconded the motion with all Commissioners voting in favor.

Commissioner Cowman stated Condition 4, 10 days for inoperable vehicles, could be too short due to difficulty getting parts delivered.

Kristin Ismet stated Condition 4, limit to 25 vehicles, would be too low and requested upping the number since a new fence would be installed and screen the vehicles.

Commissioner McLean asked the applicant how many vehicles they feel would be needed in regards to Condition 4. Applicant stated fifty (50).

Planner Newton asked the applicant of the fifty (50) they would like approved, how many

would be considered inoperable by LDO definition. Applicant stated all vehicles could move under their own power.

Commissioner DeGrande suggested allowing fifty (50) vehicles behind the fence with up to ten (10) being inoperable for up to sixty (60) consecutive days.

Commissioners agreed to allow for up to ten (10) spots for the re-sale of vehicles.

The recommendations for conditions is as follows:

1. The hours of operations shall be 7:00 am to 7:00 pm, Monday through Saturday.
2. All customer and employee parking shall be located in the off-street parking lot or in the fenced area.
3. All overnight parking, except for four after-hours drop-off spaces, shall be in the fenced area.
4. The total number of cars in the fenced area shall be limited to fifty (50). No more than ten (10) inoperable vehicles may be stored for no longer than sixty (60) consecutive calendar days.
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.

Commissioner McLean made a motion to recommend approval of amending the Conditional Use Permit for "Heavy Retail and Service" at 404 N East, E&K Diesel, applicant. Commissioner Upshaw seconded the motion with all Commissioners voting in favor.

Item 4: PUBLIC HEARING - Consideration and vote to approve a Variance for an accessory use structure at 506 E Peoria, Chad Kelsey, applicant.

Commissioner Upshaw 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 sidewall height of an accessory use structure. Ordinance 3124 includes building standards for accessory structures that states sidewall height maximum shall not exceed ten (10) feet. The applicant is seeking to build an accessory structure with roughly twenty (20) foot sidewalls to allow storage above garage space on the ground floor.

No Public Comment.

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

Commissioner Cowman stated there is another accessory structure of similar build down the street and it is also a two story house.

Commissioner Cowan made a motion to approve a Variance for an accessory use structure sidewall height at 506 E Peoria, Chad Kelsey, applicant.

Item 5: Continuation from 4/18/23 - Consideration and vote to recommend approval of a Zoning Text Amendment, Tiny Home Clusters, City of Paola, applicant.

Planner Newton stated this was a continuation from the previous month's Public Hearing and clarified density for tiny home clusters.

The following was presented related to tiny home regulations:

Section 03.313 SINGLE FAMILY RESIDENTIAL

D. Tiny home single family cluster developments may be considered for a Conditional Use Permit (CUP) if the following standards are met:

1. The cluster development must be retained under common ownership including the common open spaces, building, and structures.
2. A site plan is submitted and approved by the Planning Commission and the City Council.
3. Tiny home development shall only be permitted with a minimum spacing of 1,000 feet between tiny home developments.
4. The minimum site area in any district is 1.5 acres.
5. All tiny home cluster developments must provide an on-site storm shelter.
6. All tiny home cluster developments must comply with lot setbacks set in Article 4. Flexible setbacks are permitted from lot boundaries to enable functional site design during site plan review by the Planning Commission. All tiny homes shall maintain a minimum separation of ten (10) feet from other tiny homes within the development.
7. Each tiny home within a development shall meet the off-street parking requirements in Table 3.110A.
8. Off-street parking spaces for tiny homes must be of an acceptable all-weather surface such as asphalt, concrete, chip seal, graded and compacted gravel, or other stabilized system.

9. All tiny homes must be connected to all available public utilities. Composting toilets are not permitted.
10. Tiny homes on wheels are not permitted.
11. Tiny homes may be used as a Guest House (Section 03.314) as allowed by Table 3.110A, General Use.
 - a. Tiny home as a guest house is defined as a small detached accessory dwelling unit located on the same lot as a primary single-family detached dwelling unit that is intended to provide living quarters for non paying personal guests of the owner(s) of the principal residence. The primary dwelling unit must be owner occupied. The tiny home guest house shall not have separate utility meters.
 - b. The area where the tiny home guest house is located shall not be divided off into a new lot of record.
 - c. Tiny homes used as a guest house shall be on a site with an owner-occupied single-family residence.
 - d. The architectural design, roofing material, exterior materials and colors, roof pitch and style, type of windows, and trim details of the unit shall be substantially the same as and visually compatible with the primary dwelling
 - e. Tiny homes used as a guest house may not be on wheels and shall be placed on a permanent foundation
 - f. No more than one tiny home guest house per property.
 - g. The combined square footage of the principal structure, guest house, detached garage, and storage/utility shed shall not exceed the maximum building coverage in Table 04.110A Use and Lot Standards. Where no maximum building coverage is provided, the combined structures shall not cover more than 70% of the lot area.
12. Landscaping requirements (See Section 06.120):
 - a. One (1) landscaping plant unit per tiny home.
 - b. Four (4) landscaping plant units per acre of open space.
 - c. The number of plant units required may be altered by the Planning Commission during site plan review.
 - d. The requirement of an opaque fence around the perimeter of the lot will be at the discretion of the Zoning Administrator during the site plan review process.
13. Each tiny home that is moved in or built on site must be inspected by the City of Paola Building Inspector to obtain a Certificate of Occupancy.
14. Utility easements, as required by a service provider and drainage easements as necessary to cover any drainage improvements, shall be shown on the site plan with easement dimensions and recording information provided.

15. Structural Requirements

- A. All requirements of the 2018 International Building Code, Appendix Q shall be met:
 - a. AQ103 Ceiling Height
 - b. AQ104 Lofts
 - c. AQ105 Emergency Escape and Rescue Openings
- B. Minimum square footage shall not account for the required cooking facilities, toilet facility areas, or lofts, which are required in addition to the minimum clear floor area of 120 square feet for a single occupant, 220 square feet for two occupants, and 320 square feet for three occupants.

3. Defining Tiny Home

Tiny Home. "Tiny home" means a detached and self-contained dwelling unit permanently constructed on a foundation, frame or chassis and designed for use as permanent living quarter that:

- A. Is equipt for the basic functional areas that support normal daily routines such as cooking, sleeping, and sanitation.
- B. Must be only one story (excluding lofts)
- C. "Tiny home" does not include a trailer, semitrailer, camp trailer, recreational vehicle or manufactured housing.

Commissioner Cowman clarified this was for tiny home clusters and tiny homes used as a guest house and not used as a single-family dwelling.

Commissioner Cowman suggested allowing prefabricated tiny homes on permanent foundations and other Commissioners agreed.

Commissioner DeGrande made a motion to recommend approval of a Zoning Text Amendment for tiny home clusters, City of Paola, applicant. Commissioner Cowman seconded the motion with all Commissioners voting in favor.

Item 6: Consideration and vote to recommend approval of Heatherwood Replat, BCFS Real Estate, LLC, applicant.

Planner Newton presented background information on the Heatherwood Block 11 Plat that was originally approved in July 2004 as a "Planned" development which requires a mixture of dwelling unit types. The applicant is seeking a change in requirements with a replat recently completed by Allenbrand-Drews Land Surveyors. The lots along Cottonwood Ct were

approved by Council previously for townhome style houses and interest in the lots has been stagnant. The applicant would like to allow these open lots to be utilized as single-family detached dwellings. There is a 25 ft build line along the frontage of each lot as well as 10 ft utility easements that have remained on the replat.

Commissioner McLean made a motion to recommend approval of the Heatherwood Block 11 Replat. Commissioner DeGrande seconded the motion with all Commissioners voting in favor.

Item 7: Consideration and vote to recommend approval of Paola Crossings 2nd Plat, Highlands Paola, LLC, applicant.

Planner Newton present background information on the Paola Crossings 2nd Plat that was completed by R.L. Buford & Associates, LLC. The first final plat included Lot 1 and Lot 2 of the development. The second plat for the development is adding Lot 3. The development is currently zoned as Thoroughfare Access (TA) which permits a wide range of commercial and residential uses. The proposed use for the new lot is "Commercial, Office". The minimum site area for a commercial office lot in the TA zoning district is 10,000 square feet. Lot 3 is proposed at 49,285 square feet. There is a 25 ft building line along the frontage of each lot, as well as a 25 ft utility easement. The plat shows the existing 20 ft sanitary sewer easement running along the west side of the entire development.

Commissioner Cowman made a motion to recommend approval of the Paola Crossings 2nd Plat, Highlands Paola, LLC, applicant. The motion was seconded by Commissioner Upshaw with all Commissioners voting in favor.

Item 8: Consideration and vote to recommend approval of a VA Medical Clinic Site Plan, Highlands Paola, LLC, applicant.

Planner Newton presented background information on the site plan for the planned VA Medical Clinic. This parcel is approximately 1.13 acres. The site plan was completed by Warger Associates Consulting Engineers. The proposed use is a single story medical clinic. Wilson and Company has reviewed the site plan and on-site drainage calculations and comments have been returned to the Highlands Paola, LLC. All zoning requirements have been met.

Commissioner McLean asked if the detention pond had been completed. Steve Warger, engineer, stated the detention pond was part of the initial site development and has been completed.

Commissioner Upshaw made a motion to recommend approval of the final site plan for VA Medical Clinic, Highlands Paola, LLC, applicant. Commissioner DeGrande seconded the motion and all Commissioners voted in favor.

Item 9: Community / Economic Development Director Report

City Planner Newton presented the following:

1. 160 permits year to date
2. Building Inspection
 - a. Scooter's Coffee permit issued
3. June Planning Commission
 - a. Public Hearing for amendment to a CUP
4. May City Council
 - a. Zoning Map Amendment failed
 - b. CUP for 118 S Silver approved
 - c. Public Hearings for 115 W Wea and 809 S Silver

Item 10: Adjournment

Commissioner McLean made a motion to adjourn. The motion was seconded by Commissioner DeGrande with all Commissioners voting in favor.