

TONGANOXIE PLANNING COMMISSION
MINUTES
September 2, 2010

Call to Order – The Planning Commission met on September 2, 2010 for a regularly scheduled session. In the absence of the Planning Commission Chairman & Vice Chairman, John Morgan called the meeting to order at 7:00 pm. Members present were Commissioners Joshua Mast, John Morgan, Cody Edwards and Rick Pruden. Commissioners absent were Joel Skelley and Bill Peak. A quorum was present.

Approval of Minutes–The Commissioners approved the minutes from the May 6, 2010 meeting. All ayes - 4

Old Business - None

Agenda Items –

4a. Public Hearing – Consider an Application for a Special Use Permit for an In-home Child Day Care Center at 2065 Rock Creek Ct.

Agenda item 4a was withdrawn by the applicant.

4b. Public Hearing – Consider an Application for a Special Use Permit for an In-home Child Day Care Center at 2016 E Finch Dr.

The Planning Commission followed the Public Hearing Script.

Kevin Kokes, AICP, LEED AP, Planning Consultant with Bucher Willis Ratliff Corp. reviewed the staff report dated September 2, 2010. He presented background information on the property, the neighborhood, and parking. He also discussed required inspections, KDHE regulations, hours of operation and employees. The Mandatory considerations from the City's Zoning Ordinance Section 22-011 were also discussed. Also presented were staff recommendations to be included in the Ordinance for the special use permit.

The applicant Megan Garren was present. No one was present to speak in favor or opposition to the In home Day Care Special Use permit.

The Public Hearing was closed.

The Commissioner's discussed the special use permit application and mandatory zoning considerations. The Commissioners had no further comments or questions.

- **Josh Mast made a motion** to recommend approval of the special use permit for an In home Day Care Center at 2016 E Finch Dr including the staff recommendations in the memo dated September 2, 2010.
- **Cody Edwards seconded** the motion.
- **Roll Call Vote** was taken. Joshua Mast, aye; John Morgan, aye; Cody Edwards, aye; Rick Pruden; aye.
- **Motion carried** aye 4.

The motion is based on agreement with the following mandatory zoning considerations:

(a) The location and size of the proposed use in relation to the site and to adjacent sites and uses of property, and the nature and intensity of operations proposed thereon: The day care home must be licensed by KDHE, with the maximum number of children in the center to be determined through the KDHE licensing process. The proposed day care center with six or fewer children has typically been considered compatible in residential areas of Tonganoxie.

(b) Accessibility of the property to police, fire, and refuse collection and other municipal services; adequacy of ingress and egress to and within the site; traffic flow and control; and the adequacy of off-street parking and loading areas: The subject property has good access for public safety providers and other municipal services. The limited size of the proposed day care center would likely have minimal impact upon nearby neighborhood properties.

(c) Utilities and services, including water, sewer, drainage, gas and electricity, with particular reference to location, availability, capacity and compatibility: The property is served by all above-described utility services. The proposed child day care center does not appear to have an impact upon the provision of such utility services to the area.

(d) The location, nature and height of structures, walls, fences, and other improvements; their relation to adjacent property and uses; and the need for buffering or screening: The applicant indicates an outdoor play area will be located in the backyard of the residence which is enclosed with a fence. A day care center located in a residential neighborhood could potentially impact surrounding properties if the facility were to include a large number of children who use the yard area for play activities, or if traffic circulation and parking creates congestion or conflicts with the flow of traffic on public streets. No additional screening of the play area is proposed at this time. Additional screening is not expected to be necessary for the outdoor play area. However the need for screening can be re-evaluated at the time the special use permit is renewed.

(e) The adequacy of required yard and open space requirements and sign provisions: The Kansas Department of Health and Environment (KDHE) regulates day care homes and reviews the adequacy of yard and open space prior to issuing a permit.

(f) The general compatibility with adjacent properties, other properties in the district, and the general safety, health and comfort and general welfare of the community and surrounding neighborhood: Child day care homes are typically compatible in residential neighborhoods and provide a desirable service for communities with young families.

The motion is also based on the following recommended conditions of approval:

a) The special use permit shall be valid for a period not exceeding two (2) years after approval by the City Council and the publication of the Ordinance which grants the special use permit

b) The applicant shall notify the City of any changes to the license granted by KDHE for the child day care center on the subject property.

c) The applicant shall obtain a fire inspection on an annual basis concurrently with the annual renewal of a City Business License for the child day care center.

d) Up to a maximum of six (6) children shall be allowed for care in the day care home as restricted by the Kansas Department of Health and Environment.

e) The child day care center shall be operated in conformance with the Kansas Department of Health and Environment (i.e., maximum number of children, fire inspection, health screens, etc.). The owner shall notify the city if application is made to the State for any licensing other than for childcare.

f) A sign permit shall be obtained in accordance with Section 25-015 (Signs Permitted in Residential Districts) of the Zoning Ordinance for any building mounted or on-site signage associated with the business.

The Tonganoxie City Council will consider this item on the 27th day of September, 2010 this allows the required time for a protest petition to be filed with the City Clerk's Office. The Council meeting will be held at 7PM in the City Council Chambers at 321 S. Delaware.

4c. Consider an Application for a Special Use Permit for an In-home Federally Licensed Firearms Dealer at 1177 S. Bury St.

Planning Commissioner, John Morgan abstained from discussion and voting on this topic.

The Planning Commission followed the Public Hearing Script.

Kevin Kokes, AICP, LEED AP, Planning Consultant with Bucher Willis Ratliff Corp. reviewed the staff report dated September 2, 2010. He presented background information on the property, city zoning ordinance regulations for special use permits and required State and City inspections. He reviewed the mandatory zoning considerations from Zoning Ordinance Section 22. He also discussed staff recommendations to be included in the Ordinance granting the Special Use Permit. The applicant Zane Peak was present and stated he expected to sell very few items from his home and his business will not be open to the general public, buyers will most likely be personal friends of his and most firearms and ammunition will be ordered through a catalog and then picked up at his residence. He stated all firearms and ammunition will be stored in a 1000 pound safe that has a combination/digital lock system and is located in the basement of his residence. He explained that to new Federal regulations he must comply with city regulations regarding Special Use permits for certain In-Home businesses.

Ryan Gasky 1180 S Bury St, Tonganoxie KS – spoke in favor of approving the special use permit for Zane Peak. He stated he personally knows Mr. Peak and his family and feels very confident that his business will not cause problems for the neighborhood. He stated Mr. Peak would be conducting the business to help friends purchase firearms at better prices than commercial businesses.

Michael Smith, 1173 S Bury St Tonganoxie KS – spoke in opposition of the Special Use Permit stating the area is a residential area and is densely populated with children.

Bob Eisenbach, 1170 S Bury St Tonganoxie KS – spoke in opposition of the Special Use Permit stating he has already talked to City Administrator, Mike Yanez regarding his concern about the traffic and parking problems on Bury St. He stated there are at least 17 children in the neighborhood and he felt this in home business would add to the traffic problems and firearms stored in the house could lead to burglaries in the neighborhood.

Shane Maas, 1185 Bury St. Tonganoxie KS - spoke in opposition by phone call to City Hall. The Public Hearing was closed.

The Planning Commissioners discussed additional safety measures and the requirements for the Federal License.

The Commissioners had no further comments or questions.

- **Cody Edwards made a motion** to recommend approval of the Special Use Permit for a Federally Licensed Firearms Dealer with staff recommendations A-E from the memo dated September 2, 2010 and agreement with the mandatory zoning considerations.
- **Rick Pruden seconded** the motion.
- **Roll Call Vote** was taken. Joshua Mast, aye; Cody Edwards, aye; Rick Pruden, aye; John Morgan, Abstain
- **Motion carried** aye 3, 1 abstain.

The motion is also based on the following recommended conditions of approval:

- a) The special use permit shall expire on July 1, 2013 and is not transferable to another property. Also the special use permit is not transferable from the owner applicant to a subsequent owner of the subject property.
- b) The applicant shall notify the City of any changes to or discontinuation of the Federal Firearms License granted by ATF.
- c) The applicant shall obtain a fire inspection on an annual basis concurrently with the annual renewal of a City Business License.
- d) The business shall not employ any nonresident employees.

e) A sign permit shall be obtained in accordance with Section 25-015 (Signs Permitted in Residential Districts) of the Zoning Ordinance for any building mounted or on-site signage associated with the business.

The motion is based on the agreement with the following mandatory zoning considerations:

(a) The location and size of the proposed use in relation to the site and to adjacent sites and uses of property, and the nature and intensity of operations proposed thereon: The proposed home business will be located in the basement of the residence and is anticipated to have limited sales and limited customer traffic.

(b) Accessibility of the property to police, fire, and refuse collection and other municipal services; adequacy of ingress and egress to and within the site; traffic flow and control; and the adequacy of off-street parking and loading areas: The subject property has good access for public safety providers and other municipal services. The limited size of the business and the anticipated limited number of sales will likely have minimal impact upon nearby neighborhood properties.

(c) Utilities and services, including water, sewer, drainage, gas and electricity, with particular reference to location, availability, capacity and compatibility: The property is served by all above-described utility services. The proposed home business will not have an impact upon the provision of such utility services to the area.

(d) The location, nature and height of structures, walls, fences, and other improvements; their relation to adjacent property and uses; and the need for buffering or screening: No screening or buffering is necessary for the proposed home business which will be located in the basement of the residential structure.

(e) The adequacy of required yard and open space requirements and sign provisions: The proposed home business does not create the need for any yard or open space for the operation of the business. Any exterior signage must comply with Section 25 (Signs) of the Zoning Ordinance for signs permitted in residential districts which allows one non-illuminated wall sign, not more than one (1) square foot in area mounted on the residence indicating a permitted home occupation.

(f) The general compatibility with adjacent properties, other properties in the district, and the general safety, health and comfort and general welfare of the community and surrounding neighborhood: The home business will have limited sales and limited customer traffic, and thus should have minimal impact upon the surrounding neighborhood.

The Tonganoxie City Council will consider this item on the 27th day of September, 2010 this allows the required time for a protest petition to be filed with the City Clerk's Office. The Council meeting will be held at 7PM in the City Council Chambers at 321 S. Delaware.

4d. Consider Adoption of Conveniently Connected: Pedestrian and Bicycle Master Plan as Appendix D to the Tonganoxie Comprehensive Plan.

The Planning Commission followed the Public Hearing Script.

Kevin Kokes, AICP, LEED AP, Planning Consultant with Bucher Willis Ratliff Corp. reviewed the staff report dated September 2, 2010. He presented background information on work sessions, the Open House, goals of the master plan, identified destinations, types of pedestrian and trail corridors, trail maps showing connections to Tonganoxie Creek, Stranger Creek and trails connecting to Leavenworth and Johnson County. He also discussed potential funding opportunities through state and federal programs and private funding.

No one was present to speak in favor or opposition of the Pedestrian and Bicycle Master Plan. The Public Hearing was closed.

The Commissioners discussed the importance of adopting the Master Plan as Appendix D to the Comprehensive Plan. The plan would be an asset when applying for future grants or when considering development plans. Also discussed were the funding steps for trails in the Master Plan. The proposed funding does not include a mill levy or tax increase. The Commissioners had no further comments or questions.

- **Joshua Mast made a motion** to recommend approval of Conveniently Connected Pedestrian and Bicycle Master Plan and to approve Planning Commission Resolution #2010-1 adopting the plan as Appendix D to the Vision 2020 Comprehensive Plan for the City of Tonganoxie.
- **Rick Pruden seconded** the motion.
- **Roll Call Vote** was taken. Joshua Mast, aye; Cody Edwards, aye; Rick Pruden, aye; John Morgan, Aye
- **Motion carried** aye 4.

The Tonganoxie City Council will consider this item on the 27th day of September, 2010 this allows the required time for a protest petition to be filed with the City Clerk's Office. The Council meeting will be held at 7PM in the City Council Chambers at 321 S. Delaware.

5. Open Agenda

Mike Yanez, City Administrator announced a grant has been awarded to the City to extend the existing trail along 1st St to Tonganoxie Dr to Laming Rd and Woodfield Dr. He stated over 80 projects were submitted and the City of Tonganoxie was 1 of 15 projects that was selected to receive grant money.

Mr. Yanez also discussed the Industrial Park property. He stated he is still looking for ways to finance water and sewer infrastructure. He stated Leavenworth County Development Corporation (LCDC) has had a few businesses looking at development in the Industrial Park.

With no further business to discuss, there was a **motion by Josh Mast** to adjourn. **Second by Cody Edwards. Motion carried, 4 Ayes.** Meeting adjourned at 7:50 P. M.

Minutes Approved: _____

Submitted by: Patty Hagg