

CITY PLANNING COMMISSION
Regular Meeting Minutes
Ottawa, Kansas

City Hall – March 12, 2008

The City Planning Commission met at 7:00 p.m. on this date with the following members present and participating: Members Colbern, Jones, Hatfield, Jackson, York, Wasko, and Chairperson Warren. All members were present.

Chairperson Warren asked the Planning Commission Members to make a declaration of any conflict of interest or of any Ex parte or outside communication that might influence their ability to hear all sides on any item on the agenda so they might come to a fair decision. There were none.

Consent Agenda:

Member York made a motion to approve the minutes as typed, for January 30, 2008 study session meeting and the February 13, 2008 meeting. All present voted yes. (7-0)

Public Comments:

Mildred Heathman, 1026 N. Cherry, asked the planning commission the following three questions.

1. What is the purpose of the Planning & Zoning Department?
2. What is the purpose of the Inspectors?
3. What is the purpose of the Planning & Zoning Commission?

Mrs. Heathman also stated she was concerned about storm water run-off as the new duplex built next to her property has caused more storm water run-off on her property. Mrs. Heathman presented the Planning Commissioners with documents to review, which she requested back. The documents presented were copies of the public hearing for the special use for the duplex next to her, an elevation map of the area, a plat map of the area showing her property and the property the duplex is on, a memo to the City Commission from Wynndee Lee, a copy of the site plan dated October 8, 2004 that was submitted with the special use permit, and a copy of the duplex plan that was stamped and dated by Doug Loyd August 12, 2005.

Chairperson Warren stated the Planning Commission does not make the final decision to change any regulations, the City Commission does that. He further stated the Planning Commission is just an advisory board to the City Commission.

Chairperson Warren noted that her situation is a civil matter. Chairperson Warren stated he has driven by her property and unfortunately her property is down hill from where the duplex was built. Chairperson Warren did state Wynndee Lee can respond to her questions.

Mrs. Heathman stated she would like to see some regulations dealing with storm water run-off in residential areas so it does not happen again. Mrs. Heathman stated she realized any action taken on the storm water run-off would not be retroactive and would not create a solution for her situation.

Chairperson Warren stated he was sensitive to storm water run-off onto other homeowners property and would like for staff to look into it to see what other cities require.

Mrs. Heathman stated she wants to come to any study sessions if this item is on the agenda.

Public Hearing Items:

Held a public hearing to consider rezoning an area at 1215 W. 7th from Franklin County RE Residential Estate Zoning District to the City's R-1 Low Density Residential Zoning District.

Chairperson Warren opened the public hearing.

Tom Yahl reviewed the findings with the planning commission and stated staff is recommending rezoning the area from County RE to City R1 for the entire parcel based on the following conclusions:

1. The change would be consistent with the intent and purpose of the zoning regulations.
2. The character of the surrounding neighborhood will have no effect on the proposed change.
3. Uses permitted as reclassified are compatible with uses permitted on property in the vicinity.
4. Public services and utilities are available to serve uses permitted by the reclassification.
5. The relative gain to the convenience of the public outweighs any hardship imposed by rejecting the request.

The findings are as follows:

Summary: The subject property consists of a tract located on the north side of Seventh Street, at the intersection of Eisenhower Avenue and K-68 Highway. The property is 10 acres in size. The request proposes to zone a one acre tract as R-1, with the remainder being C-3. The property is developed with a single family house and an animal hospital. Under the existing zoning the animal hospital is a nonconforming use. The property is not within the city limits of Ottawa but is within the Urban Growth Area designated by the interlocal agreement for development control with Franklin County.

It is the recommendation of staff that the rezoning request be approved to the R-1 zoning across the entire property.

Findings

When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based, using the following guidelines. Note that all references to agriculture in this report also include associated residential uses.

1. Whether the change in classification would be consistent with the intent and purpose of these regulations;

The intent of the C-3 District is to allow basic retail, service and office uses located at specific points on major streets outside the central and neighborhood business districts. This district is also intended to provide locations for commercial activities that do not require a central location downtown, but do require a location easily accessible to downtown shoppers, therefore it is particularly appropriate adjoining a major highway. Business uses needing large floor areas, particularly those of a service nature, not compatible with Central Business District uses, are included in this district.

The intent of the R-1 District is to provide primarily for one-family dwellings with accommodation for two- and three-family dwellings and related residential uses such as churches and certain public uses which tend to be located at the edge of higher density, and more centrally located residential areas. The district is intended to accommodate a low population density for specified types of dwelling units on large to medium sized lots with emphasis on adequate open space around buildings.

Staff Finding:

The proposed zoning amendment meets with each of these intentions, and does not contradict any of the stated purposes of the regulations.

2. **The character and condition of the surrounding neighborhood and its effect on the proposed change;**
Generally, the surrounding area is agricultural and residential. West and south of the site are agricultural uses. North and east is low density residential areas. Also north of the site is public uses, including the City of Ottawa maintenance and utility facilities and the Orlis Cox sports complex.

Staff Finding:

The surrounding area could have an effect on the proposed change. The development pattern of the surrounding area has remained stable for many years. Little new growth has occurred. While the area is consistent with the residential component of the request, development at the scale permitted by the C-3 district could create conflict with the surrounding area.

3. **Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions;**

As noted above the area has been stable for many years. The request was initiated by the owners desire to sell the residential use on the property. The extraterritorial planning agreement does not allow subdivision of property in the urban growth area unless the property is under a City zoning designation.

Staff Finding:

This factor is not applicable.

4. **The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;**

The areas west and south of the subject property are zoned agricultural under the County's zoning ordinance. A small tract to the north is zoned Franklin County R-E. The areas to the east and southeast are under the City's R-1 district, while the City facilities to the north are zoned P, Public Use District.

Staff Finding:

The area proposed as R-1 will not have any impact on surrounding land uses as many are of similar use and zoning. The area proposed as C-3 could have a negative effect on surrounding uses as large scale commercial development is not always consistent with low density residential uses.

5. **Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity;**

The C-3 zoning district allows a variety of commercial uses at varying intensities, along with a number of other uses by conditional use. The R-1 zoning allows single family homes and associated uses by right, along with two and three family dwelling and other uses by conditional use.

Staff Finding:

Generally, the uses permitted by the proposed residential zoning are compatible with the surrounding area. The uses permitted in the commercial zone are not compatible with the uses in the surrounding area, which are primarily residential and agricultural.

6. **The suitability of the applicants property for the uses to which it has been restricted;**

The subject property has been restricted to residential use under it's existing zoning.

Staff Finding:

The site is suitable for residential development, but is also suitable for limited commercial development. Although there is a considerable length of frontage along Seventh Street, the transition from Seventh Street to K-68 Highway at this location will limit development of new access point on the site. High traffic uses would likely cause a great deal of conflicting traffic movements at this location.

7. **The length of time the subject property has remained vacant or undeveloped as zoned;**

The property is developed with a single family residence and an animal hospital.

Staff Finding:

This factor is not applicable.

8. **Whether adequate sewer and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;**
City utilities are adjacent to the subject property and the uses do utilize water sewer and electric services. The property is in the response area of the LOH Fire District, and is provided police protection by the Franklin County Sheriff's Department. The City of Ottawa police and fire departments provide mutual aid to areas outside the City. All other public services are provided by Franklin County.

Staff Finding:

Although there are utility services in close proximity, extensions could be easily accomplished, which would be necessary for additional development. Increased development, either residential or commercial, on the site would require annexation in order to provide the public safety required for the increase in need.

9. **The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development;**

There is a great amount of land in the general vicinity zoned for residential use, although not much is vacant. There are vacant lands zoned residential in the northeast and southwest areas of the City. There are no lands in the vicinity zoned for commercial use. There are vacant lands zoned C-3 in the northeast area of Ottawa, along East Logan Street, and in the southern portions of the City, along Twenty-third Street.

Staff Finding:

While there is a great deal of land that is both zoned commercial and available for development, this factor is not applicable since the action is intended to address short term needs of the applicant. The action will also bring the commercial use into conformity.

10. **Whether the proposed amendment would be in conformance to and further enhance the implementation of the City's Comprehensive Plan;**

The future land use portion of the Comprehensive Plan identifies the property as "Park/Open Space". This category is described as active and passive public parks and open space corridors with public access; also include FEMA designated floodplain, designated wetlands, natural prairie grassland areas, drainage areas, and any other lands reserved for open space purposes. The future land use map also designates this area as a "gateway".

Staff Finding:

The proposed zoning change is not consistent with the Future Land Use map. However, any future development will be designed with gateway features in mind. Use of the property as park or open space could also be accomplished but will require removal of the existing structures and either dedication by the owners or purchase by a public agency.

11. **Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such reclassification; and,**
The elements of this item are addressed below in the staff finding.

Staff Finding:

Denial of the zoning change will result in minimal gain to the public interest as the property can be developed under the existing zoning. Approval of the applicants request will not cause harm to the public interest as any new commercial development would be required to conform to the City's plat and site plan review guidelines. However, as this location is designated as a gateway, intense commercial development will impair the ability to develop the area as a quality entrance into the City. The applicant has made the request not to increase the value of the property, although their intent is to yield some financial gain from the land, so denial is not likely to create a hardship. As the animal hospital is a legal nonconforming use, application of the R-1 zoning will not place any additional limitations on the use, and will allow the owners to take the action they desire.

12. **Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application**

13. **The recommendations of professional staff;**

It is the recommendation of staff to **approve** the requested rezoning from County zoning RE to R-1, Low Density residential District, based on the following conclusions:

- The change would be consistent with the intent and purpose of the zoning regulations.

- The character of the surrounding neighborhood will have no effect on the proposed change.
- Uses permitted as reclassified are compatible with uses permitted on property in the vicinity.
- Public services and utilities are available to serve uses permitted by the reclassification.
- The relative gain to the convenience of the public outweighs any hardship imposed by rejecting the request.

Chairperson Warren asked for comment from the applicant.

David Lee, Taylor Design Group, representing the owners, stated he had spoken with the owners and they are comfortable with having the whole parcel rezoned to R-1.

Member York asked if the owners understand should the building be destroyed they can not rebuild. Mr. Lee stated yes. Wynndee Lee indicated the current county zoning would not let them rebuild so this is not a new situation for them.

Member Hatfield asked about the portion of the property in the flood plain. Wynndee Lee indicated there are flood plain regulations that would regulate any building on that part of the tract.

Chairperson Warren asked for public comments, there were none.

Chairperson Warren closed the public hearing.

Member York stated he was concerned about the C-3 zoning request, and is more comfortable with the R-1 and is glad the owners are agreeable.

Chairperson Warren also stated he was comfortable with rezoning the whole tract to R-1.

Member York made a motion to approve the staff findings as there own, seconded by Member Colbern. The motion was considered and Member York, yes; Member Colbern, yes; Member Jones, yes; Member Jackson, yes; Member Hatfield, yes; Member Wasko, yes; Chairperson Warren, yes. Motion passed by a 7-0 vote.

Member Jackson made a motion to recommend to the City Commission to approve the proposed rezone request for an area at 1215 W. 7th, from Franklin County RE Residential Estate Zoning District to R-1 Low Density Residential Zoning District, seconded by Member Wasko. The motion was considered and Member York, yes; Member Colbern, yes; Member Jones, yes; Member Jackson, yes; Member Hatfield, yes; Member Wasko, yes; Chairperson Warren, yes. Motion passed by a 7-0 vote.

Held a public hearing on the proposed Recreation and Park Master Plan.

Chairperson Warren opened the public hearing.

Wynndee Lee reviewed the project with the Planning Commission. Mrs. Lee also indicated the Planning Commission would need to update the Comprehensive Plan once this plan is adopted.

Member Hatfield stated he did not see any funding to implement the plan. Wynndee Lee indicated the CIP will show funding for this program.

Member York was complementary of the plan and was also concerned about funding.

Chairperson Warren asked for public comments, there were none.

Member Jones made a motion to recommend to the City Commission to approve the proposed Recreation and Park Master Plan, seconded by Member York. The motion was considered and Member York, yes; Member Colbern, yes; Member Jones, yes; Member Jackson, yes; Member Hatfield, yes; Member Wasko, yes; Chairperson Warren, yes. Motion passed by a 7-0 vote.

Held a public hearing on the proposed amendments to Article 8, Countryside District.

Chairperson Warren opened the public hearing.

Tom Yahl reviewed the recommended changes to the CS District with the Planning Commission.

Chairperson Warren asked in Section 5 if the date listed, should be removed. Wynndee Lee indicated the date references the date the Zoning Regulations were adopted and when the regulations took affect.

Chairperson Warren asked could someone who subdivided by the current rules then re-subdivide by the new rules. Wynndee Lee stated staff had not explored that question and she indicated staff would check into it.

Member Hatfield asked what happens if you have a piece of property that is accessed by an easement due the changes in the regulations make these accesses disappear. Wynndee Lee indicated staff would look into it. Mrs. Lee indicated from the last meeting the Planning Commission stated they were not interested in creating lots that did not have street frontage.

Chairperson Warren asked for public comments.

Brian Mesik, wanted to thank staff for the research they have done on this and is happy to see this review of the district taken place.

Member York asked Mr. Mesik how many acres is his property. Mr. Mesik stated 27.9 acres. Member York asked Mr. Mesik if his property had street frontage, Mr. Mesik stated yes. Member York asked Mr. Mesik if the parcel he wishes to sell would have street frontage. Mr. Mesik indicated yes. Member York asked Mr. Mesik when he bought the property what was his intentions were, Mr. Mesik indicated it was to sell the five (5) to six (6) acres with the house and keep the balance of the acreage for himself.

Member York asked Mr. Mesik what size lot he would like to see next door to him. Mr. Mesik stated a lot that was from three (3) to five (5) acres. Mr. Mesik stated you have to have at least 3 acres for a septic system.

Member Jones stated at the study session the planning commission had asked for certain information to be given them on septic systems. Tom Yahl apologized for not having that information to the planning commission.

Member York stated he would be interested in knowing what the rural fire department regulations are on the spacing of structures in rural areas.

Chairperson Warren asked for public comments, there were none.

The planning commission was in agreement to continue the public hearing.

Chairperson Warren continued the public hearing to the April 9, 2008 meeting.

Held a public hearing on the proposed amendments to Article 27, Sign Regulations.

Chairperson Warren opened the public hearing.

Tom Yahl reviewed the amendments with the planning commission.

Chairperson Warren stated staff received a letter from Loves Travel Stops asking the Planning Commission to continue this item to their next meeting so they could be present to make a presentation. Chairperson Warren asked for the letter to become part of the record.

The letter is as follows:

March 12, 2008

Mr. Richard Warren
Chairman City of Ottawa Planning Commission

Sent Via E-mail

RE: Proposed Sign Text Amendment

Dear Mr. Warren and Planning Commission Members:

First of all, my apologies for my inability to be at your meeting tonight, unfortunately I had previous commitments that I was unable to shuffle around.

I have had an opportunity to review the proposed text amendments and wanted to thank you for the effort and consideration being given to such on our behalf. In reviewing the proposals I am concerned that the changes will not be sufficient to take care of our signage needs and am respectfully requesting that the request for change be tabled until the next meeting when myself or a representative can give more evidence of need in person, and be able to answer any questions that the Commission might have.

I have planned a trip to Ottawa in an effort to come up with some alternative ways to solve the problem and have invited Mr. Tom Yahl to observe the sign determination process first hand.

My sincerest gratitude for the professional manner in which I have been treated by the City of Ottawa officials and we are hopeful of being able to mutually solve the problem so we can soon become the newest member of the City of Ottawa community.

Thank you again; your considerations are greatly appreciated.

Sincerely,
Rick Shuffield
Director of Real Estate & Development

Wynndee Lee indicated that Loves was not the only inquiry that facilitated staff looking at making this amendment.

Member York stated after their study session he thought about this being an opportunity to make it look nice around the city and why not make everything the same height. Member York stated this

would take the height competitiveness out of the mix, which to him would make it aesthetically pleasing. Chairperson Warren stated with the suggestion of Member York do we want to make all signs 45 feet high to keep it them all the same size. Member York stated that is what the height is off the highway. Wynndee Lee indicated no, that all signs are required to meet the height of their district which is just not along the interstate. Other discussion followed concerning sign regulations.

Member York stated the Overland Park area looks nice with their pole signs, etc. and asked if staff could get the sign regulations from Overland Park.

Member Hatfield stated Junction City area was terrible about these types of signs and maybe staff should get a copy of their sign regulations to have a contrast of sign regulations.

Member Hatfield also asked what regulations there are on the lighting of these signs. Wynndee Lee indicated there were guidelines for lighting in the sign regulations.

Member York made a motion to continue the public hearing to their next meeting, seconded by Member Wasko. All those present voted yes. (7-0)

Other Items: There were none.

Announcements:

Chairperson Warren stated the next Planning Commission study session is Thursday, March 27, 2008 at Noon, and the next regularly scheduled Planning Commission meeting is Wednesday, April 9, 2008 at 7 p.m.

Adjournment:

Chairperson Warren adjourned the meeting.

(A recorded tape will remain on file for a period of six months)

Respectfully submitted,

Wynndee S. Lee, Director of Planning & Codes Administration