

TONGANOXIE PLANNING COMMISSION

MINUTES

June 7, 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; Jim Bothwell, Burl Gratny, John Morgan, and Don Pelzl. Joel Skelley arrived at 7:05 and Bob Altenhofen arrived at 7:10.

Approval of Minutes–Jim Bothwell made a motion to approve the minutes of the Planning Commission Meeting held on May 3, 2007 as presented. Don Pelzl seconded the motion. Motion carried; five ayes.

Regular Agenda Item 3a – Nomination and Election of Officers

Motions were made and seconded to nominate and elect Diane Bretthauer as Chairperson. Motion carried 4 ayes, Diane Bretthauer abstained.

Motions were made and seconded to nominate and elect Joel Skelley as Vice Chairperson. Motion carried 5 ayes.

Motions were made and seconded to nominate and elect Jim Bothwell as Secretary. Motion carried 4 ayes, Jim Bothwell abstained.

Motions were made and seconded to recommend appointment of Patty Hagg as Recording Secretary. Motion carried 5 ayes.

Regular Agenda Item 3b – Special Use Permit Renewal – Public Hearing – In-home Hair Salon Submitted by Beth Lacy

The Planning Commission followed the Public Hearing Script for consideration and recommendation of a Special Use Permit Renewal for an In-home Hair Salon, 622 Church St., submitted by Beth Lacy. Kevin Kokes, AICP, BWR Corp. presented the staff report. He reviewed background information, mandatory review considerations and staff recommendations as provided in his written staff report dated 6/7/2007. No one was present to speak for or against the Special Use Permit Renewal. The chairperson closed the Public Hearing. The commissioners did not have any questions.

- **Joel Skelley made a motion** to agree with the mandatory zoning considerations and recommend approval of the special use permit renewal with conditions recommended in the staff report. **John Morgan seconded** the motion.
- **Motion carried:** Aye 6

The City Council will hear this item at the regular scheduled meeting on June 25, 2007.

Regular Agenda Item 3c – Special Use Permit Renewal – Public Hearing – In-home Child Day Care, submitted by Rechelle Grimstead

The Planning Commission followed the Public Hearing Script for consideration and recommendation of a Special Use Permit Renewal for an In-home Child Day Care, 714 River St., submitted by Rechelle Grimstead. 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 dated 6/7/2007. No one was present to speak for or against the Special Use Permit Renewal. The chairperson closed the Public Hearing. The commissioners did not have any questions or comments.

- **Jim Bothwell made a motion** to agree with the mandatory zoning considerations and recommend approval of the special use permit renewal with conditions recommended in the staff report. **Joel Skelley seconded** the motion.
- **Motion carried:** Aye 6

The City Council will hear this item at the regular scheduled meeting on June 25, 2007.

Regular Agenda Item 3d – Rezone I-MD to PUD-R – Public Hearing – Assisted Living Development, submitted by Blue Mountain Capital, Inc.

The Planning Commission followed the Public Hearing Script for consideration of rezoning property located at 1196 Tonganoxie Dr. from I-MD (Moderate Industrial) to PUD-R (Planned Residential District). City Planner; Kevin Kokes reviewed the history and background of the site. He discussed infrastructure for the property, including the US 24/40 Highway Corridor Access Management Plan, street connections to adjacent properties and an access point from Tonganoxie Dr. Kevin also discussed the need for landscaping to buffer the I-MD zoning that surrounds the property. A point of concern regarding the propane fueling station was discussed. Dave Bennett, Tonganoxie Fire Chief, stated he contacted the State Fire Marshall who said allowable minimum building setbacks are twenty five feet on either side of the property line for a total of fifty feet. Andy Suber, Blue Mountain Capital, Inc. discussed his proposal for the property. He assured the commissioners this would be a market rate facility for assisted living. It would not be low-income housing. He reviewed his plans for landscaping which include using the topography and making berms with fencing and trees so residents will not feel like they are in an industrial area. He stated he feels there is a need for such a facility as this in Tonganoxie. Bill Graveman, Magnatech Engineering, an adjoining property owner, reviewed a letter he prepared for the commissioners listing his reasons the rezoning should be denied. He stated he thought the project was a great idea but the location was not the right place. The whole area is zoned I-MD and there is industrial noise from delivery trucks, machinery and other industrial hazards that could occur. He feels a residential zoning in the middle of industrial zoning will be detrimental to his property value. He stated the spot zoning would be against the Land Use policies in the Comprehensive Plan Vision 2020. Dan Trent, Atty. 13100 Kansas Ave. Bonner Springs KS 66012, representing KanGas Propane Services was present to voice concern about rezoning the I-MD property to PUD-R. He stated rezoning this property to PUD-R would be an encroachment on the Industrial Use for adjoining properties. He said there is a definite Industrial presence in the area at this time with loading and unloading trucks, 24-hour shifts especially in the winter, trucks engines running with headlights on. He stated his client wanted to be a good neighbor and his clients feel they would get complaints from the residents and staff of the Assisted Living Facility. He also sited safety issues, Homeland Security regulations that are frequently updated and the inappropriateness of bringing elderly residents close to the Propane facility. His clients want to protect what they have as an industrial setting and he asked the commissioners to deny the application to rezone. Dave Bennett, Tonganoxie Fire Chief, stated the Fire Department staff did not consider the 50ft setback safe enough from the propane facility, his staff feels this is a great project, but this location is the wrong place.

Don Huebner, 19501 Tonganoxie Road, agreed with Mr. Graveman and Mr. Trent, he would like to see the area remain zoned I-MD.

The commissioners questioned Mr. Suber about the proposed facility, the distance from the propane station and access points to the property. Mr. Suber replied that he was at least 500-600 feet from the propane station and did not feel the facility would be in the danger zone. He stated he has talked to KDOT about an access point across from Ridge St. He stated the piece of property he wants to rezone is odd shaped and is not a good fit for Industrial Use. He feels the surrounding area may be better suited for commercial development in the future and he would use earth berms, fences and screening for privacy around his assisted living development. He feels the surrounding property values will see an increase in value assessment after he finishes developing all of his property. He discussed plans that will include a mixed use of commercial, residential and industry in the area.

The chairperson closed the Public Hearing. The commissioners discussed the mixed use in the area. A rezone from industrial to commercial would be a better fit. They felt maybe there is a better place to put the assisted living facility in Tonganoxie.

- **Joel Skelley made a motion** to recommend denial of the rezoning application from I-MD to PUD-R. **Burl Gratney seconded** the motion.

The commissioners discussed the mandatory rezoning considerations.

Joel Skelley amended his previous motion to recommend denial of the rezoning application from I-MD to PUD-R based on the following considerations:

(a) **Character of the neighborhood:** The character of the surrounding area is a mix of agriculture and industrial uses. The proposed residential use is not in character with the surrounding neighborhood and no amount of landscape / screening can be provided to buffer the residential development from being negatively impacted by uses permitted by right on nearby properties.

(b) **Zoning and uses of properties nearby:** Surrounding properties are zoned for industrial uses and County rural residential. Residential zoning is generally not considered compatible in industrial areas. Therefore significant landscape / screening buffering will be necessary to ensure residential development on this property would not be negatively impacted by uses permitted by right on nearby properties.

(c) **Suitability of subject property for the uses to which it has been restricted:** If residential zoning is not approved for the subject property, it can be developed for nonresidential uses as currently zoned.

(d) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of residential zoning will impact the future use of adjoining nonresidential zoned land in that any development on those properties will be required to provide larger building setbacks and increased landscape buffering than would otherwise be required if the property remains zoned industrial. Also, uses permitted on adjoining properties may generate noises, traffic, lighting, and other impacts that are typically considered offensive to residential inhabitants.

(e) **Length of time the subject property has remained vacant as zoned:** The subject property and its adjoining parent property have never been developed as currently zoned.

(f) **Relative gain to the public health, safety and welfare by the destruction of the value of the landowner's property as compared to the hardship imposed upon the landowner:** Approval of the PUD-R zoning will allow for development of a residential elderly assisted living facility, which is considered a desirable housing option for existing and future residents of the community. While the proposed use is desirable for the community, the proposed location in an industrial area is not appropriate.

(g) **Conformance of the requested change to the adopted or recognized comprehensive plan of Tonganoxie, Kansas:** The Future Development Plan in the current Comprehensive Plan (Vision 2020 For Tonganoxie, Kansas) recommends "industrial" uses for this area. The proposed residential development would not be consistent with the existing and future industrial development planned for the area.

- **Bob Altenhofen seconded** the motion. Roll Call vote was taken. Bob Altenhofen, aye; Don Pelzl, aye; Joel Skelley, aye; Diane Bretthauer, nay; Jim Bothwell, nay; John Morgan, aye; Burl Gratney, aye. Motion carried 5 ayes and 2 nays.

Regular Agenda Item 3e - Courtesy Review for Leavenworth County. City Planner, Kevin Kokes said an application has been filed with Leavenworth County for approval of a Preliminary Plat for Brad's Subdivision, a 5.09-acre tract located on the north side of Parallel Road and east of Tonganoxie Road. He stated 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 Leavenworth County Planning Commission. The western half of the property is currently developed with a single-family residence. The proposed plat would split the property and create two lots. The current Leavenworth County Zoning Ordinance and Comprehensive Plan encourages the development of such properties in the periphery of cities in the county. Kevin stated 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 Comprehensive Plan, Vision 2020, for the City of Tonganoxie does not support the development of 2.5-acre "large 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, large lot acreages are much more difficult to redevelop as more dense urban subdivisions. Urban growth around such large lot 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 large lot 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 city's Major Thoroughfare Plan and The Hwy 24/40 Corridor study classifies Parallel Rd. and County Rd. 5 as arterial roadways. The City's Subdivision Regulations requires the dedication of 50 feet of half street right-of way measured from the centerline for arterial roadways. The proposed plat identifies only 40 feet of half-street right-of way. If the plat is approved the City would like to see driveways onto Parallel Rd. not County Road 5. The City has already restricted driveway access onto Parallel Rd and County Rd. 5 for the Jackson Heights Subdivision located to the south of Brad's Subdivision to prepare for an arterial roadway on Parallel Rd in the near future.

- **Jim Bothwell made a motion** to send a letter of support listing conditions from city staff and engineers for the request to develop this parcel in the county and to include in the letter that the commissioners will 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 – Fence Amendments Changes tabled by the City Council. The Planning Commission discussed the fence amendments and agreed they contained the regulations they recommend for approval to the City Council. The Planning Commissioners would like to know specific changes from the City Council if they do not approve the fence amendments as recommended.

- **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. Bob Altenhofen, Don Pelzl, Joel Skelley, Diane Bretthauer, Jim Bothwell, and Burl Gratney, ayes; John Morgan, nay. **Motion carried** six ayes, 1 nay.

Open Agenda

Mike Yanez presented the County Resolution and Moratorium Map to the Commissioners. He also discussed the repairs needed to the Pleasant St. bridge.

Diane Bretthauer discussed off site development signs. It was agreed to continue this item to the July agenda.

There were no additional comments or business at this time.

- **Don Pelzl made a motion** to adjourn the meeting. **Bob Altenhofen seconded** the motion. **Motion carried**, aye 7.

Meeting adjourned at 8:50 p.m.

Respectfully presented,

Patty Hagg
Recording Secretary