MINUTES OF THE PLANNING AND ZONING COMMISSION

DATE: December 12, 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: Matt Edwards (Chair), Jay McClelland, Shelby Lawhon, Tom Baird, Jim Hansen, and Gabrielle White; Staff in attendance: Bob Hosmer, Principal Planner; Nancy Yendes, City Attorney; Dawne Gardner and Ron Colson, Public Works; Absent: Coltrin, Ray, and Young.
ROLL CALL:

APPROVAL OF MINUTES: The minutes of November 14, 2013 were approved unanimously.

COMMUNICATIONS: None.

CONSENT ITEMS:

1. Relinquish Easement 797 — Maurice Slayden Trust
   (3938 S. Lone Pine Avenue)

2. Relinquish Easement 799 — Kimbrough Properties, LLC
   (800 block S. Kimbrough, w/s)

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

PUBLIC HEARINGS:

3. Vacation 764 — City of Springfield
   (Alleys between W. Junction St. & West Church St)

Mr. Hosmer commented this is a request to vacate a north/south alley and an east/west alley between West Church and Junction Streets and west of Orchard Crest Avenue. There are twenty-four (24) property owners within three hundred (300) feet of the site who have been notified of the action and no one has objected to date. The City received these alleys via Plat 1890; the alleys are approved and not being used for access. The remainder of the east/west alley from Meador Street and the north/south alley to the west between Church and Junctions Streets were previously vacated. Staff recommends approval.

Mr. Edwards opened the public hearing.

Mr. Steve Hamlet, 805 North Orchard Crest, asked what this vacation entailed. The alley road and north and south alley is behind his property.

Mr. Hosmer noted that if the subdivision or property dedicated the right of way, then Mr. Hamlet would retain half that property to your lot and that would have to be surveyed to take claim of the property. It is public right of way and it has not been used and is unimproved and the City is vacating the property and turning it back over to whoever dedicated it in that subdivision.

Mr. Hamlet stated he is in opposition to the request.

Mr. Edwards suggested that Mr. Hamlet talk to the staff at Building Development Services and see what options are available to him and present it to City Council if the proposal goes forward tonight.

Ms. Yendes noted that after closing the public hearing, the request could be tabled till the neighbors have an opportunity to come in and speak with staff and then report back to Commission what happens and take that into consideration for the vote.

Mr. Hansen noted that this will ensure that Mr. Hamlet will always have this as his yard, asking why he would not want to have this property as his.

Mr. Hamlet stated that the City owned the property behind him. It was sold and the purchaser is proposing to put a business that chews up tires, and the neighbors are not happy about that. Mr. Hamlet stated the owner of this property is asking him to tear down a vacant building which is on his property and they are in disagreement. He will continue to mow the alleyway and take care of it.

Mr. Hosmer commented that Mr. Hamlet is in violation of the right of way; if you have any items in that right of way, you would have to remove any items or buildings, and it appears the vacant building is built upon the right of way.

Mr. Hamlet stated he added a lean-to to put his tractor under on the one side. There was a fence line and tree line until the owner tore it down.

Mr. Lawhon asked if this proposal is passed, what will be the outcome for Mr. Hamlet in practical terms.

Mr. Hosmer stated he has the rights to the property; fifty (50) percent would be dedicated back to him, the east/west alley and the north/south alley and would retain that back to his property. Mr. Hamlet would have some instrument that would be recorded at the county to claim that property.

Mr. Lawhon stated that if this was approved and passed it could ultimately have no effect on him at all as long as certain steps are taken so Mr. Hamlet could retain or gain some rights to that.

Ms. Yendes said they will file notice of the vacation and then the City doesn't do anymore and often times property owners will have a new survey drawn and get a certification that that has been added to their lot. Some people just let it sit there because the assessor knows that when you look at the legal description it all came off the same subdivision so it's probably going to be split right down the middle.

Mr. Hamlet stated that it sounds like that would work and he doesn't disagree; he was confused on what was actually happening and how it affected him and the property.

Mr. Hosmer asked Mr. Hamlet is he is in favor of the proposal.

Mr. Hamlet said yes he is in favor of the proposal.

Mr. Baird asked staff asked if this is a systematic cleaning up of old alley ways and pieces of property the City owned, or how did this vacation come here to Commission at this point in time.

Mr. Hosmer said they find this type of situation when various projects are done around the City that there are remnants sitting out there. As for this particular proposal, the City of Springfield is the applicant adding he is not certain how this proposal came about.

Mr. Hamlet stated that this issue was brought up by the gentleman who bought the property behind him.

Mr. Steve Boswell, commented he is the gentleman Mr. Hamlet was speaking of that purchased the land from the City of Springfield. It was zoned from manufacturing and the intent was to process scrap tires in that area so when the area was surveyed in order to put a building up big enough for that, they needed that extra alleyway space. The survey showed some alleyways there where they could vacate the land. To the west of the lot and the north of the lot there are no issues. The problem comes in with the gentleman to the west of the lot simply because the structure he has built. He approached this gentleman asking if he could remove the lean-to and believes he is worrying about nothing. There have been significant improvements to the property for the business and by having this vacated it gives him more room for a fence for security purposes.

Mr. Baird asked for Mr. Boswell to show him the location of his property on the display for point of reference.

Mr. Hansen asked if there is a fence.

Mr. Boswell said there used to be a tree line with massive trees and a chain link fence to the west of the alley.

Ms. White asked Mr. Boswell about putting a fence back and what plans for fencing does he have.

Mr. Boswell stated a privacy fence at this point. It will be a wooden fence with wire across the top of the fence.

Mr. Edwards closed the public hearing.

Ms. Yendes noted that this meeting was continued from last week and it was posted that all public hearings were continued till tonight; we will make certain that the minutes reflect that these are the public hearings that were advertised for last Thursday, December 5, 2013.

Mr. Lawhon motioned to approve the Vacation 764. Mr. Baird seconded the motion. The motion carried as follow: Ayes: Edwards, McClelland, Lawhon, Hansen, Baird, and White. Nays: None. Abstain: None. Absent: Coltrin, Ray, and Young.

Mr. Hosmer noted this case will not move forward to City Council as there is not opposition to the proposal.

4. Vacation 765 City of Springfield
300 block of Evans Road)

Mr. Hosmer stated the purpose of this proposal is to vacate a portion of the 3000 block of Evans Road from Southwood Avenue approximately 1,829 feet east of Evans Road. The southern portion of this property was vacated around the Mercy Hospital and this is a continuation of that. Everything will be rerouted through the River Bluff Road new interchange coming through this location here with a round-about. There were no objections to the proposal; the City is the applicant. There are conditions on this and Staff does not have in hand the replacement utility easements in this location so this will have to go to City Council. Staff recommends approval.

Mr. Hansen asked what Commission is approving tonight.

Mr. Hosmer stated approving the vacation with conditions that this vacation will not take place until the City has the replacement easements in hand.

Mr. Edwards opened the public hearing. There were no speakers to the issue and the public hearing was closed.

Mr. Baird motioned to **approve** the Vacation 765 with the condition of obtaining the replacement easements. Mr. Lawhon **seconded** the motion. The motion **carried** as follow: Ayes: Edwards, McClelland, Lawhon, Hansen, Baird, and White. Nays: None. Abstain: None. Absent: Coltrin, Ray, and Young.

5. Vacation 766 City of Springfield
(320 West Pershing Street)

Mr. Hosmer commented the purpose of this request is to vacate a portion of the 300 block West Pershing Street and adjacent north/south alley. The existing building shown on the Preliminary Plat for Kifer Corner encroaches into the City's right-of-way. As a result of the building encroachments and the possible liability from these encroachments, neither the public nor the City has any benefit in retaining ownership of these sections of Pershing Street and the adjacent un-platted alley. The City has requested an Irrevocable Consent to Dedicate agreement between the City and the current property owner. The agreement would allow the City to reclaim the vacated right-of-way if the existing building is ever removed or destroyed. Twenty-one (21) property owners are within three hundred (300) feet of this site and have been notified of this action. No one has objected to date. The proposed vacation meets the approval criteria for vacating right-of-way.

Mr. Edwards opened the public hearing. As there were no speakers to the issue the public hearing was closed.

Mr. Lawhon motioned to **approve** the Vacation 766. Mr. Hansen **seconded** the motion. The motion **carried** as follow: Ayes: Edwards, McClelland, Lawhon, Hansen, Baird, and White. Nays: None. Abstain: None. Absent: Coltrin, Ray, and Young.

6. Z-22-2013 Haik Properties, LLC
(4245 S. Fremont Avenue)

The purpose of this request is to rezone approximately 2.38 acres of property generally located at 4245 South Fremont Avenue from a Planned Development District No. 84 to a GR, General Retail District. The existing Planned Development permits a mix of office, retail and residential uses. The existing zoning is very similar to the GR District with respect to the uses permitted and the requirements for development, however the Planned Development delineates a total amount of development permitted on each “Tract” of the Planned Development rather than simply per individual lot. The cumulative requirement for each “Tract” requires the tracking of information and can become cumbersome as more area within each Tract is developed. Approval of this request for GR zoning will result in significantly the same type of development as could be achieved under the existing zoning, however development of the property will be more streamlined without having to track the previous development within the “Tract” and go through the Final Development Plan process that is required as part of the existing Planned Development. The requested GR zoning is appropriate on this tract. The property to the north, south and west is all part of Planned Development 84, with retail and office uses existing to the north and west and offices to the south. The property to the east is zoned HC, Highway Commercial District. As part of this request, a cross access easement will be provided from this tract to the tract to the north to match an existing access easement on the property to the north. This will allow for traffic to move between the properties without the need to access the major street system. Staff recommends approval.

Mr. Edwards opened the public hearing.

Mr. Neal Brady, Anderson Engineering, 2045 West Woodland, commented he is representing the applicant.

Mr. McClelland noted the property seems to be sunken to some degree and they have to maintain the impervious condition for drainage asking if they are prepared for that.

Mr. Neal stated the finished floor of the building that will be put on this will be higher than what the existing grade is there and they are aware of that.

Mr. Edwards closed the public hearing.

Mr. Hansen motioned to **approve** the Z-22-2013. Mr. McClelland **seconded** the motion. The motion **carried** as follow: Ayes: Edwards, McClelland, Lawhon, Hansen, Baird, and White. Nays: None. Abstain: None. Absent: Coltrin, Ray, and Young.

7. Planned Development 344 Timmons Temple Church of God
(934 E. Webster St.)

Mr. Hosmer stated the applicant has requested this be tabled to February 6, 2014 Planning and Zoning Commission meeting.

8. Planned Development 95 2nd Amendment Final Development Plan Sam Coryell
(200 block East El Camino Street)

Mr. Hosmer commented that Planned Development 95 2nd Amendment was approved by City Council on April 18, 2005. Per Planned Development 95 2nd Amendment, the Final Development Plan for Tract B-2 shall be in substantial conformance with Exhibit 4 of the staff report. The proposed plan is not in substantial conformance with the required exhibit. However, it could be approved by P&Z since it appears to meet the narrative of the PD. In review of the revised site plan for Tract B-2 staff determined that it meets the requirements and intent of the planned development except for the conformity of the Exhibit 4 attached here and in the ordinance. If the Planning and Zoning Commission finds that there is substantial conformity between such plans and finds the Final Development Plan to be in all other respects complete and in compliance with any conditions imposed by the approved Planned Development, it shall approve the Final Development Plan. Planning and Zoning Commission action shall constitute final approval of the Final Development Plan. If the Planning and Zoning Commission shall find that the Final Development Plan lacks substantial conformity to the Preliminary Development Plan but merits approval notwithstanding such lack of conformity, it shall transmit such plan to the City Council together with its recommendation that the Final Development Plan be approved.

Mr. Edwards asked if this would require the re-submittal of a final plat.

Mr. Hosmer stated no, this is just a final development plan for the PD.

Mr. Edwards stated they would have to resubmit on the plan if Commission approves it that way.

Mr. Hosmer said no; in exhibit 4, the site plan they are proposing and the uses are consistent its just that the site plan was very specific in the ordinance. Staff is recommending this be taken forward to City Council for a public hearing and rule on it.

Mr. Edwards opened the public hearing.

Mr. Matt Capen, H. Design Group, 5051 South National, Suite 7-A stating he is representing the developer/owner, Sam Coryell, Sr. All the requirements for the PD have been met, except for compliance with the Exhibit 4; it was the original design intent by the original developer and has the site plan for the building been redesigned.

Mr. McClelland asked Mr. Capen asked about the turning radius asking if they will be able to get a fire engine around the corner on the north east.

Mr. Capen stated the site plan shows it labeled as twenty-eight foot radius which meets code.

Mr. Edwards closed the public hearing.

Mr. Hosmer clarified that it is not in substantial compliant, but it does meet the intent, it is just the site plan layout is different than what was approved. What staff is recommending is that Commission finds that the development plan lacks substantial conformity to the Preliminary Development Plan but merits approval and recommends the revised site plan be forwarded to City Council for final approval. That would be the motion.

Mr. Hansen motioned to **approve** Final Development Plan PD 95 2nd Amendment with revised site plan to City Council. Mr. Lawhon **seconded** the motion. The motion **carried** as follow: Ayes: Edwards, McClelland, Lawhon, Hansen, Baird, and White. Nays: None. Abstain: None. Absent: Coltrin, Ray, and Young.

9. <u>Planned Development 329 Final Development Plan</u> <u>Modern Tractor & Supply Co</u>.
(2206-2214 W. Chesterfield Avenue)

Mr. Hosmer said Planned Development 329 was approved by City Council on March 23, 2009. Per Planned Development 329, the Final Development Plan shall be submitted to the Planning and Zoning Commission for review with a recommendation to City Council for final action. The Planned Development permits residential uses provided such uses are located above the first floor, or behind non-residential uses along all street frontages. Retail uses and personal services are allowed in the Planned Development. The platted lots on the final plat of Chesterfield Square, Phase III, were intended to be the building envelopes while the off-street parking and open space were to be provided in the common area. Because each lot was platted individually, the Floor Area Ratio (FAR) requirements in the PD do not make sense. The open space, the off-street parking and the Floor Area Ration do not match up with what is platted. While the proposed development is not in strict conformance with Planned Development 329, staff recognizes the intent of the proposed development conforms to the ordinance and merits approval.

Mr. Hansen asked if there was something specific that was different that should be noted from the original.

Mr. Hosmer noted there was not a final development plan on this; what they have here is five (5) vacant lots and they want to build completely out on these five (5) lots. Under the language from the PD the FAR, Floor Area Ratio, would not allow them to build completely out on the area. They would have to have open space, on-site parking and other things outlined by the ordinance. The intent was to have parking on the lot to the south and share the parking and have the open space on the entire site.

Mr. McClelland noted this appears to be a three (3) story building, where does the ratio come for the bulk plane requirement.

Mr. Hosmer commented that is on residential only.

Mr. Edwards opened the public hearing.

Mr. Derek Lee, Lee Engineering, 2101 Chesterfield Blvd, commented he is available for questions.

Mr. Hansen asked about the sink holes on the site.

Mr. Lee stated Mr. Colson could speak to that issue better than he could, but basically, he asked the City the same question and they said they did not have to do a sinkhole study. There is no sinkhole on the lot.

Mr. Hansen asked if there is a sinkhole in the vicinity.

Mr. Lee stated it is approximately one mile away, not in the immediate vicinity.

Mr. Hansen asked if this property drained to that sinkhole.

Mr. Lee said yes, this is in the heart of Chesterfield Village and completely surrounded by development.

Mr. Edwards closed the public hearing.

Mr. Lawhon motioned to **approve** Planned Development 329 Final Development Plan being nonconforming and forwarding to City Council. Mr. McCelland **seconded** the motion. The motion **carried** as follow: Ayes: Edwards, McClelland, Lawhon, Hansen, Baird, and White. Nays: None. Abstain: None. Absent: Coltrin, Ray, and Young.

10. Galloway Plaza — Maurice Slayden Trust
    (3938 S. Lone Pine Avenue)

Mr. Hosmer stated the applicant is proposing to subdivide approximately 7.13 acres into a two (2) lot subdivision named "Galloway Plaza". Lot 1 and a portion of Lot 2 was recently rezoned to GR, General Retail. The remainder of Lot 2 will remain zoned GM, General Manufacturing. Planning and Zoning Commission is also considering Relinquishment Easement 797 at this meeting to relinquish an unused utility easement. If Planning and Zoning Commission approves the preliminary, then the plat will be forwarded to City Council for acceptance of public streets and easements. An approved preliminary plat is active for two (2) years. Staff recommends approval.

Mr. Edwards opened the public hearing.

Mr. Neal Brady, Anderson Engineering, 2045 West Woodland, commented there is an intended use for the first lot that is on Lone Pine. It was recently rezoned to a GR for that portion for this specific development so that is why the Preliminary Plat is being brought forward.

Mr. Hansen asked if this would be to form lot one (1), and lot two (2)…

Mr. Brady said Lot 2 is in the future and will probably come back with a final plat for lot one (1) at this point unless between that time there is someone ready to go for Lot two (2).

Mr. Edwards closed the public hearing.

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

ANY OTHER MATTERS UNDER COMMISSION JURISDICTION

1. 2014 Planning & Zoning Commission Board Schedule

Mr. Baird motioned to **approve** the 2014 Planning and Zoning Commission Schedule. Mr. Lawhon **seconded** the motion. The motion **carried** as follow: Ayes: Edwards, McClelland, Lawhon, Hansen, Baird, and White. Nays: None. Abstain: None. Absent: Coltrin, Ray, and Young.

Mr. Hosmer stated that there is nothing in City policy regarding the weather which would push the public hearing to the next meeting and would like to investigate some procedural matters.

Ms. Yendes stated they could draft a rule for Commission to look at the first meeting in January that would perhaps, at the call of the Chair or Vice-Chair, due to inclement weather or some other emergency situation could just automatically continue those public hearings to a date selected by that official. Then we can post that. We don’t have a rule of procedure right now and we believe it would be wise to have a rule like that in the Rules of Procedures and then applicants also know that that’s part of Commission rules.

Mr. Edwards commented that is an excellent idea.

Ms. Yendes stated we may have continued a meeting before, but we didn’t have public hearings scheduled. Ms. Yendes stated they will draft a rule, review it on the 9th of January and vote on it at the next meeting. There is always one meeting delay between when you are actually presented with the rule language.

Mr. Hosmer stated staff is working on getting replacements for Commission members whose terms are ending. Mr. McClelland and Mr. Coltrin have graciously agreed to continue on until we get new members seated. Mr. Edwards and Mr. Ray have agreed to another term.

There being no further business, the meeting was adjourned at approximately 7:30 p.m.

Bob Hosmer, AICP
Principal Planner