

**MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**

**PLANNING COMMISSION/  
BOARD OF ZONING APPEALS  
September 16, 2008**

**Commissioners Present:** Cowman, Gage, Wrischnik, Bonner, King

**Commissioners Absent:** L. Smith, McLean

**Others Present:** Amy Barenklau, Brian McCauley, Marjorie Reeder, Mary E. Kaiser and Clint Stewart

**Item 1: Consider minutes from the August 19, 2008 meeting**

Chair Cowman called the meeting to order with the first order of business the consideration of the minutes from the August 19, 2008 meeting.

*Commissioners Bonner and Gage made a motion to approve the minutes as submitted. All Commissioners voted in favor.*

**Item 2: Concept Re-Plat (08-PPC-02) – Paola Business Park No. 3; Kaiser property at the SE corner of Baptiste Drive and Hedge Lane**

Amy Barenklau presented the staff brief. Staff met with David Lee, Taylor Design Group, and Marjorie Reeder, of the Kaiser family, several weeks ago, where this concept re-plat was presented to staff for review. The applicant was not able to make the deadline for the preliminary and final plat; so it was determined to submit a concept plat for the Commissioners' consideration.

The applicant desires to re-plat the existing vacant property into potential retail lots approximately 1 acre in size. The plan is to re-plat a portion of the remaining 8.7 acres of the parcel to obtain 3 lots that are available for potential buyers.

The property owners have one party that is looking to purchase the easternmost lot for future development and have a short time in which to have the piece ready for a purchase.

**STREETS AND SIDEWALKS:**

The property owners and applicant are looking to utilize the existing drive to provide access to the proposed 3 lots at this time. Once lots are sold and properties begin to develop, the access may need to be expanded depending on how access to businesses is planned at that point.

Staff will address sidewalks at the point in time where individual owners begin to develop their lots. Sidewalks will need to provide access to the entire property and individual lots. However, until individual lots are developed and uses determined, it will be difficult to determine an exact plan for sidewalks and other requirements.

**LOT STANDARDS:**

The area being considered is a portion of approximately 8 acres located at the corners of Baptiste Drive and Hedge Lane. In the Thoroughfare Access (TA) zoning district under ‘retail uses’ a minimum lot size of 20,000 square feet is defined. For ‘all other uses’ a 1 acre minimum lot size is defined. Dependant upon what specific uses develop these lots, the proposed lot sizes meet the minimum requirements as defined in the LDO.

**ACCESS:**

Access to this site is from Hedge Lane onto a previously constructed private drive.

**PARKING REQUIREMENTS:**

Applicable parking requirements will apply to individual lots for uses as determined when lots are developed.

**UTILITIES:**

The applicant has obtained information from public works to verify locations of city services. The concept plat shows anticipated locations and easements for utilities. There will need to be decisions made by staff and the applicant in regards to sewers, as they pose a problem due to location of lots and lay of the land.

**OPEN SPACE:**

Under ‘retail’ and ‘all other uses’ in the Thoroughfare Access zoning district, 20% open space is required. At this time, there is sufficient open space to meet this requirement.

**LANDSCAPING:**

A landscaping plan has not been provided at this time. Applicable landscaping will be required for each parcel depending on use. Landscaping plans will be required as part of the development process.

**RECOMMENDATION:**

Staff does not have a recommendation at this time, as this is a concept plat only and no action is necessary.

Commissioners did not have any specific concerns with the concept re-plat.

**Item 3: Concept Development Plan – Retail Development (08-PPC-01):** Taylor Design Group; SE Corner of Baptiste Drive and 169 Highway.

Amy Barenklau presented the staff brief. Clint Stewart with Taylor Design Group has met previously with former planner Givens to discuss this project. Current staff is trying to get up to speed on the scope, phasing and proposed uses for this project.

Staff met with Taylor Design Group several weeks ago, where this concept plat was presented to staff for review. The applicant was not able to make the deadline for the preliminary and final plat; so it was determined to submit a concept plat for the Commissioners' consideration.

The applicant desires to plat the existing agriculture property into potential retail lots ranging from just under 1 acre to just over 1.5 acres in Phase I. The plan is to phase in the retail development with the entire most northern piece of the property eventually being all retail shops.

Prior to the platting, the property will need to be rezoned to Thoroughfare Access. Staff feels that the Business Park zoning is not a viable fit for this property and that TA is the best fit and use for the property for current and future uses.

The developer is looking to move quickly once the platting process has been completed.

**STREETS AND SIDEWALKS:**

In Phase I of this development, the applicants are proposing the addition of a street for access to the Northern most two retail spots, as well as a street and cul-de-sac that will service the remaining six lots. The applicant is also proposing removal of Hedge Lane along the western portion of the development.

Staff is reviewing notes and information from previous meetings to determine if sidewalks were discussed.

**LOT STANDARDS:**

The area being considered is a portion of approximately 53 acres located at the corners of Baptiste Drive, 169 Highway and 311<sup>th</sup> Street. In the Thoroughfare Access (TA) zoning district under 'retail uses' a minimum lot size of 20,000 square feet is defined. For 'all other uses' a 1 acre minimum lot size is defined. Dependant upon what specific uses develop these lots, the proposed lot sizes meet the minimum requirements as defined in the LDO.

**ACCESS:**

Access to this site is from Baptiste Drive, just East of the 169 Highway interchange.

The applicants are proposing a right-in and right-out only access for the entrance/exit to the development in an attempt to avoid any potential traffic issues.

**PARKING REQUIREMENTS:**

Applicable parking requirements will apply to individual lots for uses as determined when lots are developed.

**UTILITIES:**

The applicant has obtained information from public works to verify locations of city services. The concept plat shows anticipated locations and easements for utilities.

**OPEN SPACE:**

For retail, office and all other uses in the Thoroughfare Access zoning district, 20% open space is required.

Staff is verifying whether the site can drain directly to the 100-year floodplain or if other arrangements are to be made.

**LANDSCAPING:**

A landscaping plan has not been provided at this time. Applicable landscaping will be required for each parcel depending on use. Landscaping plans will be required as part of the development process.

**RECOMMENDATION:**

Staff does not have a recommendation at this time, as this is a concept plat only and no action is necessary.

Amy indicated that staff had reviewed and was concerned about fire access if Hedge Lane is closed. Clint Stewart with Taylor Design indicated that the applicant is now considering upgrading and maintaining Hedge Lane to allow it to remain open for future use.

Clint Stewart inquired if floodplain can count towards open space requirements. Commissioner Gage indicated his understanding was that flood plain can not be considered open space. Staff indicated they would look into the requirements and get back with the applicant.

**Item 4: Re-Zoning:** Discussion of city initiated re-zoning from Business Park to Thoroughfare Access.

Amy Barenklau presented the staff brief. Staff has received several requests and inquiries about the area in question. Previously, a Conditional Use Permit (CUP) was granted to the Keith & Ava Allen, 31202 Hedge Lane, for a home addition and a new barn. Jeff and Elizabeth Sweeney-Reeder, 23180 West 311<sup>th</sup> Street, have expressed concerns over having had a difficult time obtaining a loan for the remodel of their home and Barb Brandt and her siblings, owners of 31206 Hedge Lane, have concerns about the ability to sell their mother's property due to potential buyer's inability to obtain financing for the property as zoned.

Previous staff had been in conversation with Mrs. Brandt and family, and their options for potentially splitting the property. Through their process of looking to list the property, it became more apparent that the main issue was going to be finding a buyer that would be able to get financing for the property since it is zoned commercial. The property owners were advised to

visit with surrounding property owners to see if they had interest in potential re-zoning of this area.

During this process, Marjorie Reeder indicated she had a desire to build a residential structure on land adjacent to her son, as well. And lastly, during discussions a couple of weeks ago about the proposed retail development just to the north of these properties, Taylor Design indicated they would be seeking to re-zone that property as well.

Staff then determined it might be best for the city to initiate a map amendment for rezoning the area in question. The property owners all seem to be in agreement that this would be positive for their current and future land use. Staff is expecting letters of support from all property owners and will be discussing with the county the potential for this re-zoning.

Staff is not asking for any actions at this meeting, it is only for information and for any potential concerns to be brought up so staff can appropriately address said concerns during the re-zoning process.

### **Analysis:**

The Business Park zoning district is defined as follows:

- A. This district permits office, manufacturing, industrial, warehousing, and uses that support them. These areas are located primarily at US 169 interchanges, at K-68, and the current industrial park. The land use restrictions ensure the land best suited for this use is available.
- B. Moderate to high intensities are permitted to achieve maximum land utilization. This development pattern provides a Thoroughfare Access character. The area is intended to attract business and industry. The designated areas are intended to be regional employment centers for the City and Miami County. The area's development (as seen from US 169 or other main roads) provides a high quality business park character. The interior land, screened from US 169 or other main roads, may develop at higher intensities with less landscaped area. Such practices will maximize land use. Exterior storage is limited to interior sites and must be screened.

Currently there are two other areas that are zoned Business Park. The land south of K-68 and around the US 169 interchange has been designated BP. The Paola Industrial Park is also designated as Business Park; the city provides free land to interested, qualifying parties.

Staff feels that these lands are much more suitable to Business Park Zoning and have a higher potential to develop as such. with surrounding areas zoned to accommodate higher intensity uses.

The key limitation in this area is that it is primarily agriculture land, with some floodplain bordering areas of the land; and the desire of several landowners to build residential structures which are not allowed in the Business Park District.

The Thoroughfare Access district is defined as:

- A. This district provides for high quality, moderate density development with a full range of residential and nonresidential uses.
- B. The design requirements provide a Thoroughfare Access character while encouraging pedestrian and automobile access.
- C. This district's intensity accommodates most community commercial and business activities. These nonresidential uses shall be limited to parcels having access to arterial or collector streets. Interior areas are intended to be residential.
- D. This district is not intended to promote strip development along all arterials and collectors. In newly developing areas the minimum parcel depth along an arterial or collector shall be six hundred (600) feet. The minimum area shall be twenty (20) acres. In the older built-up areas where there is in-fill development, this zoning shall not displace residential uses in areas where at least one block of residential exists. New zoning shall have depths and areas equal to or greater than similar uses for four hundred (400) feet on either side. This district shall be used in areas designated Thoroughfare Access in the Comprehensive Plan. Access standards and site plan review shall be used to ensure that adequate access and visibility are retained on regionally important land near interchanges to prevent premature development from foreclosing future development options.

The TA zoning classification would allow homes to be built, as well as allow the land to be utilized for more desirable uses. The intensity of those uses is the significant difference in TA zoning.

The most significant differences in the two commercial districts would be how many uses are allowed. In many cases, allowed or limited review uses in the BP district would require Conditional Use Permits in TA zoning. Heavier uses such as heavy industry and utilities would not be allowed in TA zoning, but would be allowed in BP districts.

#### **MAP AMENDMENT (REZONING) REVIEW**

In evaluating a request for a Zoning Map Amendment, the following standards shall be considered (Section 21.211):

1. *The proposed change is consistent with the city's Comprehensive Plan and the purposes of the Land Development Ordinance. Consistency with the Comprehensive Plan shall be considered to meet the standards below.*
  - Development principles and policies.
  - Future Land Use Map.
  - Major Streets.
  - Schools and other public and semi-public uses.
2. *The proposed change is consistent with the character of the neighborhood:*
3. *The extent to which the property is consistent with the zoning and use of nearby properties:*

4. *The suitability of the property for the uses to which it has been proposed or restricted.*
5. *The extent to which the proposed use would substantially harm the value of nearby property.*
6. *The length of time a property has remained vacant as zoned, where the zoning is different from nearby developed properties.*
7. *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.*

**PLANNING COMMISSION ACTION:**

No action necessary at this time; it is for discussion only.

Commissioners were positive about the re-zoning, but concerned about what Miami County might say in regards to the proposal. Staff indicated they would be in contact before pursuing to ensure they were on board or any potential concerns were addressed throughout the process.

**Item 4: Staff Items**

Staff updated Commissioners on the following items:

**a> Update on mobile sign shop:** Previous planner Givens sent a letter to Ray Minden in regards to the mobile sign shop that had been parked in his lot in the 200 block of North Hospital. It was staff's determination that the letter did not appropriately address the actual zoning violation. Staff met with Ray Minden and explained the shop was considered a truckload sale, and since he did not have the minimum three acre lot size, it would need to be removed prior to September 2<sup>nd</sup>. Staff noted on August 29<sup>th</sup> that the mobile sign trailer was no longer residing on the property. Staff remains aware that he may attempt to relocate, and is actively monitoring for any future attempts.

**b> BOW Properties:** Staff has been informed that they are no longer planning to build the residential/commercial building on their property on the Square. The intentions at this time are to build a one story (no basement) building with some commercial space and a climate controlled self storage in the remainder of the building. Staff is not convinced that the storage is an allowed use, but has requested a plan in writing from the developers so that staff can research and respond to them appropriately.

**c> Political Signs:** Staff has asked building inspectors to remove all political signs, as they are not allowed until four weeks prior to the election date. Staff has mailed two letters to property owners that have large (4x8) signs, and has sent sign requirements to the politician's office that has been in violation with the large signs.

**d> Kodiak nuisance/zoning violations:** In trying to figure out where this is, it has become apparent through discussions with county staff that this was going to be handled by previous planner Givens. Staff has been unable to determine if letters were sent and any dates on such letters. The plan is to schedule a meeting with the county and come up with a plan of action to get this resolved as quickly as possible.

**e> 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.

**f> Expired Conditional Use Permits:** Staff is aware of at least one expired CUP, and there are several others that need to be reviewed to determine if they are in violation at this time as well. This is another item that was requested to be resolved, but no action taken. Staff will be working to make a comprehensive list to get any and all outstanding CUPs enforced and updated. Staff may be contacting Jim Kaup if there are any legal concerns.

**g> Comprehensive Plan Update:** This was never presented to the Board of County Commissioners for their approval, even though it was recommended numerous times. Staff will be meeting with county planning staff to determine the best plan to get this adopted by the BOCC. Staff will keep you informed as to the status of this item.

**h> Outstanding variance items:** There are at least two variances that were granted with conditions. As of this time, the property owners have not complied with those conditions. Staff plans to send letters to the owners requesting compliance with conditions of their variance/deviation.

**i> Briley's Sonic HQ / Lighthouse Presbyterian Church:** Staff has met with Leon Briley and Dave Dietrich in regards to the use of warehouse space in the Sonic building on Industrial Park Drive for the church's youth church/meetings. Building department staff placed a stop work on the project, as it had already begun without notice to the city. Staff met with Leon in regards to parking requirements and has contacted Dave Dietrich in regards to the need for a Conditional Use Permit for an assembly/place of worship in the Business Park zoning district. If they can meet deadlines, this will most likely be a public hearing at the October meeting. Mr. Briley will most likely ask for a waiver on the requirement to hard surface the parking area and drive until the Industrial Park Drive project is completed.

**j> LDO items to consider:** Staff has been in discussions with the building department into a couple of 'housekeeping' items that might need future consideration in the LDO. Barns (accessory structures) in the growth area continue to be an item that staff has to address constantly, in that we receive numerous requests to place barns 'in front of' the principle residential structure. Also, we may want to look at ponds; staff is not completely convinced that additional LDO requirements are necessary, but building staff had requested previous staff to

look into the necessity of addressing them in the LDO. Landscaping and hard surface drives in the growth area are others items that have been mentioned as well.

**k> Bed and Breakfast:** Staff has been researching a request to purchase a house and rent it to guests for compensation, while not being occupied as a single-family unit. The LDO specifies that a bed and breakfast are occupied.

Staff answered Commission inquiries on specific items.

**Item 5: Items from Commissioners**

There were no items from Commissioners at this time.

**Item 6: Adjourn**

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