

PLANNING AND ZONING COMMISSION
MINUTES OF MEETING

August 16, 2011

6:01 p.m.

Item 1. Roll Call

PRESENT: Gene Deckard, Jim Rice, Tim Glenn and Stephanie Hughes

STAFF PRESENT: Planning & Zoning Director Nick Pappas; Building Official Larry Murry; and Secretary, Kathy Twitchell

ABSENT: Bruce Collins, Ambrose Buckman, Sam Hargrove and Bob Gerdes

Visitors: Eric Copeland, Nile Brown and Keith Winge

Item 2. Approval of Minutes-July 19, 2011

MINUTES APPROVED: Commissioner Rice motioned to approve the July 19, 2011 minutes. Commissioner Glen seconded. Commissioner Hughes abstained. The motion carried.

Item 3. Special Use Request: SU-11-004 Mixed Use at 109 E. Broadway

Nick Pappas advised the Commission that the applicant withdrew her request at this time

Item 3. Special Use Request: SU-11-005 Location of rehabilitation agency on S. Marietta

Nick Pappas gave the following staff report. The final component of the year-long Excelsior Street redevelopment project is relocating the Kansas City Community Center-the alcohol and drug rehabilitation center currently located at 106 Elizabeth Street. Since the KCCC needs to secure another location to build within Excelsior Springs prior to selling 106 Elizabeth Street to Gardner Capital, the Planning & Zoning Department has reviewed over 4,000 parcels within the city that would best serve the interests of both the city and the KCCC.

Based on the City of Excelsior Springs' Zoning Code, Section 400.230 (F) (17), this use may be located in any zoning district in the City with a special use permit:

17. Hospitals, residential or outpatient facilities for the treatment of alcohol and other drug abuse, penal or correctional institutions; veterinary clinics.

The site on S. Marietta (a map of the parcel was provided) is the most promising location for a number of reasons and fulfills the requirements set out in Section 400.230, Subsection D of the City Code-Standards for a Special Use Permit-which gives four stipulations for the granting of a special use permit:

1. The use must be deemed necessary for the public convenience at that location;

2. The use is so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected;
3. The use will not cause substantial injury to the value of other property in the neighborhood in which it is located; and
4. The use will comply with the height and area regulations of the district in which it is located unless specifically granted otherwise.

Finding 1: Public Convenience

The rural setting of this location is ideal for a rehabilitation use such as the KCCC. The fact that only three property owners needed to be notified of this special use request due to location attests that little to no adverse effects will be felt by the community at large. In fact, even the three neighboring property owners—all of whom had no comment on this request—have enough buffering between their houses and this site so as to not be affected in any way.

Finding 2: Public Health, Safety, and Welfare

The KCCC has been operating in Excelsior Springs for well over a decade and has a record of protecting the health, safety, and welfare of its patients. Additionally, since the location is far removed from the downtown core, it will more easily allow for the rehabilitation of its patients. There is less temptation for the patients to resort to drugs or alcohol at this site than at 106 Elizabeth Street.

Finding 3: Property Value Impact

Due to the location of the property near a trash transfer station, an animal control center, a bus barn, and a public works complex, neighboring residential property values will not be substantially impacted more than they already have been with these uses already in operation.

Finding 4: Compliance with Height and Area Regulations

Since the property is zoned for agriculture uses—which includes houses—the construction of a 3,000 square foot two-level building is appropriate with regard to height and area regulations. The 5-acre parcel allows for ample room to build a structure that will house not more than 16 patients, which should be a special condition of this special use permit.

It is the opinion of city staff that the Commission recommends approval of this request to the City Council with the condition that not more than 16 patients be allowed at this site at a time for alcohol or drug rehabilitation and that all other city codes be followed.

Commissioner Rice asked how this request falls into the master plan. Nick Pappas stated the area is designated as civic use.

The Commissioner's asked how many would reside at the facility and if there were future plans to expand. Nick Pappas said the facility would house sixteen and to his knowledge there were no plans to expand.

Commissioner Rice motioned to approve the special use request with the stipulation that the facility would house sixteen residents. Commissioner Hughes seconded. The motion carried.

Item 4. Zoning Text Amendment: Restrictions on payday and title loan businesses

Nick Pappas gave the following staff report. At a previous Council meeting, it was requested that the Planning & Zoning Commission consider implementing an ordinance restricting Payday/Title Loan establishments in the city. Using both Gladstone and Liberty as a guide, the following ordinances have been created for your consideration.

Section 40.030: Definitions

The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

1. The singular number includes the plural and the plural singular;
2. The present tense includes the past and future tenses and the future present;
3. The word “shall” in mandatory while the word “may” is permissive;
4. The masculine gender includes the feminine and neuter;
5. Wherever a word or term defined hereinafter appears in the text of this Chapter its meaning shall be constructed as set forth in the definition thereof;
6. All measured distances shall be to the nearest integral foot; if a fraction is one-half (1/2) foot or more, the integral foot next above shall be taken;
7. The following words and terms, wherever they occur in this Chapter, shall be construed as herein defined.

Payday Loan Business: The business of making loans for a period of 30 days or less in duration, intended to coincide with the period from one payday of the borrower to the next, and in principle amounts of \$500.00 or less.

Title Loan Business: The business of lending money with the pledge of personal property as collateral, evidence by a certificate of title issued by the state, and regulated under RSMO 367.500-367.533, as from time-to-time amended.

To be added to Section 400.230: Special use Permits

F. Uses Which May be Permitted. Any of the following uses may be located in any district by Special Use Permit:

27. Pay loan and title loan businesses in accordance with the following provisions:
 - a. The business is not located within 5,280 feet of any other payday or title loan business;
 - b. The business is not located within 200 feet of a residential, church, park or school property; and
 - c. The business shall be located within a multi-tenant commercial building, housing not less than four separate occupancies.

Commissioner Rice expressed his reservations again about the ordinance holding up in a court of law. Nick Pappas explained the ordinance had been reviewed by the city attorney and it was in compliance with Missouri State Statutes.

Commissioner Rice motioned to deny the request to change the zoning text and place restrictions on payday & title loan business. A second was not received. A motion to approve the request was not entered.

Item 4. Zoning Text Amendment: Amending gravel driveway restrictions

Nick Pappas gave the following staff report. As directed by the Planning & Zoning Commission, a variety of exceptions to the Section 400.280 driveway requirements in the Zoning Chapter were presented. Legal counsel has noted the only option that is legally defensible in court is one that allows gravel in all residential areas in the city.

The proposed changes: 400.280 A. Improvements of Parking Areas #7. Lots in existing subdivisions in which paved driveways were/are not required, MAY be exempt from the requirement in the following instances:

c. (Option 1) In Districts “R-1” to “R-2” inclusive, a parking area not to exceed 400 square feet may be maintained with compacted gravel at a depth of at least four (4) inches. Barriers acceptable to the Building Official shall be installed to contain the gravel. Right-of-way approaches leading to such gravel parking areas shall conform to the concrete or asphalt requirements of this chapter.

c. (Option 2) In subdivisions platted prior to 1950, a parking area not to exceed 400 square feet may be maintained with compacted gravel at a depth of at least four (4) inches. Barriers acceptable to the Building Official shall be installed to contain the gravel. Right-of-way approaches leading to such gravel parking areas shall conform to the concrete or asphalt requirements of this chapter.

c. (Option 3) In older areas where two-way streets have widths under two-way streets have widths under twenty-five (25) feet, a parking area not to exceed 400 square feet may be maintained with compacted gravel at a depth of at least four (4) inches. Barriers acceptable to the Building Official shall be installed to contain the gravel. Right-of-way approaches leading to such gravel parking areas shall conform to the concrete or asphalt requirements of this chapter.

Nick Pappas explained the Commission can make any changes it feels is necessary. If the Commission votes to approve any of the changes, the Council will consider the amendment on September 6, 2011.

Commissioner Hughes expressed her concern that if we allow gravel driveways in all areas we will be the gravel pit of Missouri. Commissioner Rice requested to add that the driveway has to be behind the home.

Commissioner Rice motioned to approve option #3 and add the subdivision has to be platted prior to 1950 and wit rear access or alleyway access only. Commissioner Hughes seconded. The motion failed to get a majority vote. Voting to approve the motion was Commission Rice

and Hughes. Voting to deny the motion was Commissioner Glenn and Deckard. Nick Pappas explained the amendment would be presented to the Council on September 6 with the noted votes.

Item 5. Comments of Visitors

Nile Brown wanted the Commission to know that the house next to his parks five cars in the alley.

Item 6. Comments of Commissioners

There were no comments from the Commissioners.

Item 7. Adjourn

Commissioner Deckard adjourned the meeting at 6:40

Kathy Twitchell, Secretary to the Commission