

TONGANOXIE PLANNING COMMISSION
MINUTES
October 6, 2011

Call to Order – The Planning Commission met on October 6, 2011 for a regularly scheduled meeting. Chairman Joel Skelley called the meeting to order at 7:06 pm. Members present were Commissioners; Catherine Patrick, Joel Skelley, John Morgan and Rick Pruden. Commissioner Robert Bieniecki, was absent. A quorum was present.

Approval of Minutes–The Commissioners reviewed the minutes from the September 1, 2011 meeting. John Morgan made a motion to approve the minutes as presented. Rick Pruden seconded the motion. All ayes (4), motion carried.

Open Agenda –

Kelly Smith, 13521 Polfer Rd Kansas City KS 66109 (913-488-9177) and Pat Hayes, 10935 Kaw Dr Edwardsville KS 66111 asked to speak to the Commissioners regarding their intent to purchase the property at 103 W 4th St.(Old Casey’s General Store) They stated they currently operate a used car business in Lansing at Jerry’s Nursery and would like to open another used car business in Tonganoxie. They are aware of the restrictions Casey’s has put on the property and plan to do some improvement to the building façade, parking area and landscaping. They stated the current zoning of the area is “LBD” – Limited Business District, however that zoning does not allow for used car sales. They stated Casey’s suggested they ask the City for a zoning variance. Joel Skelley, Planning Commission Chairman, stated the Planning Commission could not give them a decision without a public hearing and the property notification to the surrounding neighbors. He also suggested they talk to KDOT before purchasing the property regarding the future KDOT improvements planned for the area. He stated there may be some driveway access restrictions. He also suggested they talk to Kevin Kokes, City Planner and fill out and return the rezone application to City Hall to start the rezoning process.

Agenda Items –

4a. Special Use Permit Renewal–In-Home Child Day Care–102 N Village Ter–Katie Ussery

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 at 102 N Village Ter submitted by Katie Ussery.

Kevin Kokes, AICP, LEED AP BD+C, with Lochner, BWR Division, City Planning Consultant, reviewed the application and supporting documents and presented a staff report. He reviewed background information, mandatory review considerations, and staff recommendations as provided in his staff report dated 10/6/2011. He also discussed one opposition phone call that was received at City Hall. He reported that staff recommendation item a. regarding the fire department inspection has been done and was approved on September 20, 2011.

The applicant, Katie Ussery, was present to answer any questions. No one was present to speak against the Special Use Permit Renewal. The Commissioners did not have any questions or comments regarding the Special Use Permit Renewal application.

Joel Skelley, Planning Commission chairman, closed the Public Hearing and asked for a motion.

- **Rick Pruden made a motion** to agree with the mandatory zoning considerations and recommend approval of the special use permit renewal subject to the following conditions:
 - b) The special use permit shall be valid for a period not exceeding five (5) years after approval by the City Council and the publication of the Ordinance which grants the special use permit.
 - c) 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.
 - d) 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.
 - e) Up to a maximum of ten (10) children shall be allowed for care in the day care home as restricted by the Kansas Department of Health and Environment.
 - f) 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.
 - g) Any building mounted or on-site signage associated with the business must be in accordance with Section 25-015 (Signs Permitted in Residential Districts) of the Zoning Ordinance. Any new signage shall obtain a sign permit prior to installation.
- **Catherine Patrick seconded** the motion.
- **Roll Call** – Catherine Patrick, aye, Joel Skelley, aye, John Morgan, aye and Rick Pruden, aye.
- **Motion carried:** Aye 4

The motion was based on agreement to the following Mandatory 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 ten or fewer children has typically been considered compatible in residential areas of Tonganoxie. No complaints have been filed concerning the existing day care facility since its initial approval in 2009.

(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 results in a 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 has not impacted the

provision of such utility services in 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 outdoor play area is located in the back yard of the residence and 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. However, no complaints have been filed concerning the existing day care facility since its initial approval in 2009. Therefore no additional screening is recommended with the renewal of the special use permit.

(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.

This item will be scheduled for consideration by the City Council on October 24, 2011

4b. Special Use Permit – In-Home Child Day Care – 200 S Melrose Ln – Nicole Holland

The Planning Commission followed the Public Hearing Script for consideration and recommendation of a Special Use Permit for an In-Home Child Day Care at 200 S Melrose Ln submitted by Nicole Holland.

Kevin Kokes, AICP, LEED AP BD+C, with Lochner, BWR Division, City Planning Consultant, reviewed the application and supporting documents and presented a staff report. He reviewed background information, mandatory review considerations, and staff recommendations as provided in his staff report dated 10/6/2011. He also discussed one opposition phone call that was received at City Hall regarding the possibility of increased traffic in their neighborhood. The applicant, Nicole Holland, was not present. No one was present to speak for/against the Special Use Permit. The Commissioners did not have any questions or comments regarding the Special Use Permit application.

Joel Skelley, Planning Commission chairman, closed the Public Hearing and asked for a motion.

- **Catherine Patrick made a motion** to agree with the mandatory zoning considerations and recommend approval of the special use permit subject to the following conditions:
 - a) The applicant shall provide the City with a copy of the KDHE permanent license for day care on the subject property.
 - b) 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.
 - c) 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.

- d)** 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.
- e)** Up to a maximum of ten (10) children shall be allowed for care in the day care home, or as further restricted by the Kansas Department of Health and Environment.
- f)** 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.
- g)** Building mounted or on-site signage associated with the business must be in accordance with Section 25-015 (Signs Permitted in Residential Districts) of the Zoning Ordinance. Any signage shall obtain a sign permit prior to installation.
- h)** A fence permit shall be obtained from the City prior to installation for any fencing of the outdoor play area, if such fencing is required as a condition of the license granted by KDHE.

- **John Morgan seconded** the motion.
- **Roll Call** – Catherine Patrick, aye, Joel Skelley, aye, John Morgan, aye and Rick Pruden, aye.
- **Motion carried:** Aye 4

The motion was based on agreement to the following Mandatory 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 ten 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 outdoor play area is located in the backyard of the residence. 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. The need for any fencing around the backyard for the outdoor play area will be determined by KDHE.

(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.

This item will be scheduled for consideration by the City Council on October 24, 2011

4c. Rezone Request – “R-SF” – Residential Single Family & “I-MD” –Moderate Industrial to “PUD-C” – Planned Commercial District – East Side of North Main St – Anthony Brungardt

The Planning Commission followed the Public Hearing Script for consideration of a Rezone Request for property for property generally located on the east side of Main Street between Northstar Ct and Myers Dr. and west of Tonganoxie Creek more commonly known as 415 N Main St.

The Rezone application was submitted by Anthony Brungardt.

Kevin Kokes, Planning Consultant reviewed the staff report dated October 6, 2011. He presented background information on the property, reviewed an overview of the Flood Plain Area located on the property. He explained the differences in the GBD (General Business District) and the PUD-C (Planned Commercial District). He stated the PUD-C would have similar use regulations as the “LBD” (Limited Business District) and “HBD” Historical Business District. He also reviewed future Site Plan requirements including Setbacks, Landscaping, Building Design, Screening, Parking and Use Restrictions. He stated approval of the rezone should also include restrictions as reported in the memo dated October 6, 2011. This would allow the Planning Commission to review a detailed development plan before any future development occurs on the property.

Mr. Brungardt was present and stated he did not have plans to develop the property at this time. He wanted to rezone the property so he would be able to get a car dealer’s license to buy and sell fleet vehicles for his existing businesses and to use the existing structure on the property as his business office.

There was no one present from the community to speak for or against the proposed Rezone of the property.

No additional information was presented

The Public Hearing was closed.

The Commissioners had no further comments or questions.

- **Catherine Patrick made a motion** to agree with the mandatory zoning considerations and recommend the City Council approve and adopt Resolution 10-11-01 for rezoning the property from R-SF (Residential Single Family) & “I-MD” (Moderate Industrial) to PUD-C (Planned Commercial District) subject to the following conditions:

- a) Permitted uses allowed by the ‘PUD-C’ zoning on the subject property shall be limited to all uses permitted in the ‘LBD’ district, as well as: Health Care/Short Term, Internment Facilities, Athletic Facilities/Indoor and Athletic Facilities/Outdoor.
- b) Permitted uses allowed by the ‘PUD-C’ zoning on the subject property shall also include vehicle sales and display for up to ten (10) passenger motor vehicles at one time. No other type of vehicles, equipment, or display yards shall be permitted.
- c) The following PUD-C uses as defined by the City’s Zoning Ordinance shall be prohibited: Recreation / Entertainment I and Recreation Entertainment II (not including open space and athletic uses), Restaurant II (drive-in and drive-thru), Retail Sales / Service II (except for limited sale and display of vehicles as allowed by the PUD-C zoning approval), Vehicle Repair, Vehicle Service / Limited, and Trades Contractors / Large Scale.
- d) No other uses shall be permitted, unless granted upon approval of a revised PUD-C plan and revised land use restrictions for the property after public notice and public hearing in conformance with the procedures set forth by the City of Tonganoxie Zoning Ordinance.
- e) No parking or display of vehicles shall be permitted on unimproved surfaces, including grass or other landscaped areas.
- f) Outdoor storage of vehicles shall be prohibited (not including temporary parking of vehicles by customers and employees and limited sales and display of passenger vehicles as permitted by the PUD-C zoning approval).
- g) Prior to any site improvements or issuance of a building permit, a detailed final development plan shall be submitted in accordance with the City’s site plan review procedures, and approved by the City Planning Commission.
- **Rick Pruden seconded** the motion.
 - **Roll Call Vote** was taken. Catherine Patrick, aye; Joel Skelley, aye; John Morgan, aye; Rick Pruden, aye.
 - **Motion carried** aye 4.

The motion is based on the following mandatory zoning considerations:

(a) Character of the neighborhood: The immediate surrounding area is primarily characterized by residential uses, open space (Tonganoxie Creek floodplain), and commercial uses to the south and southwest. A “planned” commercial district that addresses potential impacts upon nearby residential properties would be appropriate for this redeveloping corridor as it transitions from residential properties to commercial uses. Further, a detailed development plan required prior to any site improvements will provide the opportunity to address any impacts upon the surrounding area.

(b) Zoning and uses of properties nearby: The surrounding area is zoned for a mixture of residential, commercial, and industrial uses. Provided adequate land use restrictions are included with the zoning approval, some amount of limited office/commercial development on the property could be compatible with the surrounding area.

(c) Suitability of subject property for the uses to which it has been restricted: The eastern approximate one-third of the property is located in the Tonganoxie Creek floodplain and therefore cannot currently be developed. While across the street from a residential neighborhood, the subject property is somewhat isolated from the neighborhood. A low intensity mix of uses on the property could be considered compatible with the surrounding area.

(d) Extent to which removal of the restrictions will detrimentally affect nearby property: Changing the zoning classification to PUD-C would allow adequate development standards to be included and minimize potential impacts upon residential uses in the area. Potential uses and site

improvements will need to be reviewed closely with site plan approvals prior to any future development to ensure compatibility with the surrounding residential area and the adjoining Tonganoxie Creek greenway corridor.

(e) Length of time the subject property has remained vacant as zoned: Not applicable.

(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 change in zoning classification to PUD-C would allow for the potential of limited office/retail uses on the property that can serve as a transition between nearby neighborhoods and the more intense highway oriented commercial uses to the south. Denial of the rezoning application would allow the property to continue use as a residential property.

(g) Conformance of the requested change to the adopted or recognized comprehensive plan of Tonganoxie, Kansas: The Future Land Use Plan in the City's Comprehensive Plan (Vision 2020 For Tonganoxie, Kansas) identifies this area for low-density residential uses, with the area to the south identified for industrial uses – thus reflecting the existing zoning of the area. If the planned commercial zoning is approved for the subject property, then future amendments to the City's Future Land Plan should recognize the approved land uses other than low-density residential between Main Street and Tonganoxie Creek generally north of the N. Star Court intersection.

(h) Recommendations of professional staff: Approve PUD-C zoning with land use and development conditions to ensure a compatible transition between nearby residential properties and the more intense highway oriented uses to the south.

The commissioner's reviewed the Agenda Item 6. - General Information items, no action was taken.

The next meeting will be held on Thursday, November 3, 2011 at 7:00 p.m.

With no further business to discuss, there was a **motion by John Morgan** to adjourn the Planning Commission meeting. **Second by Catherine Patrick** All ayes, (4). Motion carried. Meeting adjourned at 7:45 p. m.

Minutes Approved: _____

Submitted by: Patty Hagg