

**MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**

**PLANNING COMMISSION/  
BOARD OF ZONING APPEALS  
March 21, 2006**

**Commissioners Present:** Cowman, McLean, Gage, Minden, L. Smith

**Others Present:** Brian Faust, Amy Barenklau, Brian McCauley, Terry Courtney, Barbara Courtney, Wilma Hoffman, Gary Lasher, Carolyn Lasher, LeAnne Shields, Crystal Coffman, Diane Burnett, Jim Meinig, Allen McKoon, Bernard Armstrong, Patti Armstrong, Leanne Stevenson Mark Nelson, Len Jensen, Patty Jensen, Chad Oehlert, Doug Peterson, Rick Dalmore.

**Item 1: Consider the minutes for the February 21, 2006 meeting.**

Chair Cowman called the meeting to order with the first order of business the consideration of the minutes from February 21, 2006 meeting.

*Commissioners Gage and Cowman moved to approve the minutes with all Commissioners voting in favor.*

**Item 2: Conditional Use Permit: Day Care Center at 29300 W. 303<sup>rd</sup> Street. (Public Hearing)**

*Commissioners Gage and Minden made a motion to open the Public Hearing with all Commissioners voting in favor.*

City Planner Brian Faust presented the staff brief and recommendations. The city of Paola requires anyone desiring to operate a day care center in the 'D', 'S', 'NC', and 'E' zoning districts to obtain a conditional use permit. The applicant lives in the 'E' zoning district and is in the process of becoming a 'licensed' day care with the State of Kansas – thus the need for the conditional use permit.

Day Care Definitions/Requirements:

Family Day Care: Provides for care of no more than five (5) unrelated children or adults. No CUP required.

Day Care Center: Provides for care of six (6) or more unrelated children or adults. A CUP is required.

The following is the criteria (in bold type), set forth in Section 3.311 "Day Care Centers" of the LDO, for evaluating the day care conditional use permit. Staff's comments follow the criteria.

**A. Outside play areas shall be fenced.**

The applicant has a fenced area on the north side of the residence for the outside play area.

**B. The day care provider shall be licensed by the State of Kansas.**

The applicant is in the process of obtaining her license from the State of Kansas. Approval should be contingent upon providing a copy of the license to the Zoning Administrator.

**C. The maximum number of children or adults allowed will be determined as part of the CUP. Any increase in the number of children or adults shall require a new CUP.**

The applicant will have a maximum of 10 children at any one time. Staff recommends including this as a condition of the CUP.

**D. Prior to the approval of a day care center, location for the center shall be inspected for compliance with any applicable building and/or fire codes. If any deficiencies are found, they shall be corrected prior to the Planning Commission's recommendation to the City Council.**

The applicant's home has been inspected and has met the requirements shown on the Kansas State Fire Marshall's checklist. A copy of this report has been provided to staff.

**E. The first conditional use permit shall be valid for a maximum of one year from the date of approval. The first renewal of conditional use permit may be approved for three years. Subsequent renewals may be approved for up to five years.**

**F. Such other conditions, as determined by the Planning Commission, to be necessary to protect the public health, safety, and welfare.**

*STAFF RECOMMENDATION*

Staff has not received any comments from the public or adjoining property owners who were notified of the public hearing. The applicant has spoken with neighbors by phone and stated that they were not opposed to the day care.

Staff recommends the approval of Day Care Conditional Use Permit with the following conditions:

- 1> Copy of the 'license' be provided to the Zoning Administrator
- 2> Maximum number of children limited to ten (10) at any one time.
- 3> Hours of operation are 7am to 6pm.
- 4> Applicant must seek renewal of the CUP after one year.

Commissioner Cowman asked if the applicant would like to speak and Angela Frizzell said that she did not, but would answer any questions.

There were no additional comments from the audience.

*Commissioners Gage and Minden made a motion to close the Public Hearing with all Commissioners voting in favor.*

Commissioner Minden inquired if the LDO outlined requirements for surface of the play area. Ms. Frizzell indicated that the state had requirements and Planner Faust indicated he was not aware that the LDO stated requirements.

Commissioner Minden asked about days of operation and Ms. Frizzell indicated she operated Monday – Friday. Minden then inquired about number of employees and if there was a need to specify lighting for evening hours. Ms. Frizzell indicated she is the only employee and would add lights if necessary. She then provided a copy of her State license to the Commissioners and Planner Faust.

*Commissioners Cowman and Gage made a motion to approve the Conditional Use Permit with the recommended conditions. All Commissioners voted in favor.*

Planner Faust stated the Planning Commission’s recommendation would be forwarded to the City Council on the following Tuesday.

**Item 3: Conditional Use Permit:** Light Automobile Service at 1121 E. Kaskaskia – Lot 10, Block 2, Academy Addition (*Public Hearing*)

*Commissioners Gage and Minden made a motion to open the Public Hearing with all Commissioners voting in favor.*

Planner Faust presented the staff brief and recommendations. The applicant desires to construct and operate a light automobile service business (oil/lubrication) on the property east of the Kaskaskia Townhomes (just west of the car wash and south of Park Plaza 66). Mr. Oehlert owns the car wash and is looking to expand the services he currently provides. In the Thoroughfare Access zoning district, Light Automobile Service is allowed as a conditional use.

**Criteria for Considering a CUP:**

When considering a CUP application, the Planning Commission must ensure that the following standards are met (Section 21.220, Parts A-D):

- 1) *The proposed use shall be consistent with the comprehensive plan’s purposes, goals, objectives, and standards, including standards for building and structural intensities and densities, and intensities of use.*

Division 22.100 “Comprehensive Planning Policy”, Section 22.120 “Community Character” states “each community character type permits a range of land uses that are consistent and can be built on adjoining properties without destroying or altering the neighborhood’s character.” The Planning Commission must determine if the proposed use is consistent with those goals.

The building will be constructed to meet the requirements for our City Entrance Area and will provide buffering between the townhomes to the west and single-family residence to the south. This usage will continue the mixed use pattern of single-family and commercial services available in the immediate area.

- 2) *The proposed use shall be compatible with the character of land in the immediate vicinity.* The Planning Commission must determine if the use is compatible with the character of the neighborhood (or could be compatible with certain conditions). There is a wide variety of usages in the immediate vicinity. These uses include fast food, gas station, two car washes, strip malls, apartments, and single-family attached/detached. The existing gas station (Park Plaza 66) is defined as a ‘light automobile service’ while the car washes are defined as ‘heavy retail and service’.

With this business located adjacent to single-family homes, conditions should be included to help buffer the area.

- 3) *The proposed use’s design shall minimize adverse effects, including visual impact of the proposed use on adjacent lands.*

If a CUP is approved, care must be taken to minimize the impact on adjacent properties – specifically the residential properties to the south and west. Staff believes that there are ways to minimize these impacts.

- a) Require a 6’ privacy fence and landscaping around the south and west sections of the building. Fence should face adjoining properties to improve the appearance to the residential properties.
- b) All service work shall be completed within an enclosed structure.
- c) The office area should be located on the west side of the building (closest to the townhomes) with traffic entering the site on the east side (furthest from the townhomes).
- d) Normal hours of operation shall be limited to 7am – 7pm Monday through Saturday and Noon – 5pm on Sunday.
- e) Only one night per week shall be designated for later hours of operation. These hours shall not extend past 8:30pm.
- f) The maximum decibel level shall not exceed 70 decibels at the property line.
- g) All oils/fluids shall be disposed of by approved methods and shall not enter the sanitary sewer system.
- h) No overnight parking shall be allowed outside the fenced area except for two (2) after-hours drop-off spaces.

- 4) *The proposed use shall minimize adverse impacts on the environment, traffic and congestion, infrastructure, or governmental services.*

Staff feels the proposed use will not create any adverse effects to the area. The applicant will be combining the access to this lot with the west drive to the car wash. This will limit the number of different access points onto Kaskaskia.

**Site Plan:**

Section 21.220 of the LDO states that conditional uses shall require a site plan, which may be approved separately or concurrently. A copy of the site plan is provided in the Commission packets. This site is surrounded by the Thoroughfare Access zoning district on all sides.

1) Parking:		
• Light Automobile Service (Table 3.110B): 1 per 1000sf or 4 per bay.		
Spaces Required: 2 bays (8 spaces)	-	8
Total Parking Required:		8
ADA Spaces Required:		1
<u>Total Provided:</u>	On paved lot (including ADA):	9

Lot construction standard is 4" of asphalt (or concrete) on a properly prepared base.

Parking stalls shall be 9'W x 20'D (9'x18' is acceptable) with a 12' minimum driving lane. ADA spaces shall have a 5' isle adjacent to the space.

- 2) Exterior storage of repair vehicles is limited to two after-hours drop-off spaces at the rear of the building.
- 3) HVAC and Utility Screening: Required if ground units exist or are installed.
- 4) Trash Enclosure: Must comply with Landscaping for Waste or Trash Storage Areas (Figure 03.212 – Article 3 of the LDO).
- 5) Landscaping/Bufferyards:
- a) Parking lot landscaping is 1 plant unit/18 spaces. Section 6.210 (B) of the LDO states that properties that have 50% or less of the spaces specified in Table 4.110A (18 spaces) are exempt from parking lot landscaping – this is the case with 9 spaces.
  - b) Street trees are required every 50 ft. The site plan shows 2 – 2.5" caliper street trees along Kaskaskia.
  - c) A bufferyard between this lot and the adjoining townhomes is not a requirement of the LDO as the properties are within the same zoning district (Table 4.110A)

and do not fall under Section 6.230 'Special Buffers Required'. As this usage requires a conditional use permit and visual impacts are a component to consider, a bufferyard between this usage and the adjacent residential areas should be included.

- 6) Sidewalks: A 5' wide sidewalk must be installed along the front of this site (Kaskaskia Street).

**Planning Commission Action:**

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

- 1) Recommend approval of the CUP and site plan allowing Light Automobile Service at 1121 E. Kaskaskia (Lot 10, Block 2 of Academy Addition) but establish conditions if warranted (see section below).
- 2) Recommend rejection of the CUP and site plan.

**Conditions**

- 1) Require a 6' privacy fence around the south and west section of the building along with landscaping to buffer between the commercial and residential usages.
- 2) All work shall be completed within an enclosed structure.
- 3) Normal hours of operation shall be limited to 7am – 7pm Monday through Saturday and Noon – 5pm on Sunday. One 'late' evening will be permitted each week until 8:30pm.
- 4) The maximum decibel level shall not exceed 70 decibels at the property line.
- 5) All oils/fluids shall be disposed of by approved methods and shall not enter the sanitary sewer system.
- 6) No overnight parking shall be allowed except for two (2) after-hours drop-off spaces at the rear of the building.
- 7) After one year, the conditional use permit shall be reviewed by the Planning Commission to ensure compliance. The property owner shall be responsible for notifying adjoining property owners (as identified by the abstractor's search for the original CUP request) by regular mail two weeks in advance of the Planning Commission's review. If the owner will be requesting an amendment to the CUP, the notification shall follow the same procedures as the original CUP notification. Adjoining property owners will have an opportunity to comment on compliance to the conditions of the CUP.
- 8) 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.

**Recommendation:**

Staff recommends approval of the CUP and site plan for light automobile service on Lot 10, Block 2 of Academy Addition with the conditions listed above.

**Council Action:**

The Planning Commission recommendation will be forwarded to the City Council where they can:

- 1) Adopt the Planning Commission's recommendation by ordinance;
- 2) Over-ride the Planning Commission's recommendation by 2/3 majority vote; or
- 3) Send the recommendation back to the Planning Commission for reconsideration.

Note: As this is a new commercial development, if the conditional use and site plan is approved by the Planning Commission and City Council, the applicant will be back before the Commission in April to seek approval of the preliminary/final development plan. This development plan should include details on the specific requirements (lighting, drainage, landscaping, etc.) typically identified in that process.

Planner Faust stated that the applicant, Chad Oehlert, was in attendance. Faust then walked through the site plan with the Commissioners. Mr. Oehlert stated that a representative from Shell Lubricants was in attendance and a representative from Universal Lubricants, as well to answer questions and speak about the business.

Mr. Doug Peterson with Shell stated that Paola had been targeted for about five years for this type of business and the Company feels that the community will support the business. He shared a color picture of a similar building with the Commissioners.

Rick Dalmore with Universal Lubricants spoke about the oil storage and used oil transport. He stated that the contractors work with the building department for oil containment requirements and they will meet all local requirements. Double wall tanks are typically utilized and storage is equal to 110% of the largest tank in the basement of the building. The cinder block walls are sealed and everything would be contained.

He indicated that they are a licensed used oil hauler for the State of Kansas and have the required KDHE transporter license. The same company provides new oil as well as hauls away the used product.

Commissioner McLean inquired about anti-freeze disposal. Mr. Dalmore stated that they supply a labeled 55-gallon drum for disposal, which is hauled away and does not sit for more than two-weeks. This falls under the Waster Water Management for the State of Kansas. After being hauled away it is recycled and then resold. Manifests are provided as documentation for the facility. He stated used oil filters are picked up and transferred off site as well.

Commissioner Gage inquired about the frequency of pick up. Mr. Dalmore stated it is based on the size of tanks. Some locations are picked up weekly, some every other week. They have an established schedule so it is on specific days. He said that typically a 1200 – 1300 gallon tank is scheduled so that it is picked up every ten days.

Commissioner Gage inquired about the size of the trucks performing the deliveries and pick up of used material. Mr. Dalmore stated it is not a transport, it is a single axle truck with a 3000-gallon limit.

Commissioner Minden asked about delivery hours, if they would be during hours of operation. Mr. Dalmore stated that typically they are scheduled during operating hours, but there may be times when the driver arrives a little before hours and might have to wait a short period. He stated they utilize quick connect couplers which allows them to lessen the amount of spills, drips and is quick.

Commissioner Minden inquired if there would be deliveries or pick ups when the business was not open. Mr. Dalmore stated only if they had a key to the tanks. Minden stated he was concerned there could be traffic during early or late hours. Mr. Dalmore stated the transport company is based out of the Kansas City area, he feels that they would not show up prior to 7:30 am and definitely not after 5:30 pm.

Terry Courtney, daughter of Barbara Courtney whose residence is behind the property inquired if the bays would be enclosed or drive-thru. She and her parents had concerns as a car had previously come through the car wash and ended up in their backyard. Faust indicated that the cars would enter from the South and exit on the North side of the building.

Commissioner Gage inquired about customers pulling their cars into the bays. Mr. Oehlert indicated that employees would be driving cars into the bay and out of the bay when the service work is completed.

Barbara Courtney inquired about the fence and which way it would face. Mr. Oehlert said that he had planned to have both sides looking nice as the neighbors had well-kept yards and they wanted their business to look nice, as well.

There were no additional comments from the public.

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

Commissioner Minden inquired if the signs would be addressed in the final development plan and how many would be allowed. Planner Faust said signs would be addressed in the upcoming development plan and that three signs would be allowed per the LDO. Minden then asked if this fell within the area subject to the city entrance standards for colors and Faust indicated it did.

Minden then inquired about the width of the entry to the building being wide enough if one of the businesses ever sold to a different owner. Faust indicated he would ensure the width was sufficient. Minden inquired about landscaping requirements and the location of the fence. Faust stated the fence was approximately 5-feet from the property line and landscaping appeared inside the fence. There were concerns about stacking lanes for the vehicles and Faust indicated he would verify that there was enough area.

Minden asked if there should be something added to the conditions to specify which night the business would stay open late, to avoid being every night until 8:30 pm. Mr. Oehlert stated he was currently considering Tuesday or Thursday night, and would appreciate being able to have a little time to make that decision.

Minden asked about lighting requirements and Faust stated that there were requirements outlined and they would be verified with the development plan.

*Commissioners Gage and Cowman made a motion to approve the CUP with the site plan and conditions as listed with limitation on late night being either Tuesday or Thursday evening. All Commissioners voted in favor.*

Planner Faust told Mr. Oehlert that the Planning Commission's recommendation would be forwarded to the City Council on the following Tuesday.

**Item 4: Variance from Minimum Lot Standards: 209 W. Piankishaw (Public Hearing before the BZA)**

*Commissioners Cowman and Smith made a motion to open the Public Hearing with all Commissioners voting in favor.*

Planner Faust presented the staff brief and recommendations. For several decades there have been two houses located on the 7012.5sf lot at 209 W. Piankishaw. The larger home on this lot was previously listed as a dangerous structure. Approximately two years ago the property sold and both homes were completely remodeled. While the applicant has been attempting to sell both homes on the single lot, he has been unable to do so. In conversations with various realtors, he has been told that if the lot was split, it would be much easier to sell the houses.

The applicant wishes to split the lot to allow each house to be sold separately. The lot split would create two lots that do not meet the minimum 6,000sf that is required for single-family lots in the NC-R2 zoning district. A variance from the minimum lot size is required before a lot split could be granted.

Generally, application for a variance that would create and allow a nonconforming situation (in this case, two nonconforming lots) would be discouraged. While it is very unusual for two houses to be located on a single lot, a similar request occurred in 2001 (minutes from the 2001 BZA hearing are attached for reference). At that time, Planner Saunders discussed the situation (110 E. Wea) with land use attorney Jim Kaup, who agreed that the variance process is an appropriate way to handle this circumstance.

The Board of Zoning Appeals must consider the following statutory criteria (in **bold**) when evaluating a variance request and make a finding of fact that would support or not support the variance request.

- 1. The land use must be allowed in the zoning district.**  
Single-family houses are allowed in the NC-R2 district.
- 2. Special circumstances or conditions exist peculiar to the land or building for which the variance is sought that do not apply generally to the lots, land, or buildings in the neighborhood.**  
Two houses built on a single lot, both with street frontage, is an unusual circumstance that does not apply to the vast majority of lots in the area.
- 3. Special circumstances have not resulted from any act of the applicant subsequent to the adoption of the LDO.**  
This circumstance is not a result of any action of the applicant.
- 4. The special circumstances and conditions are such that strict application of the LDO would deprive the applicant of reasonable use of the land or building.**  
The circumstance is creating a difficulty in selling the property. The property, including both houses, has been for sale for over 120 days.
- 5. Granting the variance is necessary to relieve an unnecessary hardship created by the regulations.**  
BZA determination.
- 6. The variance granted is the minimum necessary to relieve the hardship.**  
The variance should include the condition that size and number of structures on the lots would not be allowed to increase.
- 7. Granting the variance will not be injurious to the neighborhood or to the public welfare.**  
These houses are, and have been, a part of this neighborhood for many years. These houses were just remodeled and several new homes have replaced older homes and/or vacant lots over the last 10 years. This is a healthy, vital neighborhood. Granting the variance would make no change to the character of the neighborhood. The condition suggested in #6 above would protect the neighborhood from changes in the future.
- 8. Granting the variance is consistent with the intent of the LDO and Comprehensive Plan.**  
BZA determination.

**RECOMMENDATION:**

At this time, a detailed survey of the property and lot split documentation has not been completed. The applicant desires approval of the variance before proceeding with the lot split documentation and associated costs.

Staff recommends approval of the variance from minimum lot size with the following conditions:

- The size and number of structures on the newly created lots could not be increased.
- A statement that the sewer service line is private and shared between the two homes.
- Easements provided across both lots for utilities.
- An access easement for the house on Piankishaw to place trash in the alley.
- Easement to allow the house on Piankishaw to park adjacent to the house located on the alley.

The applicant Gary Lasher stated he started the project of remodeling these houses assuming he could split the lot. He provided letters from a financial institution and a real estate company stating the difficulties of trying to sell the property with two residences. He spoke about the financial costs associated with not being able to sell two homes on one property and asked that the Commissioners consider his request.

Commissioner Smith inquired if the cottage met setback requirements. Planner Faust stated it did not, it is located on the alley, and is similar to the property at 110 East Wea.

Mr. Lasher asked about the requirement for an easement to allow parking adjacent to the cottage and Planner Faust discussed parking options for both properties. Commissioner Minden said he did not feel the easement for parking was necessary, but did agree a 3-4 foot easement for trash access was important.

Commissioner Minden inquired about sewer line ownership and location. Commissioner Cowman inquired if a homeowner would know the status of such information and Faust indicated it is fairly rare that they have knowledge of the location.

There were no additional comments from the public.

*Commissioner Cowman and McLean made a motion to close the Public Hearing with all Commissioners voting in favor.*

Commissioner Minden inquired about who decides the sizes of lots. Planner Faust stated in 2001 with a similar request the Commissioners wanted to see a survey, but felt staff can work out with the applicant.

Commissioner Smith inquired about setback issues when the property is surveyed. Commissioner Minden and Planner Faust stated the cottage is right on the alley and pretty close to the street.

Commissioner Minden stated that if the split was allowed it would relieve a hardship.

*Commissioners Cowman and Gage made a motion to approve the variance in lot sizes with the noted conditions, minus the requirement for a parking easement.*

Commissioner Minden inquired about the intent of the LDO and Faust replied the intent is for a rational growth pattern, not to penalize property owners. Minden said he agreed. Commissioner Cowman stated this is somewhat of a unique situation, maybe 1 or 2 others that still exist in the City.

*All Commissioners voted in favor.*

**Item 5: Preliminary/Final Development Plan: Lot 2 of Oliver's Addition – 607 Baptiste Drive (Pat Hewitt)**

Planner Faust stated the applicant Pat Hewitt was in attendance, then presented the staff brief and recommendations. The applicant desires to construct an office building on Lot 2 of Oliver's Addition. This lot is located between Reece & Nichols and Farmers Insurance Group in the 600 block of Baptiste Drive (just west of East Street). Per the LDO, an office falls under Commercial Uses and is allowed in the TA zoning district.

**DEVELOPMENT STANDARDS**

**Lot Size:** Required: Office usage has a 10,000sf requirement.  
Actual: 11,040sf (0.26 acres).

**Minimum Open Space:** Required: 20% (2208sf)  
Actual: 56% (6200sf)

**Setbacks:**

Street: 25 ft. required/52 ft. provided

Side: 10 ft. required/10 ft. (-) provided: Lot has a 'skewed' configuration that reduces the actual width from 75' to 73.6'. When the applicant was sizing the structure, he took the 75' and subtracted the 10/side setbacks to arrive at a 55' building width. Actual setbacks if centered on the lot will be just under 9 ½ feet.

Rear: 20 ft. required/rear setback is exceeded

Parking: 15 ft. required (street)/15 ft. provided  
5 ft. required (side)/5 ft. provided

**Parking Requirements:**

General Office = 3.5 spaces/1000sf

Bank/Financial = 4.5 spaces/1000sf

Based on the anticipated usage,  $(1650/1000) \times 3.5 = 5.8$  (6 spaces required – 6 spaces provided)

Minimum size for a parking stall is 9'x20' (LDO does allow 9'x18') – 9'x18' is provided.

One ADA parking spaces is required – 1 space is provided.

**Landscaping:**

<b>Table 13.110 PLANT UNIT ALTERNATIVES</b>		
<b>PLANT UNIT ALTERNATIVES</b>	<b>SIZE &amp; TYPE OF PLANTS REQUIRED</b>	<b>QUANTITY</b>
<b>STANDARD PLANT UNIT</b>	2.5" caliper canopy tree	1
	1.5" understory tree	2
	3' high shrubs	13
<b>ALTERNATIVE UNIT A*</b>	2.5" caliper canopy tree	1
	1.5" understory tree	1
	6' high evergreen trees	1
	3' high shrubs	11
<b>ALTERNATIVE UNIT B*</b>	1.5" understory tree	2
	6' high evergreen trees	3
	3' high shrubs	7
<b>ALTERNATIVE UNIT C*</b>	6' high evergreen trees	4
	3' high shrubs	15
<b>ALTERNATIVE UNIT D*</b>	2.5" caliper canopy tree	2
	3' high shrubs	3
* Preferred for year-round screen.		
** May be required where visibility is required for automobile operation.		

- Street trees: 1 approved 2.5" caliper canopy tree/50 lineal ft. of street frontage
- Parking: 1 p.u./18 parking spaces
- Lot: 8 plant units/acre
- Open Space: 5 plant units/acre
- Bufferyard: The area is surrounded by the TA district with no residential units on any side. Buffering is not required.

A landscape plan was NOT included as part of the development plan.

- Street Trees: Applicant is required to install one street tree; however this should not occur until after the street project is completed (spring of 2007).
- Parking: Per Section 6.210 (B) of the LDO states that properties that have 50% or less of the spaces specified in Table 4.110A (18 spaces) are exempt from parking lot landscaping – this is the case with 6 spaces.

Lot: Does not include areas covered by building, parking, or open space. As 10,000 sf is the minimum lot size, lot landscaping is calculated as  $[(10,000 - 4820(\text{building \& parking})) / 43,560] \times 8 = 1$  plant unit.

Open Space: Does not include areas already included in previous calculations. Therefore the open space calculation is  $[(11,040 \text{ lot} - 10,000 \text{sf min lot}) / 43,560] \times 5 = 0.2$  plant units.

Total Landscaping Required: 1 - 2.5" caliper Street Tree  
1.2 plant units on the lot. (See landscaping table for various landscaping options)

### Signs

In the TA zoning district, a single office building is allowed a maximum of 3 signs – one on the front façade (*not exceeding 10%*), one on the side façade (*not exceeding 5%*) and one ground or pole sign.

If the building will be a multi-tenant building, each office space will be allowed one sign and the entire complex will be allowed one ground/pole sign.

Setback for any ground or pole sign in the TA district is 15' from the right-of-way (same as parking setback).

### Building Design Standards

Buildings located along Baptiste Drive fall within the 'city entrance area'. All buildings in these areas regardless of the zoning are subject to design review by the Planning Commission. The following building standards shall be applied to the design review of non-residential uses:

- A. **Materials:** Masonry materials including integrally colored textured block, brick and stone with unpainted finishes are required on all street exposures. The use of stucco or exterior insulated finish may also be permitted. *The building front will be a combination of stucco, stone, and timberline shingles.*
- B. **Colors:** The basic colors shall be earth tones or brick colors. The Baptiste Drive area shall use tones that are consistent with the hospital and high school. *The current plan is to have a 'rainbow' stone base (despite the name, it will be gray in color), 'taupewood' (dark tan) stucco and 'estate gray' shingles.*
- C. **Style:** There is no single style that is mandated for the entrance area. However, Building elevations should be sensitive to the scale and style of neighboring buildings. Design themes that reflect the city square band shell should be strongly considered. *This building is designed by Fuqua Homes.*

Building Height: Maximum allowed = 32'  
Actual Height = 16'

**Trash Enclosures/HVAC Systems**

All dumpsters must be enclosed as provided in Section 03.212 of the LDO. All HVAC units shall be screened architecturally and/or with landscape materials. The location must be completely screened including a wooden gate.

HVAC units need to be screened on all sides.

**Sidewalks:**

A sidewalk along Baptiste Drive is being provided as part of the road reconstruction activities.

**Access:**

Access to this development will be from an existing shared drive with Farmers Insurance Group. If the properties are ever sold, a maintenance agreement will be required to address issues of separate ownership.

Driveway width:	Maximum allowed	= 36'
	Actual width	= 27' (per the Baptiste reconstruction plans)

**Drainage:**

Drainage from this site will travel northwest through double culverts underneath Baptiste Drive.

Depending upon the location of a property, it is sometimes better to 'not' detain and have the water exit a site quickly (before the cumulative affect of all drainage through the water shed hits the 'bottleneck'. This is one of those sites.

**Lighting:**

A photometric study has not been provided. It is our understanding that separate parking lot lights will not be installed – no photometric study is required unless lights are installed.

**Utilities:**

Sanitary Sewer is available along the front of the property.

Water is available along the front of the property.

**Recommendation:**

Staff recommends approval of the preliminary/final development plan for the proposed office on Lot 2 of Oliver's Addition contingent upon the following:

- 1> Approval of a landscaping plan.

Commissioner Minden inquired about the current lighting at the location and Mr. Hewitt indicated there is a lighted sign and there would be a few lights on the new building that would be lit during the evening hours.

*Commissioners Minden and Gage made a motion to approve the development plan with the noted condition. All Commissioners voted in favor.*

Planner Faust told the applicant the Commissioner's recommendation would be forwarded to the City Council the following Tuesday.

**Item 6: Items from Staff**

Planner Faust presented an update on items.

**a> Update on Apartments on Square:**

Subsequent to the February 21<sup>st</sup> Planning Commission Meeting, the owners of the vacant lot on the Square met with staff to discuss the future of the apartments. It was clear during this discussion that the apartments, as presented, would not be constructed. The reasons given dealt with the shared wall with the building to the east as well as limitations on parking.

**c> Staff Interpretation of Pet Grooming Classification:**

An owner of an existing pet grooming facility located in Stanley, KS desires to expand operations to the Paola area. The business would like to locate in the Downtown district. Based on staff's interpretation of the LDO, this usage is 'not allowed' in the 'D' district.

Justification:

Under Kennels and Commercial Stables (p23-3) the LDO references SIC 0752. This Standard Industrial Classification (SIC) lists 'dog grooming'. In cross-checking SIC 0752 to the newer NAICS codes, Pet Care (except Veterinary) Services is defined as 'establishments primarily engaged in providing pet care services, such as boarding, grooming, ...'. It specifically shows: Animal grooming services, and Pet grooming services.

Based on staff's interpretation, this service falls under the 'Kennels & Commercial Stables' heading and is not allowed in the 'D' district.

The owner would like any help/direction that the Planning Commission might provide about reclassifying this usage to be allowed in the 'D' district.

From a staff perspective, we would like to see additional businesses locate in Paola and especially Downtown. We need to keep the area vibrant and having a new, but established, business is a good thing. There will need to be consideration given to odors and noise (especially in shared/multi-tenant buildings) along with disposal of pet waste; however these issues can be handled under the conditional use process.

Commissioner Minden inquired about the Thoroughfare Access zoning and if it was allowed and Faust indicated it was. Commissioner Smith asked if animals would be kept overnight and the applicant stated that they would not be allowed overnight. She also indicated they use no chemicals, that noise is kept to a minimum and the current area they are considering, there are no businesses on three sides.

The applicant, Kathy Mendenhall, stated she has been in business in Stanley, KS for 9-years and tenants around here have not had complaints. She is required to scoop waste and keep the noise down. She is open to requirements on hours and days of operation.

Minden asked about green area for the animals and if it was necessary to walk them. The applicant stated that most are house pets and it is not necessary to walk them. She indicated pets would not be allowed without a leash outside of the building. She is currently interested in locating at 103 N. Pearl next to Deb's Beauty Shop.

Len Jensen, property owner on Silver stated he has had a couple inquiries about this type of service, as well. He contacted Century 21 in Stanley and stated he was told that they have 6 offices that are against the wall between the real estate office and the grooming and said there were no problems per the Century 21 employee.

Planner Faust said it would be a change to the LDO and he would recommend it as a CUP. Commissioner Cowman said he had a hard time seeing this type of service downtown with no green space. Commissioner Gage said that there are several big chains offering these types of services in the metro and we should look at putting it as a CUP. Commissioner Minden said the ones in the metro are surrounded by concrete. Commissioner McLean felt it could work and Commissioner Smith agreed it should be looked at. Commissioner Minden and Cowman agreed that there were areas it might be appropriate.

**d> Staff Interpretation of Public Service Classification:**

The KSU Extension Office would like to relocate to the Ursuline property – specifically Monica Hall. This property is zoned ‘Suburban’ which has very limited usage outside of residential. One major exception that is allowed is ‘Public Service’. Public Service is defined as follows:

**Public Service.** These uses include emergency service, buildings, or garages (e.g., ambulance, fire, police, rescue), conservation agencies, and postal service buildings except major distribution centers (SIC 431 [part], 9221, 9222, 9512) where vehicles are stored and dispatched (Office uses are under Section 23.240).

There has been extended staff level discussions that an ‘extension office’ is really a public service – provides valuable information on any number of issues impacting farming and residential interests. With this said, we would typically classify this under ‘office’:

Miscellaneous services (SIC 89)  
Engineering and management services (SIC 87)  
Agricultural support and services (offices only) (SIC 07)  
Governmental offices (SIC 91-97 excluding 9223, public service)

These usages are 'not' permitted in the 'S' zoning district.

In discussion with the Ursuline Sisters, it was our understanding that the initial renovations were for the Extension Office however it might be available in the future for additional offices. With this being the case, it appears that the best way to handle this would be to rezone a small tract (specifically Monica Hall) to a different zoning classification.

Commissioner Minden asked if the entire property was zoned as Suburban. Planner Faust indicated it is and said that very long range there might be some residential development.

Commissioner Gage agreed that it should be rezoned. Faust said that the owners would need to be careful with rentals, as it could bring up issues with their current tax status.

Commissioner Minden suggested rezoning the whole block along Wea Street, as opposed to the whole property, to keep from rezoning again in the future.

**e> Staff Interpretation of Porch Setback – 310 E. Shawnee Street:** The owner at 310 E. Shawnee reconstructed/enlarged/covered a front porch at this location without submitting a plot plan or clearly identifying the improvements on a building permit application for remodeling the home's interior.

Based on previous photographs of the home, there was a porch that extended approximately 6' south of the home (close to Shawnee). Both the home and the old deck did not meet the current 25' setback requirements for the NC-R1 zoning district. The LDO does allow for modification of the setbacks in the older areas of Paola to ensure the front setbacks are 'fairly' consistent (if 4 homes on a block have a setback of 15', it doesn't make sense to require a vacant lot to have a home constructed at 25' – we match nearby setbacks). The front of the home at 310 E. Shawnee (not including the old deck) pushed this limit.

The reconstruction pushed the deck 2' closer to the right-of-way, made it wider, and included a roof. As this deck is virtually at the right-of-way line (close to a zero setback) and does not match any of the homes in the area, staff feels the porch should be removed. At a minimum, it should not be allowed to protrude any further than the original deck

The Commissioners agreed that staff needs to be consistent.

**b> Comprehensive Plan – Jim Kaup & Wynndee Lee:**  
Ms. Lee is in attendance this evening and would like to talk with the Commission about the status of the update to our Comprehensive Plan.

Ms. Lee stated they have been busy gathering information. They now have data in the Table of Contents and are making progress. The survey is the first big piece, next is the public meetings. She discussed the plan to have a visual presentation at the public meeting and the Commissioners and Planner Faust agreed it would be nice.

There was some discussion about time, place and date for the first public meeting. The Commissioners agreed they would like to be informed of when the meeting will take place.

**Item 7:        Items from the Planning Commission**

There were no items at this time.

**Item 8:        Adjourn**

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