

MINUTES
PLANNING COMMISSION
June 23, 2011
7:00 P.M. – COUNCIL CHAMBER

| | <u>Name</u> | <u>Attendance</u> |
|------------------|----------------|-------------------|
| MEMBERS PRESENT: | Jerome Goolsby | (6-1) |
| | Reba Hebert | (7-0) |
| | Mark Manville | (4-3) |
| | Jason Park | (4-3) |
| | Bruce Taylor | (7-0) |
| | Steve Wenger | (6-1) |
| MEMBERS ABSENT: | Bob Bucher | (6-1) |
| | Ann Fisher | (4-3) |
| | Joseph Morrey | (6-1) |

Quorum Present. Five members constitute a quorum.

STAFF PRESENT: Mike Kellam, City Planner
Graham Jura, Assistant City Attorney
Roger Sparks, City Engineer
Bruce Taylor, Civil Engineer

Call to Order Chairman Steve Wenger read the regulations adopted by the Planning Commission. He stated that there is a certified copy of Chapters 11, 26 and 31 of the Code of Ordinances available for reference if needed. He then called the meeting to order.

Minutes of Regular Meeting May 26, 2011 Jerome Goolsby made a motion to approve the minutes of the May 26, 2011 meeting as submitted. Mark Manville seconded the motion.

VOTE: Goolsby – yes, Hebert – yes, Manville – yes, Park – yes, Taylor – yes, Wenger – yes.
Ayes – 6, Nays – 0. Quorum vote is five votes. Motion passes.

Postponements/Adjustments to Agenda: None

Old Business: There was no old business.

New Business:

ITEM #1 RICHARD KEATLEY – Requesting approval of a Zoning District Change from C-3 Commercial District to R-5 Mobile Home Park District at 3731 Faraon Street in order bring the existing mobile home park into a conforming state versus the current legal nonconforming state per the zoning code.

Staff recommendation: Approval

Note: 9% opposition was filed by a property owner within 185 feet.

Mike said this site has been used for a mobile home park for many years; it is well maintained. This action is just to get it within a conforming zoning. At the time this was originally designated as a mobile home park, mobile homes were allowed in the C-3 zoning districts as a matter of right. However, in 1996 when the Zoning Code was rewritten, mobile homes and mobile homes parks were required to be in the R-5 Mobile Home Park Zoning District. Since this particular mobile home park has been existing as a non-conforming use, no new mobile homes should have been moved in or out. Changing the zoning to conform to the use will eliminate that problem and allow the property owner/property lessees to interchange mobile homes as desired.

Mike explained that this application is the result of a letter staff sent to all local mobile home parks requesting them to change their zoning to R-5. Mr. Keatley was the first to respond and his mobile home park will be the first to comply with the newer regulation.

Jason Park asked how many mobile home parks there are in St. Joseph. Mike said there are seven to nine mobile home parks that are legal non-conforming uses.

Bruce Taylor asked if there has been any change in inventory in the last 59 years. Mike said they have allowed changes because they were not aware that they were not supposed to. Mr. Taylor asked if the other mobile home park have moved new/updated mobile homes into their parks, would they be in violation. Mike said yes, they would be.

No one appeared to speak in favor of this request and no one appeared to speak in opposition. (Mr. Keatley and Ms. Howard were in attendance but did not speak) Chairman Wenger closed the public hearing.

Jerome Goolsby asked if a different mobile home park made application for a zoning change to R-5 but had other issues, would those issues be addressed at that time. Mike said yes, it would necessitate the entire development to be brought up to code.

For clarification, Jason Park said the mobile home regulations were changed in 1996; prior to that, this mobile home park was legal and was allowed to move different mobile homes in and out. Mike said that is correct.

There being no further questions, Chairman Wenger called the question.

VOTE: Goolsby – yes, Hebert – yes, Manville – yes, Park – yes, Taylor – yes, Wenger – yes.
Ayes – 6, Nays – 0. Quorum vote is five votes. Motion passes.

This item will be forwarded to the City Council for final action with a recommendation of **APPROVAL** from the Planning Commission.

ITEM #2 JOHN GOURLEY – Requesting approval of a minor subdivision plan to be known as Eagles Way located at 3518, 3520, and 3602 Waterworks Road. Proposes one lot on property currently zoned as CP-3 Planned Commercial Development.

Staff recommendation: Approval

Minor Subdivisions are approved or denied by the Planning Commission

Mike said this is tied to the Planned Unit Development for mixed use development that was heard by this commission a few months ago. This is to plat that property into one large lot rather than the existing four metes and bounds tract properties. The written legal record is the only thing that will be changed.

Jerome Goolsby asked what the A-8 floodplain designation means. Mike said it is a FEMA designation stating that it is approximately 8 feet below the base flood elevation. Mike reminded everyone that the PUD indicated the structures will be constructed on platforms located well above that elevation.

Bruce Taylor asked what type of development is planned for this property. Mike said it will be a mixed residential and commercial use. Phase one includes four duplex homes to be built on stilts; an existing masonry building will remain. There will also be an open area with proposed walking trails.

No one appeared to speak in favor of this request and no one appeared to speak in opposition to the request.

There being no further questions, Chairman Wenger called the question.

VOTE: Goolsby – yes, Hebert – yes, Manville – yes, Park – yes, Taylor – yes, Wenger – yes.
Ayes – 6, Nays – 0. Quorum vote is five votes. Motion passes.

This item has been **APPROVED** by the Planning Commission.

ITEM #3 LARRY TODD – Requesting approval of a Zoning District Change from M-2 Heavy Manufacturing District to R-1B Single Family Residential District at 1116 Elizabeth Street in order that the existing single family residence will conform to the land use plan and use of the building rather than retain its current legal nonconforming state.

Staff recommendation: Approval

Mike said this is a non-conforming use. The property owner is ready to sell the home and it is more difficult to market and secure funding if it is a legal non-conforming use. The future Land Use Plan designates this area for low density residential use; the proposed zoning change matches that use. Mike said staff recommends approval.

Jason Park asked how this ended up being zoned heavy manufacturing in the first place. Mike said it may be close to a railroad track or to a planned manufacturing or storage business.

No one else appeared to speak in favor of this request and no one appeared to speak in opposition. Chairman Wenger closed the public hearing. (Larry and Rose Todd were in attendance but chose not to speak)

There was no further discussion. Therefore, Chairman Wenger called the question.

VOTE: Goolsby – yes, Hebert – yes, Manville – yes, Park – yes, Taylor – yes, Wenger – yes.

Ayes – 6, Nays – 0. Quorum vote is five votes. Motion passes.

This item will be forwarded to the City Council for final action with a recommendation of **APPROVAL** from the Planning Commission.

ITEM #4 DUSTIN STOCK – Requesting approval of a Zoning District Change from R-1B Single Family Residential to C-3 Commercial District at 221 S. 22nd Street in order to operate a minor automotive repair and detailing center as an ancillary use to the adjacent automotive sales lot.
Staff recommendation: Approval

Mike said this is along a major thoroughfare. Historic use of the building was for automobile service. Staff recommends approval.

No one appeared to speak in favor of this request and no one appeared to speak in opposition to the request. (Mr. Stock was in attendance but chose not to speak)

There being no questions from members of the Planning Commission, Chairman Wenger called the vote.

VOTE: Goolsby – yes, Hebert – yes, Manville – yes, Park – yes, Taylor – yes, Wenger – yes.
Ayes – 6, Nays – 0. Quorum vote is five votes. Motion passes.

This item will be forwarded to the City Council for final action with a recommendation of **APPROVAL** from the Planning Commission.

ITEM #5 COOKE BROTHERS DRIVE-IN LLC by Jay Kerner, agent – Requesting approval of a conditional use permit to operate a two-screen drive-in theater at 4814 South 169 Highway on property currently zoned C-3 Commercial District.
Staff recommendation: Conditional Approval

Mike Kellam said that about a year and a half ago, the Planning Commission reviewed an application for the same use at the same location, after which City Council approved the conditional use permit. Action on a conditional use permit must begin within one year from date of approval. Due to an economic situation, Mr. Cooke was unable to begin development of the drive-in theater within that one-year time frame, so he has rendered a new application for the same use. Nothing has changed from the previous request. Again, staff recommends conditional approval, said conditions being:

1. A 20 foot landscaping buffer consisting of coniferous trees and shrubbery will be required along the southern property line to screen this proposed use from the abutting residential properties; and
2. The approval of this conditional use permit shall be contingent upon the approval by the Board of Adjustment of a variance from the applicable height restrictions per Section 31-092(a) (4); and
3. The approval of this conditional use permit shall be contingent upon the action of the Board of Adjustment of the granting of a variance from off street parking requirements, specifically the impervious parking surface requirement for all parking areas per Section 31-092(a)(6); and
4. Vehicular ingress and egress sizes, location and construction shall conform to the requirements of the Public Works Department.

There are also two variance requests on the agenda of the Zoning Board of Adjustment for their meeting on June 28. One request is for a gravel parking lot; the other is to allow the screen to be 55 ft. high.

Jerome Goolsby asked which way the screens will be facing, will they be visible from Highway 169 and what kind of a traffic problem might that cause. Mike said the elevation of the road is somewhat lower; the applicant intends to fence the area which should obstruct some of the view from the street. There are several other items that can be used to obstruct this from traffic.

No one appeared to speak in favor of this request.

Dan Hausman 5102 Cook Road, appeared representing Buchanan County, 401 Jules Street, to speak in opposition to this request. He said the County has property adjacent to this location where they store heavy equipment, road oil, gravel, and road products. Mr. Hausman said the items that have been placed on the property at this time are far from state-of-the-art. An old, beat up screen and an old trailer with portable facilities on the property make it appear that they are not planning to do what they previously had indicated.

Mr. Hausman said this type of operation is not conforming to the existing uses in the area, which include a lumberyard, a butcher shop, a fork truck repair shop, diesel mechanic, welding supply shop, the State and the County. The property is currently leased out for heavy equipment storage.

Regarding egress, Mr. Hausman said 169 is a State highway, so they will have to get approval from MoDot.

Mr. Hausman said Buchanan County is still opposed to the project.

Mr. Wenger said that much of what Mr. Hausman listed is covered in the conditional requirements placed on the conditional use permit; if the applicant does not conform, they would not be able to operate at this location.

Bruce Taylor asked if there would be anything unsafe if the drive-in movie goes forward. Mr. Hausman said the speed limit is 55 mph; line of sight is pretty good, and most of the other businesses in the area will be closed when the drive-in is open. However, there is quite a bit of traffic up and down 169 Highway. He would anticipate the need for a stop light or some type of signage to slow the traffic down.

Mr. Taylor asked if Mr. Hausman anticipates any difficulty with the storage or equipment they have in the area. Mr. Hausman said they are concerned about vandalism. He said this is just not the right location for this type of facility.

Mr. Goolsby asked what the hours are for the County facility at this location. Mr. Hausman said they operate from 6:00 a.m. until 3:30 p.m.

No one else appeared to speak in favor or in opposition to this request. Chairman Wenger closed the public hearing.

Mr. Wenger asked how long a development can be delayed before we decide we should move on. Mike said if this is approved and the developer does not move forward within the one-year period, staff should probably recommend denial on any future application from this applicant at this location.

Mike said the speed limit on 169 Highway is reduced to 45 mph then 40 mph right before reaching this site. He agreed that MoDot will have to give approval as well and they may have some conditions of their own. Mike explained that the comprehensive Land Use Plan designates this area as commercial use. There are some existing light industrial uses in the area at this time, but there are also some commercial uses in the area. He also reminded everyone that there are several development review tools that will be used to ensure this property is developed properly, i.e., the temporary restrooms that have been pulled onto the lot will not suffice.

Mark Manville asked if they have addressed the two variances. Mike said they had not applied for the variances along with the previous conditional use permit; however, they have made application for them alongside this CUP application. Those variances are on the agenda for the Zoning Board of Adjustment on June 28, 2011.

Mike said there are still a lot of details to be worked out, a lot of questions still unanswered; however, their first step is to ensure the use will be allowed.

Dan Hausman conceded to Mike on the speed limit saying it is, in fact 40 mph. He asked if the development will be able to utilize a septic tank in this commercial application. He indicated they will have to cross several properties to get to the sewer, including the County's property. Roger Sparks said he thinks there is a sewer running along one edge of their property; he will have to look it up to be sure. We have allowed some commercial to connect to a septic tank provided they can show that they have the required size and proper place to do so. The load would most likely be quite large and it would probably be difficult for them to prove out the ability to use a septic tank.

Mark Manville asked if the proposed use conforms to the land use plan and zoning code. Mike said yes; in 2009 during the land use plan discussion, we discussed this area at length and determined that the highest and best use of the area would be commercial.

Bruce Taylor asked if development of a drive-in theater at this location would be better than no development at all. Mike said he hopes the developer will follow through with the original plan and makes this a first class drive-in theater experience. Any development on the site will be better than heavy equipment storage for bringing tax dollars to the city.

Mark Manville said he is hesitant to vote on this request without the applicant being in attendance to answer questions. He thinks it would be prudent to postpone this item until the applicant or a representative can be present to answer the questions.

[7:40 p.m.] Jay Kerner arrived.

Jay Kerner, 816 North 11th Street, appeared to answer questions on this application. Mr. Wenger asked why this development has taken so long; also are they aware of the conditions being placed on the conditional use permit.

Mr. Kerner said originally there were two partners working together on this development; shortly after approval of the conditional use permit a few years ago, the partnership was dissolved and it has taken Mr. Cooke until now to complete the dissolution and liquidate enough assets to be able to do this project without having to borrow any money.

Mr. Kerner asked if any of the conditions are different from those placed on the first conditional use permit. He said Mr. Cooke has plans to address all the concerns on the first CUP; Mr. Cooke has stated that he is willing to do whatever is required of him in order to be able to develop this property into a drive-in theater.

Jerome Goolsby asked if there are any plans to address the visibility of the movie screens from the roadway. Mr. Kerner explained that the screen will be as far as it can be from the street.

Reba Habert said Mr. Hausman expressed his concern about the odor from the County's property next door and she wanted Mr. Kerner to be aware of that. Mr. Kerner said Mr. Cooke does not think the odor will be enough of a distraction to cause a problem.

Mr. Wenger said the condition of the property over the last year has been less than ideal. Mr. Kerner said anything that needs to be done will be. Mr. Cooke is not planning to use the large restroom trailer – he plans to sell it. The restrooms will be inside a building.

Chairman Wenger closed the public hearing. Since there were no further questions, he called the question.

VOTE: Goolsby – yes, Hebert – yes, Manville – yes, Park – yes, Taylor – yes, Wenger – yes.
Ayes – 6, Nays – 0. Quorum vote is five votes. Motion passes.

This item will be forwarded to the City Council for final action with a recommendation of **APPROVAL with conditions** from the Planning Commission.

ITEM #6 REPORT FROM CITY PLANNER/GENERAL DISCUSSION

- Mike said at this time, we have one agenda item for July. Tomorrow is the filing deadline, so we may still receive additional applications.
- Mike announced that he has accepted a job opportunity away from St. Joseph, and July 22 will be his last day. Mr. Wenger congratulated Mike and thanked him for 5-1/2 years of work and progressive planning and helping the city grow and develop appropriately.
- Jerome Goolsby announced that he will also be leaving after this Planning Commission meeting. He has accepted a position with the Rocky Boy Indian Reservation in Montana. Mr. Wenger thanked Mr. Goolsby for his service and wished him well.

- Mr. Wenger asked who will step in for Mike in the interim. Mike said possibly Clint Thompson.

There being no further business, Mr. Wenger adjourned the meeting at 7:52 p.m.

The next regular meeting of the Planning Commission will be held on Thursday, July 28, 2011 at 7:00 p.m.

cc: City Clerk
Planning Commission Members
Clint Thompson, PCD Director
Ted Elo, Assistant City Attorney
Mark Townsend