

MINUTES OF THE PLANNING AND ZONING COMMISSION

DATE: July 31, 2014

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 present: Matt Edwards (Chairman), Jason Ray, Jim Hansen, Phil Young, and. Staff in attendance: Ralph Rognstad, Director, Planning & Development, Bob Hosmer, Principal Planner; Sarah Kerner, Assistant City Attorney, Ron Colson, Public Works, Dawne Gardner, Public Works, Sandy Goddard, Administrative Assistant. Absent: Baird, White, Shuler, and Cox.

ROLL CALL:

APPROVAL OF MINUTES: The minutes of July 17, 2014, were approved unanimously.

COMMUNICATIONS:

Mr. Hosmer stated that Zoning Case Z-15-2014 came before Commission for approval. It was proposed to rezone from HC, Highway Commercial to GR, General Retail and went to City Council, but staff realized that after reviewing the Ordinance there was a scrivener's error in the Ordinance. Staff pulled the application and reimbursed the applicant and it did not go forward at City Council.

Mr. Hosmer discussed doing a Council Report for Commission to keep them informed as to cases that are scheduled to go to Council that may be changed prior to Council, for example the Bee Ordinance, there were a couple of amendments Commission did not see. There is a Bufferyard Reduction proposal that was heard before Commission which City Council has requested be adjusted and only apply that to manufacturing districts. Staff had applied it to all districts for reduction of the bufferyards for small lot.

PUBLIC HEARING:

1. Z-16-2014

Clan MacQuarrie, LLC

(211 East Water Street)

Mr. Hosmer stated the purpose of this request is to rezone approximately 1.30 acres of property generally located at 211 East Water Street from an HM, Heavy Manufacturing District to a CC, Center City District. The applicant intends a mixed-use development with businesses, parking and storage. Staff recommends approval.

Mr. Edwards opened the public hearing.

Ms. Pat Pierce, 2174 S. Farm Road 245, Rogersville, Mo., 65742 commented she is speaking in behalf of Clan MacQuarrie stating they are looking to rezone this for mixed office use and make it more compatible with the surrounding area. Ms. Pierce stated she is available for questions.

Mr. Hansen questioned what mixed use they have in mind.

Ms. Pierce stated that Center City to the southwest of this is offices; they are looking at going into an office development for the three (3) story building and for historical tax credits on that. It will remain as it is and they will infill with office space. The two (2) one story buildings on either side of it will be storage, warehouse, and possibly parking. To address any parking concerns they will be doing a traffic study.

Mr. Edwards closed the public hearing.

Mr. Ray motioned to **approve** Z-16-2014. Mr. Young **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Ray, Lawhon, Young, and Hansen. Nays: None. Abstain: None. Absent: Baird, White, Cox, and Shuler.

2. Conditional Use Permit 413
(1571 East Cherokee Street)

Steve Aton

Mr. Hosmer said this is a request to approve a Conditional Use Permit to allow a professional office, art gallery and art studio use as an adaptive use of a non-residential structure at 1571 East Cherokee Street in an R-SF, Residential Single-Family District. The applicant is requesting approval of a Conditional Use Permit to permit the adaptive use of the existing non-residential structure to allow a law office, art gallery and art studio use and for a 1,000 square feet addition. A conditional use permit allows for expansions of structures but not to exceed twenty (20) percent of the existing floor area of the structure or one-thousand (1,000) square feet with approval. There was a total of 9,000 square feet of existing structures on the property. This would equate to 1,800 square feet of allowable additional space, however, the applicant is only requesting an addition of 1,000 square feet for the use of an art gallery and art studio. Staff has reviewed the applicant's request for a Conditional Use Permit and has determined that it satisfies the standards for Conditional Use Permits, outlined in Section 3-3310 of the Zoning Ordinance. The applicant's proposal involves adaptive use of an existing non-residential structure in an R-SF District. There are requirements for the use permit as follows: The existing building may be reused for a (law office) professional and business office and an art gallery and art studio use. There shall be an additional building constructed according to the attached site plan not to exceed one-thousand (1,000) square feet. The location of the structures and parking shall be in substantial conformance with Attachment 4. Hours during which the establishment is open to the public shall be limited to a daily period extending from 7:00 a.m. to 6:00 p.m. The driveway from the street to the gate will have to be marked as a fire lane. Any signage shall conform to the standards set forth in Section 5-1400 of the Zoning Ordinance. All other standards of the Zoning Ordinance, and other applicable ordinances, shall be adhered to. Staff recommends approval.

Mr. Hansen questioned the fire lane designation is because of the wall around the lot. Mr. Hansen asked if the sheds count toward existing buildings.

Mr. Hosmer said he believes so; they want access for their trucks and the sheds count as existing buildings and part of the calculation for the overlay.

Mr. Edwards opened the public hearing.

Mr. Steve Aton, 6152 S. Farm Road 193, Rogersville, MO., 65742 commented this building was built in 1947 by his uncle and father and maintained as a construction company until 2012. All the sheds and buildings have been removed around it; the exterior has been renovated and their intention is to add a building that will be aesthetically similar to the building that is there so it will look like it was built at the same

time. Mr. Aton discussed the history of the site and its building and surroundings.

Mr. Edwards closed the public hearing.

Mr. Young asked with the removal of all the sheds the square footage is now gone; would that change the calculation of the footage to shuffle to new square footage.

Mr. Hosmer noted that staff is looking at it from the original 9000 square feet that was there. If anything is damaged or destroyed by seventy-five (75) percent, a fire or natural disaster, it would revert back to its underlying zoning. The Conditional Permit is only as good as the property as it stands.

Mr. Hansen motioned to **approve** Conditional Use Permit 413. Mr. Ray **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Ray, Lawhon, Young, and Hansen. Nays: None. Abstain: None. Absent: Baird, White, Cox, and Shuler.

3. Cellular & Wireless Facilities Amendments (City-wide)

City of Springfield

Mr. Hosmer commented this is an amendment to the Springfield Zoning Ordinance that would facilitate, for the benefit of the citizens of Springfield, use of existing or proposed street lighting structures or utility poles located in the rights-of-way or City or utility easements for cellular and wireless facility attachments. This proposal would allow wireless providers to attach to new or existing City or other Utilities' owned/maintained utility poles that are part of a utility system such as electrical distribution or street light structures in a safe and efficient manner. Any wireless provider that allows or attaches to a pole will still have to obtain authorization or approval to engage in the activity as a condition of using the City's rights-of-way. This will help to improve wireless coverage and capacity and reduce the need for tall multi-carrier towers, while mitigating impacts and maintaining safety for the traveling public on the rights-of-way and on easements. Mr. Hosmer said there would be a separation of four hundred (400) feet from these types of wireless facilities referring to the photo shop display showing a rendering of what the pole and attachment would look like at the top and bottom. The bottom of the pole would not be more than twenty (20) square feet and would be limited to right of way, along the right of way or within the easements adjacent to the right of way. Mr. Hosmer noted there are people from Building Development Services and City Utilities to address specific questions to this issue. There is a new wireless law coming into effect August 28, 2014 which allows these utilities and equipment to be placed adjacent to right of way.

Mr. Hansen asked who would be installing these attachments and utilizing these things.

Mr. Hosmer clarified different providers of cellular services which will improve coverage and capacity.

Mr. Hansen asked if the poles will all be as tall as the rendering.

Mr. Hosmer noted it is an existing pole.

Mr. Hansen asked if they would be allowed to put up new poles.

Mr. Chris Straw, Director of Building Development Services provided some background information. City Utilities approached the City in regard to putting in repeater antenna's so various phone companies would

be able to maintain signal in various areas where there are dead spots. For the last two years, BDS and City Utilities has worked together to evaluate this; the pole height is based on a matrix with regard to the zoning district. In the Heavy Manufacturing District you will have some taller poles, with the Residential District being the most restrictive in pole height. One of the criteria is the pole cannot be there for the sole purpose of serving the wireless individual. As show in the mockup, there is street light on the pole. It has to be tied to the utility company. If under the current zoning ordinance we were to allow this pole to exist without that light, now it becomes a cell tower and cell towers are not allowed within a residential zoning district. As they attempted to figure out how to work this by tying it to that utility and providing the street light, additional security and making that improvement as a function, if you will, of these poles so they become dual purpose then they were able to create the concept of allowing the cell tower component to be placed on top and the necessary electrical device that operates that down at the grade level. Again, pole height is based on the matrix in relationship to the zoning district.

Mr. Hansen asked if the repeater antenna's all looked like the mockup.

Mr. Straw stated he would let City Utilities address that question adding the photo is what it would look like in a residential neighborhood.

Mr. Edwards clarified that City Utilities is asking for this based on a law that is going to take effect.

Mr. Straw commented he would let City Utilities address that question.

Mr. Lawhon commented that theoretically these can be placed on any pole in any zoning district.

Mr. Straw said correct, with height restrictions and spacing of the poles of four hundred (400) feet separation.

Mr. Edwards commented there will not be have any action involving Planning and Zoning Commission if one was put in the Rountree Neighborhood.

Mr. Straw said no. Any inquires will go to City Utilities; CU will manage this entire concept with regard to these poles. City Utilities monitors all that and they know the locations of the poles; BDS involvement would be in limited to the electrical portion to confirm it is permitted and inspected and meter released.

Mr. Tom Murren, City Utilities, 3008 E. Carlisle, Springfield stated he and Mr. Straw have been working on this for some time. Mr. Murren stated he is the Director of SpringNet so the broadband side of the responsibilities for City Utilities. The first inquiry from the wireless industry in general was in 2010 so for four (4) years they have been working with the wireless industry and with their internal departments, specifically the electric department and with Chris Straw and his group.

Mr. Murren stated the relationship to height; they did construct that specific pole and took a picture of it on the east side of town. It is a fifty (50) foot pole to the top of the antenna that you would see that is that separate cylindrical piece at the top, purposely done if you look at the other side of the street; an average distribution pole that you will find in a residential neighborhood is thirty-five (35) feet for City Utilities. That is what is reflected on the left hand side of the photo and it is a correct ratio so you can image in a residential neighborhood the height that's approximately the same. What City Utilities will own and have the responsibilities for maintenance and liability of is the pole, the electric service to that pole, so if anything

happens to that pole, that's CU's responsibility for whatever reason. The boxes at the base and there are some small cables that go up the top and then the antenna at the top is owned by the individual carrier. This is a natural progression. As wireless carriers, this is called small cell technology, it is signal strength, how many bars do you have on your telephone and then it's capacity, so you get in more densely populated or heavily used areas, apartment buildings where the younger population are watching TV on their cell phone, it's more data capacity, that is what these are intended to address. Mr. Murren noted there are at least four (4) carriers in town and it's not unreasonable to think that if they do not structure the distance between these poles, you could have all four (4) carriers wanting their own installation. That is not the case, provisions have been made to accommodate and the has not been accepted by wireless carriers with open arms, but they are trying to find something where the utility can bring its knowledge, assets, resources and capabilities because we are a community owned resource, we are simply not going to put these things right in the front of someone's house. Mr. Murren said they are sensitive to the community and our community is the only community they serve so they are sensitive to where the placement of those are. Mr. Murren said he is not certain what the law will permit them to do but they are trying to accommodate them and be sensitive to the neighborhoods and try to bring resources to the table that the utility can do for them. The size will probably not get any larger then what you see in the photo, he anticipates with time it getting smaller. There is already discussion where those boxes shrink and they actually become part of the antenna at the top with nothing at the base.

Mr. Young asked if everything at the base; is this mocked up from one carrier or would this be the max at the base of the pole or would they be stacked on top of one another if it was Company A, Company B, Company C, then.

Mr. Murren stated that is one carrier and that is one particular carrier's or platform specifically the type of hardware that they have purchased. There are provisions within the ordinance where the carrier's cannot obstruct the vision. From a practical standpoint the carriers are all looking at between thirty (30) and fifty (50) feet; the days of two hundred (200) feet are virtually over for small cell technology. It is not signal strength on the horizon, its signal within blocks because they know from the marketing data exactly where their people are using their phones compliments of GPS and triangulation. Mr. Murren commented you potentially could see two (2) on here, adding in his professional opinion, three is not going to meet the RF or the radio frequency needs of the carrier because that small cylindrical piece at the top, they have to get separation between those so you are going to see those moved down between four (4) feet to maybe six (6) feet. That third carrier is going to be far enough down the pole that the RF signal strength is not going to penetrate well enough so it's most likely a two (2) carrier solution and then four hundred (400) feet elsewhere the next carrier will have work.

Mr. Young asked how CU is going to handle four (4) carriers; will there be a bidding war about who gets what pole or is it first come, first serve.

Mr. Murren stated that not all the carriers are not all adopting small cell technology at the same time so it is not a perfect storm for a bidding war, there are two major carriers in town who are first to adopt the technology. The smaller carriers are not quite there yet. If you get into an highly sought after area with small signal strength or absence of capacity in one block you accommodate one or two carriers and then you could go blocks on either side so they are out of sight of the homes that you see up and down the street you see in the photo here and address the RF needs.

Mr. Hansen stated there could be potentially three (3) of these cans on a pole; one would be on top but the

other two would be side mounted somehow.

Mr. Murren stated that he would like to suggest if he may, two, from a practical standpoint. Cans, if you will, separated horizontally, they interfere with one another so the transmit of one can is going to interfere with the receiver of the other can so they need separation; they need vertical separation not horizontal and then you begin to compromise the fifty (50) feet because if the first one is at fifty (50) feet, then the next one is at forty-four (44) feet and you get further down the pole. So from a practical standpoint, Mr. Murren said he does not personally see these being a solution beyond two (2) carriers at the top. Then let's have the discussion down at the base of the pole. What is the technology that you are implementing? One may be a technology that requires those size cabinets (referring to the photograph) the other may be something the size of your I-pad that is four (4) times thicker.

Mr. Hansen stated that his hesitation is the three phone boxes next to his driveway on the adjacent property and it rankles and if we start to gob these things on poles every four hundred (400) feet that would be dreadful.

Mr. Murren stated he does not have an answer to his question. The cabinets Mr. Hansen spoke of are from a completely separate industry.

Mr. Hansen asked what kind of revenue stream would be expected from that.

Mr. Murren stated this gets into a grey area. By law, City Utilities has to make its poles available for attachment and it has been that way for many years. The formulas are well established at the FCC level as are the rates for that attachment and they are based on how much space of that pole you are occupying. That installation is different. It is not a tangential attachment occupying one foot of a pole. It attaches at the bottom and occupies everything going all the way up to the top. It complicates an electrical attachment if the electrical attachment comes secondary, so there are different models for revenue stream from the utility. Mr. Murren stated there is an agreement between City Utilities and the City of Springfield regarding the use of the public right-of-way for applications such as this; something that has been a difference of opinion for some time. There is opportunity for revenue for both the City and City Utilities. If we were to say no to these folks they will just go somewhere else and then there is less control if you will.

Mr. Hansen asked Mr. Murren how many of these would be distributed around the city proper, within the city limits.

Mr. Murren stated he could venture a guess.

Mr. Hansen asked if they would be every four hundred (400) feet around the city.

Mr. Murren said no. The carriers are driven by two purposes, signal strength and the other capacity. They have very specific areas they are targeting. The ongoing costs associated with this are miniscule compared to the capital cost that you see. An investment specifically for this community from one carrier likely will exceed twenty million dollars so it's a significant capital investment on their standpoint into a highly competitive market.

Mr. Ray noted that he understood Mr. Murren to say that this is not the same as the rent they would pay for the linear lines running on the poles, and even though this takes up the entire vertical length of the pole it

would not calculate to a rent payment to City Utilities who actually has to maintain the pole and replace it if it should be damaged, is that correct.

Mr. Murren stated the attachment to that pole you see is different than the attachment that we have had by Cable TV and telephone companies for many years and it is a formula that the Federal Government has said this is how you figure it out. City Utilities is receiving a maintenance fee and an attachment fee from the carriers such that CU can pay for the capital investment because this is not something they can transfer to the electric rate. That is not allowed. The carriers will bear the cost, the capital and ongoing costs; they are a wireless company so they are not the wired because each one of these requires communications to the base of it. That is a competitive market and yes SpringNet is one of those competitors and could choose to buy what's called Back All from SpringNet, City Utilities. They can choose to buy Back All from AT&T or from Media-Com; the wireline carriers pay to be in the public right-of-way.

Mr. Edwards closed the public hearing.

Mr. Edwards noted this is a natural progression of where technology is going adding he is inclined to support this. Everyone wants the interest of the citizens to be upheld here and all the protections to be afforded and in the case the City and City Utilities has done their home work and really put in the administrative groundwork for that.

Mr. Lawhon stated that if this is something that will increase signal strength and capacity in the substantially unobtrusive, then he is in support of the proposal.

Mr. Ray commented this would be better than seeing fifty new two hundred (200) foot cell towers on the fringes of town or within the commercial or industrial district, is that correct.

Mr. Hosmer said yes.

Mr. Young voiced support for the proposal.

Mr. Lawhon motioned to approve the Cellular & Wireless Facilities Amendments. Mr. Hansen seconded the motion. The motion **carried** as follows: Ayes: Edwards, Ray, Lawhon, Young, and Hansen. Nays: None. Abstain: None. Absent: Baird, White, Cox, and Shuler.

IV. UNFINISHED BUSINESS:

There being no further business, the meeting was adjourned at approximately 7:25 p.m.

Bob Hosmer, AICP
Principal Planner