

MINUTES OF THE PLANNING AND ZONING COMMISSION

DATE: February 28, 2013

TIME: 6:30 pm

The regular meeting and public hearing of the Planning and Zoning Commission was held on the above date and time in City Council Chambers, third floor of City Hall with the following members and staff in attendance: Matt Edwards (Chair); King Coltrin (Vice-Chair), Jay McClelland, Tom Baird, Jim Hansen, Jason Ray, Shelby Lawhon, Phil Young, Gabrielle White; Michael MacPherson, Principal Planner; Thomas Rykowski, City Attorney; Sandy Goddard Administrative Assistant.

ROLL CALL:

APPROVAL OF MINUTES: The minutes of January 24, 2013, were approved unanimously.

COMMUNICATIONS:

Mr. MacPherson reported the applicant City Utilities for Vacation 752 has requested that this case be tabled to the specific date of March 7, 2013. They are working out property issues and will be ready on that date. This vacation is relative to the new bus transfer station.

CONSENT ITEMS:

1. Relinquish Easement 789 Glen 44 Investments, LLC
(2542 N. Glenstone Avenue)
2. Subdivision Variance 341 McIntosh Holdings LLC
(2715 N. Airport Commerce Avenue)

Mr. Coltrin motioned to **approve** the Consent Agenda items. Mr. McClelland **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Coltrin, Lawhon, McClelland, Baird, Young, Ray, Hansen, and White. Nays: None. Abstain: None. Absent: None.

HEARINGS:

Vacations:

1. Vacation 752 JMEC LLC
(200 block N. Hayden Avenue and adjacent alleys)

Mr. McClelland motioned to **table Vacation 752** to the March 7th, 2013 meeting. Mr. Young **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Coltrin, Lawhon, McClelland, Baird, Young, Ray, Hansen, and White. Nays: None. Abstain: None. Absent: None.

2. Vacation 753 McIntosh Holdings LLC
(2715 N. Airport Commerce Avenue)

Mr. MacPherson stated the purpose of the request is to vacate three (3) lots in a platted subdivision and a public street (Cullie Court). In the staff report it states there will be a condition that an Administrative Replat be recorded which includes all the necessary replacement easements. We have since received that Administrative Replat so the condition no longer exists. Commission will be the final authority, and the vacation will not have to go to City Council..

Two of the three lots and the public Street (Cullie Court) within the area to be vacated were platted as part of Airport Commerce Center 2nd Addition. The third lot was platted as Airport Commerce Center 3rd Addition. All three lots have common ownership. The owner of the property is in the process of doing an Administrative Re-Plat to combine the properties into one lot and that has been submitted. When the lots are combined into one lot, the existing street, Cullie Court, will no longer be needed to serve the individual lots. As part of the Administrative Re-plat, all existing easements will be replaced with new easements if necessary. The proposed vacation meets the approval criteria for vacating the subdivision and right-of-way. The proposed condition will no longer require City Council to approve it because the condition has been removed. Staff recommends approval of the request.

Mr. Edwards opened the public hearing.

Mr. Geoffrey Butler, Butler Rosenbury & Partners representing the applicant, stated the applicant is building on the north vacant parcel or part of this tract, a fifty-one-thousand (51,000) square foot manufacturing plant to handle their manufacturing facilities. Mr. Butler stated he would answer any questions.

Mr. Edwards closed the public hearing.

Mr. Lawhon motioned to **approve** Vacation 753. Mr. Ray **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Coltrin, Lawhon, McClelland, Baird, Young, Ray, Hansen, and White. Nays: None. Abstain: None. Absent: None.

OTHER PUBLIC HEARINGS:

Zoning Text Amendments:

3. Flea Market and Second Hand Store
(City-Wide)

City of Springfield

Mr. MacPherson stated the purpose of this text amendment is to amend Sections 4-3100, General Retail District, 4-3200, Highway Commercial District and 4-3500, Commercial Street District, in the Springfield Zoning Ordinance. The Planning and Zoning Commission initiated the Flea Market and Second Hand Store Amendments at their meeting on January 10, 2013. Planning and Development staff has recently received several land development inquiries where owners of flea markets or second hand stores have expressed interest in locating in a General Retail (GR) District. In November of 2012, Planning and Zoning Commission and City Council reviewed and approved amendments to remove pawn shops as a specifically listed use and add it to the Retail Sales Use Group. Staff is requesting similar consideration be given to the second hand store use which are only permitted in the Highway Commercial (HC) and Commercial Street (COM) Districts. The limitations of each district will restrict the floor area or permitted outdoor activities. The Retail Sales Use Group is characterized as firms involved in the sale lease or rent of new or used products to the general public. They may also provide personal services or entertainment or provide product repair or services for consumer and business goods. Staff submits that second hand stores offer similar products

and activities that are consistent with the characteristics of the Retail Sales Use Group and trying to distinguish between the sales of second hand items from new items is difficult to enforce.

Currently, flea markets entirely within an enclosed building are permitted in the Highway Commercial (HC), Commercial Services (CS), Center City (CC) and Commercial Street (COM) Districts. Flea markets with outdoor activities are permitted in all Industrial Districts (RI, LI, GM, HM and IC). Staff initially intended to propose removing flea markets from all zoning districts and adding it to the Retail Sales Use Group. However, such a change would create issues for flea markets in the industrial zoning districts where retail sales are limited to products related to the principal use. Staff is now proposing to simply add the flea market use entirely within an enclosed building to the GR District. Mr. MacPherson gave an example of why this is important and appropriate. Staff submits there is not an identifiable distinction between a flea market within an enclosed building in the HC and one in the GR. This matter was reviewed by the Development Issues Input Group, Urban Districts Alliance, Environmental Advisory Board, Commercial Club and all registered neighborhood associations were notified of these amendments and have made no objections to date. Findings are that flea markets and second hand stores have similar characteristics to the General Retail District and Retail Sales Use Group and staff is recommending approval of the amendment.

Mr. Edwards opened the public hearing. As there were no speakers, Mr. Edwards closed the public hearing.

Mr. Baird motioned to **approve** Zoning Ordinance Test Amendment, Flea Market and Second Hand Store Amendments. Mr. Ray **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Coltrin, Lawhon, McClelland, Baird, Young, Ray, Hansen, and White. Nays: None. Abstain: None. Absent: None.

4. Landscaping-Water Shortage Amendment
(City-Wide)

City of Springfield

Mr. MacPherson stated the purpose of this proposed text amendment is to amend *Section 6-1200*, Landscaping and Bufferyards, in the *Springfield Zoning Ordinance*. City Council approved a resolution (Res. 9998) on October 8, 2012, to initiate amendments to the Zoning Ordinance. Staff has prepared amendments to allow the Director of Building Development Services more flexibility to relieve private development of landscaping and bufferyard requirements during a drought, excessive heat or rain, or a declared water shortage. The amendments will allow the installation of landscaping and bufferyards on new development and the replacement of dead landscaping on existing development to be delayed until the prevailing weather condition (drought, heat, or rain) ends. This proposed amendment was reviewed by Development Issues Input Group (DIIG), Urban Districts Alliance (UDA), Environmental Advisory Board (EAB), Commercial Club and all registered neighborhood associations were notified of these amendments and have made no objections to date. The findings are that the proposed amendments provide the Director of Building Development Services more flexibility to relieve new and existing development from the Landscaping and Bufferyard requirements during times of drought, heat, rain or declared water shortages.

Mr. MacPherson said it would also be consistent with what we try to do to conserve water with City Utilities such as when we went through the drought last summer. That is when this particular issue came up. Mr. MacPherson referred to Attachment A, Proposed Water Shortage Amendments and reviewed section C with Commission. The point is, as it exists right now, they have to put in the landscaping and under

drought conditions, the chances of it surviving are slim and the landscaping will have to be done over again. One Commissioner had asked if we pay interest on escrow accounts and we do not. We are trying to provide an option to do it.

Mr. Young asked if this is subjective or will the Director of Building Development Services (BDS) follow some meteorological report that is a written report, legal documentation that says the City of Springfield is in a drought situation or will it be a general observation of conditions so how will he make the decision.

Mr. Rykowski stated the Director's decision based solely upon the existence of a meteorological condition is going to be completely subjective. Remember the code required you put in the landscaping to get a certificate of occupancy. We are lightening up that requirement quite a bit. The Chapter 110 referred here is City Utilities water shortages. If those kick in, those guidelines, they will automatically override the Director of BDS and will allow for him to continue any type of deferred issuance of an occupancy permit. Usually we do not give an occupancy permit until all conditions are completed, but this will allow a hardship. It will be subjective, but that is why it is a discretionary thing. We set down and tried to develop some hard and fast guidelines and found it to be very difficult and could become cumbersome. We believe the Director will use his good judgement.

Mr. Young asked how the permit process and notification to the applicant will work; will it be left up to the client to contact the City or will the City notify them of the approved six (6) month landscaping delay.

Mr. Rykowski commented that with the building process you start with the building development; you come to the various review stages and it will be discussed. We did not hit any emergency stages this past summer under City Utilities plan, but we felt we were already to the point that we would be giving people these extensions. Once the emergency water shortage engages that will override all of this.

Mr. Hansen asked about the temporary occupancy permit will be temporary for six (6) months.

Mr. Rykowski said it would be up to six (6) months which will be reviewed situation by situation. If they need it for three (3) months just because of the need for extra time, that is what they will be given. That is why the escrow and the letters of credit will be required.

Mr. Hansen asked about the letter of credit.

Mr. Rykowski commented the letter of credit is an irrevocable document provided by a bank or financial institution that guarantees the payment, like a surety bond. The bank is holding the money which is required to complete the project, so if someone defaults, then you can obtain those funds and have it done. Mr. Rykowski stated the law department would have the authority to execute on a letter of credit.

Mr. MacPherson said the customer pays the bank a fee in order to get a letter of credit, but it is between the City and the financial institution and the City does not have to worry about the customer at that point.

Mr. Young asked who decides the amount of money for the landscaping as there are different plans required per one-hundred (100) feet.

Mr. Rykowski stated they will look at the proposed landscaping plan and get an estimate of the cost. The applicant will have a cost estimate and we will look at it and if it looks appropriate, we will require a letter of

credit in that amount. This is not an unfamiliar process for the City and to protect the citizens. We don't want to shut down an existing business so we require this posting of security.

Mr. Edwards opened the public hearing. As there was no one to speak to the amendment, the public hearing was closed.

Mr. Hansen motioned to **approve** Zoning Ordinance Text Amendment Landscaping-Water Shortage Amendment. Mr. McClelland **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Coltrin, Lawhon, McClelland, Baird, Young, Ray, Hansen, and White. Nays: None. Abstain: None. Absent: None.

OTHER BUSINESS:

5. Initiate Zoning Text Amendment Existing Residential Dwellings in Industrial Districts City of Springfield
(City-Wide)

Mr. MacPherson stated that the zoning ordinance was an ordinance that was adopted in 1995 and is a static document and as times change we have to make amendments to it to make it responsive to today's world. Staff does not initiate text amendments, we either ask Commission to initiate them or City Council. City Council's Plans and Policies will also initiate them. The staff is proposing to add language to all Industrial Districts to allow residential dwellings that existed prior to being rezoned to the RI, LI, GM, HM or IC Districts to be expanded or rebuilt within eighteen (18) months, if destroyed. This provision is currently permitted in most commercial districts, because many residential dwellings were rezoned to commercial districts during the city-wide rezoning in 1995. In 1995 the City did a total revamping of the Zoning Ordinance and adopted a whole new code and consequently because of that it left a number of non-conforming uses in these various zoning districts and this is one of those we are referring to. In the event the dwelling is converted, demolished or destroyed without being replaced within eighteen (18) months, then the residential use cannot be re-established and only permitted uses in that district can replace it.

Staff has noticed in the last few years that lending institutions have tightened their rules and do not lend to nonconforming uses, as they once did. In some cases it is more appropriate for the property owner to rezone; however, many times the rezoning to a residential district is incompatible with surrounding districts and uses. Staff believes that these amendments will allow owners that have not been able to expand or sell their home in recent years the opportunity to get loans to expand or develop them. This is to initiate this discussion. We will do a complete staff report and look at both sides and come back with it. This initiation does not change anything, it starts the discussion.

Mr. Young motioned to initiate Zoning Text Amendment Existing Residential Dwellings in Industrial Districts Amendment. Mr. Ray **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Coltrin, Lawhon, McClelland, Baird, Young, Ray, Hansen, and White. Nays: None. Abstain: None. Absent: None.

6. Initiate Zoning Text Amendment Veterinary Clinics in CC and COM District City of Springfield
(City-Wide)

Mr. MacPherson commented that the veterinary clinic use has not been permitted in the CC District since its inception in 1995, but there has been recent interest in establishing a clinic in the downtown area. Staff

believes that this use can be compatible with the district with limitations on outdoor activities. The veterinary clinic use is currently permitted in the GR, HC, CS, RI, LI, GM, HM and IC Districts. The current veterinary clinic definition in the Zoning Ordinance specifically states that these are establishments for examination and treatment where animals are not lodged overnight. Staff is proposing to add veterinary clinics in the Center City and Commercial Street Districts.

Mr. Baird motioned to initiate Zoning Text Amendment, Veterinary Clinics in CC and COM Districts Amendment. Mr. Ray **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Coltrin, Lawhon, McClelland, Baird, Young, Ray, Hansen, and White. Nays: None. Abstain: None. Absent: None.

ANY OTHER MATTERS UNDER COMMISSION JURISDICTION:

Mr. Rykowski reported to Commission that from 2005 to 2010 he was the main litigator for the City. For the last two years, he has been doing Planning and Zoning and Board of Adjustment. The City is doing another shuffle and Mr. Rykowski said he will be moving back to litigation and Ms. Nancy Yendes will be coming back to the Planning and Zoning Commission. The exact time table is unknown. Mr. Rykowski said he wanted to tell each member of Commission that he has enjoyed the last two years working with Commission.

There being no further business, the meeting was adjourned at approximately 7:10 p.m.

Michael MacPherson

Michael MacPherson
Principal Planner

