

TONGANOXIE PLANNING COMMISSION

MINUTES

May 3, 2007

Call to Order – The Planning Commission met in regular session at 7:00 pm in the City Council Chambers. Roll Call was taken; members present were Chairman Diane Bretthauer and Commissioners; Bob Altenhofen, Jim Bothwell, Burl Gratny, John Morgan, Don Pelzl and Joel Skelley.

Approval of Minutes–Jim Bothwell made a motion to approve the minutes of the Planning Commission Meeting held on April 5, 2007 as presented. Don Pelzl seconded the motion. Motion carried, seven ayes.

Regular Agenda Item 3a – Special Use Permit – Public Hearing – T Mobile – Communications Antenna submitted by Selective Site Consultants.

The Planning Commission followed the Public Hearing Script for consideration of recommendation of approval of the Special Use Permit for a communications antenna and related ground equipment to be placed on the South Water Tower. Kevin Kokes, AICP, BWR Corp. presented the staff report. He reviewed the background information, mandatory review considerations and staff recommendations as provided in his written staff report. The applicant Jarrod Foutes with Selective Site Consultants was present to answer any questions. No one from the public was present to speak for or against the Special Use Permit. The chairperson closed the Public Hearing. The commissioners asked about the expiration of the special use permit. They also asked if the wiring was to be underground. Kevin Kokes explained the Special Use Permit could be approved with the following conditions, which would address those comments.

- 1) The special use permit shall be valid provided all terms and conditions are satisfied in accordance with a separate lease agreement by and between the City and T-Mobile.
 - 2) The equipment shall be installed, operated and maintained in a manner to allow the future addition of antenna and equipment by other communications providers.
 - 3) The antenna and coaxial cable installed on the tower shall be finished or painted in a manner to match the color of the tower structure and tank.
- **Jim Bothwell made a motion** to recommend approval of the special use permit with the three conditions listed. **Burl Gratny seconded** the motion.
 - **Motion carried:** Aye 7

Regular Agenda Item 3b. Rezoning application from R (rural) to R-SF (Single Family) submitted by Tim Keller. The Planning Commission followed the Public Hearing Script for consideration of the recommendation of approval of the request to rezone. Kevin Kokes said Tim Keller filed an application to change the zoning on 13.4 acres of land generally located 1/8th mile east of US 24/40 between 12th Street Terrace and 14th Street. On March 26, 2007 the City Council approved annexation of the property by Ordinance 1225. The property is currently owned by Walter Sorensen, and the applicant proposes to purchase and develop the property with 40 single family dwellings. Kokes presented the staff report and went through the mandatory rezoning considerations and staff recommendations as provided in his written staff report dated May 3, 2007. The applicants' engineer, Bill Leek, Peridian Group, was available to answer any questions as they pertained to the rezone request. Denise Graves, 1242 Red Cedar, said she was concerned that there was going to be rental property in the development. She said by adding more homes it would add more children and more buses in the area. It would also require more roads and maintenance of those roads. She felt the area would be better served as a park or walking trails. No one else from the public was present for or against the rezoning request. The chairperson closed the public hearing.

- **Burl Gratny made a motion** to approve the request to rezone the property after all the mandatory zoning considerations were discussed and considered. **John Morgan seconded** the motion. **Motion carried** seven ayes.

Regular Agenda Item 3c. Preliminary Plat of Eagle Valley No. 4 submitted by Tim Keller.

The Planning Commission followed the Public Hearing Script for consideration of the preliminary plat for Eagle Valley No. 4, approximately 13.4 acres generally located 1/8th mile east of US 24/40 Highway between 12th Terrace and 14th Street. City Planner, Kevin Kokes went over the history and background of the site. He discussed Infrastructure for the property, including collector streets, the US 24/40 Highway Corridor Access Management Plan, other street improvements, street connections to adjacent properties, water, sanitary sewer and storm water. Staff recommends approval of the Eagle Valley No. 4 preliminary plat, subject to the following conditions. a) The final plat shall address all comments and conditions by the City Engineer, b) The final plat shall provide a street stub connection from S. Shawnee Street to the west property line, and shall align with E. 12th Terrace, unless another suitable location between E. 12th Terrace and E. 14th Street is determined suitable with approval of the final plat, c) A master landscape plan/fencing plan shall be submitted with the final plat for approval by the Planning Commission to address the location and placement of any proposed or future fences to be installed on lots abutting the E. 14th Street right-of-way, d) Prior to the recording of the final plat the developer shall submit financial guarantees, in a format approved by the City, for one-half (½) the cost of constructing the development's 14th Street frontage to the city's collector roadway standard (including curb, gutter, storm sewer, and sidewalks), e) A temporary fire lane shall be constructed to connect S. Shawnee and S. Red Cedar Streets to S. Raintree Drive in accordance with the standards required by the City Engineer. Said fire lane shall be completed prior to the issuance of any building permits within the subdivision, f) The Tract 'A' (detention basin) shall be maintained privately by the homes association to be formed for this development. Notification of said ownership and maintenance responsibilities shall be assured by separate document that identifies the organization (e.g. a homes association) that will be the legal entity having permanent responsibility and authority for the installation, maintenance and repair of said area, as well as for the payment of all expenses, including taxes and special assessments. Said document shall be recorded with the Leavenworth County Register of Deeds office concurrently with the recording of the final plat. A copy of said recorded document shall be provided to the Tonganoxie City Clerk.

Next, City Engineer, Brian Kingsley went over the engineering review of the revised Preliminary Plat dated April 19, 2007, and provided the following review comments. a) The drainage study should be revised. b) The construction of Phase II on the interceptor extending sewer service to this site. c) Street Connectivity to adjacent undeveloped property, d) Development Agreement to address 14th Street and the emergency access to the long cul-de-sac streets, e) A request has been made to KDOT to provide review and comments for the existing 24/40 and 12th Street intersection regarding its ability to handle additional traffic.

Discussion ensued with the developer and the Planning Commission concerning the proposed street connection to the vacant land on the West of the parcel. The developer would like to build the subdivision simultaneously with the interceptor as to not slow their project. The Commissioners were uncomfortable waiving the requirement without a development plan for the entire parcel. The developer will meet with staff to discuss the capacity of the Raintree lift station and their ability to build simultaneously with the city.

- **Joel Skelley made a motion** to approve the preliminary plat contingent upon the City Planner and City Engineers conditions of approval being met. **Bob Altenhofen seconded** the motion. **Motion carried** seven ayes.

Regular Agenda Item 3d. Site Plan Review – West Haven Baptist Church. City Planner, Kevin Kokes said the West Haven Baptist Church requested approval of a site plan to expand the

existing church located at the northwest corner on US 24/40 Highway and West Washington Street. In 2001, a master site plan was approved for the existing church building and parking lot, with future phases identified to the south. The proposed building addition consists of two levels and 16,240 square feet for classrooms, kitchen, auditorium, offices, and fellowship areas. No new parking areas or changes to the driveway accesses are proposed with the building addition.

The draft US 24/40 Corridor Study identifies the highway to be improved in the future as a 4-lane roadway with center median. Existing driveway access from the highway will be limited to a right-in/right-out once a center median is installed. A total of 140-feet of highway right-of-way (70-feet of half street right-of-way) will be required for future development along this segment highway under the draft Corridor Study. As a result, church representatives have agreed to dedicate additional right-of-way for US 24/40 highway to conform to the draft Corridor Study. The church will also dedicate street right-of-way for West Washington Street to conform to the City's subdivision standards for that roadway.

Review Considerations:

Building Design: The Church expansion will include a basement level and a first floor level. The building exterior would be finished with face brick and the roof would be finished with composition shingles.

Right-of-way: A total of 50-feet of half-street right-of-way currently exists for US 24/40 Highway. The church will dedicate an additional 20-foot of right-of-way to conform to the draft Corridor Study.

A total of 60-feet of street right-of-way currently exist for West Washington Street. The church will dedicate an additional 10-foot of right-of-way to conform to the collector roadway standard of 40-feet of half-street right-of-way (80-foot total).

- **Burl Gratny made a motion** to approve the site plan preliminary plat contingent upon the City Planner and City Engineers conditions of approval being met. **Don Pelzl seconded** the motion. **Motion carried** seven ayes.

Regular Agenda Item 3e. De-annexation Request – 1605 Washington Street, submitted by Troy and Bridget Letourneau. Asst City Administrator, Kathy Bard went over the history of the property. In 1971, all the land south of 4th Street to Old 40 was annexed into the City of Tonganoxie. City Records concerning this annexation include the Ordinance (#592) and the minutes of the City Council on December 27, 1971. It cannot be determined if the annexation was petitioned (voluntary) or unilateral. No details are given in any of the mentioned documents. It would appear that the annexation is unilateral because several parcels of property were included on the ordinance. In addition, there were four other ordinances adopted that summer each annexing several parcels of property. If the annexation was unilateral, it has legal standing even though there is no evidence of a plan for providing municipal services to the property. The provision of municipal services was not a requirement by statute until 1974 (according to the League of Municipalities). She said, there will be a public hearing at the May 14, 2007 city council meeting and according to the Kansas Statutes they must find that 1) Due and legal notice has been given to the public, 2) No Private rights will be injured or endangered by such exclusion, 3) That public will not suffer any loss or inconvenience and 4) In justice to the petitioners the prayer or the petitioner should be granted

The Notice of public hearing was published in the Tonganoxie Mirror on April 11, 2007 and April 18, 2007 allowing 20 days to lapse prior to the hearing. Mr. and Mrs. Letourneau were also mailed a letter to notifying them of the hearing. Services – such as trash pick up, police, fire protection etc, to this site would have to be provided by the County instead of the City. Taxes – the City will not receive future tax revenue from this residence. This could inhibit the extension of services to the area. If the infrastructure in this area was to be improved, this site might not be eligible to participate in a benefit district or it may be able to exclude itself while still enjoying the benefit of the improvement. Future activities on this site cannot be regulated by the City and

could create a hazard to the private rights through non-application of city regulations. Therefore, staff cannot recommend approval of the de-annexation request.

- **Burl Gratny made a motion** to recommend to the governing body to grant the de-annexation. Motion died for a lack of a second and was withdrawn.
- **Joel Skelley made a motion** to recommend the governing body deny the request for de-annexation, for the reasons listed in the findings of facts and conclusions. **John Morgan seconded** the motion. **Motion carried** seven ayes.

Regular Agenda Item 3f. Text Amendments – Public Hearing. The Planning Commission followed the Public Hearing Script for consideration of recommendation of approval of the proposed text amendments to the City Zoning Ordinance and Subdivision Regulations. City Planner went over the staff report concerning the proposed amendments.

- **Jim Bothwell made a motion** to recommend the governing body approve the text amendments to the City Zoning Ordinance and Subdivision Regulations. **Joel Skelley seconded** the motion. **Motion carried** seven ayes.

Regular Agenda Item 3g. Courtesy Review for Leavenworth County. City Planner, Kevin Kokes said an application has been filed with Leavenworth County for a preliminary plat of a 5.29-acre tract located on the south side of Parallel Road approximately ¼ mile west of Tonganoxie Road. The western half of the property is currently developed with a single-family residence. The proposed plat would split the property in half and create two lots each approximately 2.645 acres in size. The current Leavenworth County Zoning Ordinance and Comprehensive Plan encourages the development of such properties in the periphery of cities in the county. However, the City of Tonganoxie Comprehensive Plan does not support the development of 2.5-acre lots around the city fringe in the city’s growth area because such developments conflict with the logical urban expansion of the community. Once property is split or subdivided and developed with rural residences, such areas often become pockets of land that obstruct the logical urban growth pattern of the city. The County has provided this application and similar previous applications to the City for comment and recommendations in advance of the application being considered by the County Planning Commission. All recent applications for such subdivisions have been opposed by the City. The City Planning Commission is requested to make its findings and recommendations so they can be provided to the County Planning Commission when this application is considered. He said the following comments are consistent with the comments provided by the city for recent similar applications. The subject property is close to the city limits of Tonganoxie and is identified by the City’s Comprehensive Plan within the city’s “Near-Term Growth” Area. The Near-Term Growth Area consists of lands in which urban growth is expected to occur within 10 years and in which the city can reasonably be expected to provide urban services during that period. The City of Tonganoxie Comprehensive Plan does not support the development of 2.5-acre “acreage” lots around the fringe of the City since such developments conflict with the logical urban expansion of the community. Once property is split or subdivided and developed with rural residences, such areas typically become pockets of land that obstruct the logical urban growth pattern. Due to their size and configuration, acreages are much more difficult to redevelop as more dense urban subdivisions. Urban growth around such acreage development will likely be more expensive as the city and developers must pursue more costly utility extension alternatives. Conflicts often occur between residents of acreage properties and developers of land proposed for development as the surrounding area becomes urbanized and the rural character of the area changes. These conflicts can be minimized by directing future acreage development to areas outside the city’s future urban growth area. The City’s Comprehensive Plan recommends that Leavenworth County amend its Zoning Ordinance and Subdivision Regulations to increase the required minimum lot size from properties zoned Rural Residential when located in the City’s urban growth area in order to reduce impacts upon the logical urban expansion of the community.

The owners of the property were present and said the parcel they were proposing to create is consistent with all the properties that surround it. The Planning Commission agreed that while they would continue to oppose large tracts surrounding the City and in the City's growth area they thought this was a good fit for the area.

- **Jim Bothwell made a motion** to send a letter of support for this request to develop this parcel as requested from the county but continue to be concerned and opposed to this type of development surrounding the City in the future. **Don Pelzl seconded** the motion. **Motion carried** seven ayes.

Old Business Agenda Item 4a – Tabled items from Site Plan Review – Famous Stars Video – 302 Shoemaker Way. The following items were tabled from the prior meeting. Waiver of a cul-de-sac at the south end of the Shoemaker Way, Waiver of installation of curbs for the parking lot and access drive, Waiver of parking lot illumination standards for individual freestanding poles/fixtures, Installation of a partial asphalt parking lot finished in phases as shown in diagram from Mr. Shoemaker dated 3/21/2007.

The Planning Commission had considerable discussion on the requests and determined that the property should be grandfathered due to the 2003 overhaul of the Zoning Ordinance and Subdivision Regulations.

- **Burl Gratny made a motion** to grandfather the property and allow the use. **Don Pelzl seconded** the motion. Four ayes. Two nays (Skelley and Altenhofen). One abstention (Bretthauer) **Motion carried.**

Old Business Agenda Item 4b – Fence Amendments Changes returned to the Planning Commission for clarification. The Planning Commission discussed the fence amendments and agreed they contained the regulations they would recommend for approval to the City Council.

- **Bob Altenhofen made a motion** to send the fence amendments back to the governing body with a recommendation for approval with no changes made. **Joel Skelley seconded** the motion. **Motion carried** seven ayes.

City Administrator, Mike Yanez requested the council consider scheduling a special meeting to meet jointly with the governing body to discuss the 24/40 corridor study.

- **Motion** by John Morgan to schedule a special meeting to meet jointly with the governing body to discuss the 24/40 corridor study on May 16th at 7:00 PM. **Second by Jim Bothwell.** All Ayes. Aye 7. **Motion carried.**

There were no additional comments or business at this time.

- **Joel Skelley made a motion** to adjourn the meeting. **Jim Bothwell seconded** the motion. **Motion carried,** aye 7.

Meeting adjourned at 9:45 p.m.

Respectfully presented, in the absence of the recording secretary,

Kathy Bard
Asst City Administrator