

MINUTES OF THE PLANNING AND ZONING COMMISSION

Springfield, Missouri

The Planning and Zoning Commission met in regular session October 2, 2014 in City Council Chambers at Historic City Hall. The meeting was called to order by Chairman Matt Edwards.

Roll Call: Present: Matt Edwards (Chairman), Tom Baird, (Vice-chair), Jim Hansen, Jason Ray, Shelby Lawhon, Gabrielle White, David Shuler and Melissa Cox.

Absent: Phil Young.

Staff in attendance: Ralph Rognstad, Director of Planning, Bob Hosmer, Principal Planner; Chris Straw, Director Building Development Services, Sarah Kerner, Assistant City Attorney, Rodney Colson, Public Works, Dawne Gardner, Public Works, Sandy Goddard, Administrative Assistant.

Minutes: The minutes of September 4, 2014 were approved as presented.

Communications: Mr. Hosmer reviewed City Council action from the meetings of September 8, and September 22, 2014. Mr. Hosmer requested that Agenda items number 9 and 14 be combined since they are similar areas. Mr. Hosmer said there will be a Planning meeting on October 16, 2014 with two items on the agenda due to the timing of the issues.

Consent Agenda: The Consent Agendas were finalized and approved as presented:
Relinquish Easement 813 - Gillenwaters Development, Inc.

PUBLIC HEARINGS:

Vacation 773 - Board of Governors MSU

Mr. Hosmer stated the purpose of this request is to vacate Holland Avenue between Harrison and Cherry Streets for incorporation into the University footprint. Missouri State University owns property on both sides of Holland Ave. Holland Avenue does not continue north of Cherry Street. The applicant's original request included the proposed vacation of Normal Street from Dollison Avenue east to the existing MSU parking lot. The applicant has withdrawn the request to vacate Normal Street. Approval of this request will vacate only Holland Avenue as requested. All properties adjacent to Holland Avenue will still have access. In addition, all necessary easements are being retained as part of this vacation. The proposed vacation meets the approval criteria for vacating right-of-way.

Mr. Hansen asked if there would be traffic barriers at the north end of this and a drive way in line with where the street goes now.

Mr. Hosmer said he believes they will put this in with their parking lot plan. Mr. Hosmer stated the applicant might have more information on what they intend to do with the property.

Mr. Matt Morris, representing MSU.

Mr. Hansen asked Mr. Morris what their intention is with this property.

Mr. Morris stated there has been quite a bit of construction that has taken place to the east of Holland for the field Hockey/Lacrosse field that is currently be utilized by the student body. To the West is where the Occupational Therapy Building is being constructed right now. Parking will be retained there to the south of the building; for the immediate future he sees that street continuing to be there. They are not planning any barricades of any sort, it is just to allow them as continued construction and such takes place to have the opportunity to advance the University's footprint.

Mr. Hansen questioned the need to vacate it if they are keeping it as a street.

Mr. Morris stated for the future plans of the University in that area. Parking is a concern on the campus so at some point there is the possibility of reconfiguring parking that would allow them to expand parking in that area. It gives them the ability in the future to make arrangements such as that.

Mr. Hansen asked if that time if the University would divert traffic around that or would there still be driveways in line with the present flow.

Mr. Morris stated that the University's transit system comes out of Bear Park north and they see some trends of access that would take place through that, again thinking into the future as far as what plans could indeed take place there on the campus. There is heavy foot traffic that goes from Bear Park North to John Q. Hammons Arena, Hammons Student Center so they definitely see that as being a pedestrian friendly area walkway space.

Mr. Edwards opened the public hearing. Seeing there were no speakers to the issue, Mr. Edwards closed the public hearing.

Mr. Lawhon motioned to **approve** Vacation 773. Mr. Ray **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Baird, Hansen, Ray, Lawhon, White, Cox and Shuler. Nays: None. Abstain: None. Absent: Young.

Zoning Case Z-22-2014 - Neil Stenger

Mr. Hosmer said this is a request to rezone approximately 0.44 acres of property generally located at 1611 North Campbell Avenue from a CS, Commercial Service District to a CC, Center City District. The applicant intends to have an outdoor patio with outdoor dining uses. Outdoor dining is not permitted in the CS district. Rezoning to CC automatically triggers a traffic study. The traffic study is not necessary if the use stays the same. If the use changes in the future, a traffic study will be required prior to redevelopment. The subject property is within the Center City Activity Center as shown in the Growth Management and Land Use Plan element of the Comprehensive Plan. Activity Centers are identified as areas of significant business and high-density housing. The requested CC, Center City zoning is consistent with the existing CC zoning to the west, south and east. This will go to public hearing on October 27, 2014 to City Council. Staff recommends approval.

Mr. Edwards asked why outdoor seating not available in the Commercial Services District.

Mr. Hosmer said CS is more service oriented and intensive for auto repair and things such as this.

Mr. Edwards commented they possibly could think about making that easier on restaurants; more people in

Springfield would appreciate more outdoor seating options; perhaps something to look at in the future.

Mr. Hosmer said there is not a lot of CS Zoning across the City; it is in limited areas.

Mr. Edwards opened the public hearing.

Mr. Neil Stenger, 1615 E. Primrose, Springfield, stated they held a neighborhood meeting and there were no objections at the meeting to the change in zoning. The tenant in the building has a food service as part of his business plan and he would like to have outdoor seating; a 15 x 15 outdoor area near the building.

Mr. Edwards closed the public hearing.

Mr. Ray motioned to **approve** Z-22-2014. Mr. Hansen **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Baird, Hansen, Ray, Lawhon, White, Cox and Shuler. Nays: None. Abstain: None. Absent: Young.

Mr. Lawhon motioned to **combine agenda items** No. 9 and No. 14 to be heard together. Ms. White **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Baird, Hansen, Ray, Lawhon, White, Cox and Shuler. Nays: None. Abstain: None. Absent: Young.

Zoning Case Z-23-2014 w/ Conditional Overlay District No. 81 - Jeff Boyce
Preliminary Plat Kensington Park Phase III - Jeff Boyce

Mr. Hosmer said the applicant is requesting to rezone approximately 1.3 acres of property generally located at 1200-1300 block South Lexington Avenue from an R-SF, Single-Family Residential District to an R-LD, Low-Density Multi-Family District; and establishing Conditional Overlay District No. 81. The developer is proposing multi-family townhouses which will provide a transition between the higher density multi-family uses along Kansas Expressway to the west and low-density single-family residential properties to the east. The proposed Conditional Overlay District will restrict the residential density to 11 dwelling units per acre or less. No portion of a multi-family structure shall be higher than forty-five (45) degree bulk plane where the property adjoins an R-SF District. The Preliminary Plat of Kensington Park Phase III is being submitted concurrently with this rezoning request. The extension of Lexington Avenue will be connected as part of the plat in the proposed development. The new street with sidewalks will connect the two sections of Lexington which are currently stub streets. The proposed and future street improvements will provide improved vehicular and pedestrian circulation for the multi-family development in this area. There will be a fifteen (15) foot bufferyard and a forty-five (45) degree bulk plane adjacent to residential areas and the standard requirements for noise, lighting, odor and signage will be covered by the Zoning Ordinance. Staff recommends approval.

Mr. Edwards opened the public hearing.

Mr. Brent Stevens with H. Design Group, 5051 S. National, commented what happened with that piece of property is they have some left over property on the other side of the street. After talking with staff about what is appropriate for that area, it made sense to do some lower density townhouse type development. Mr. Stevens stated these will be nicer upscale, two car garage, three (3) bedroom type townhouses with about 12 to 13 units total.

Mr. Dana Edwards, 1402 S. Devon Road, commented he is the surveyor for the project adding he is available for questions.

Mr. Edwards closed the public hearing.

Mr. Hansen motioned to **approve** Z-23-2014 w/ Conditional Overlay District No. 81. Mr. Ray **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Baird, Hansen, Ray, Lawhon, White, Cox and Shuler. Nays: None. Abstain: None. Absent: Young.

Mr. Lawhon motioned to **approve** Preliminary Plat Kensington Park Phase III. Mr. Baird **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Baird, Hansen, Ray, Lawhon, White, Cox and Shuler. Nays: None. Abstain: None. Absent: Young.

Zoning Case Z-24-2014 - City of Springfield

Mr. Hosmer stated this is a request to rezone approximately 11.89 acres of property generally located on the north side 4900 block West Chestnut Expressway from a Greene County C-2 District to an HC, Highway Commercial District. The proposed rezoning is a translation of County C-2 District zoning to the City's HC, Highway Commercial District as part of an annexation (A-2-14). City Council initiated the annexation and rezoning at their meeting on September 8, 2014. The subject property is proposed to be annexed at the City Council meeting on October 27, 2014. If the property is annexed, then staff proposes the following rezoning request be approved to translate the existing County C-2 zoning district to the City's HC, Highway Commercial District, which is compatible and consistent with the surrounding zoning districts along Chestnut Expressway. Staff recommends approval.

Mr. Hansen asked why this is being designated HC, Highway Commercial and not HM, Heavy Manufacturing.

Mr. Hosmer said with the proposed intensity along Chestnut Expressway and the interstate and the heavy manufacturing adjacent to this area staff supports HC zoning. It is also our policy to do a direct translation from County zoning to City zoning. C-2 zoning is closely related to our HC zoning districts.

Mr. Edwards opened the public hearing.

Mr. Derek Lee, Lee Engineering, 2101 W. Chesterfield Blvd., commented he is representing the owner. Mr. Lee stated this is something the City is requiring them to do; to annex it.

Mr. Hansen motioned to **approve** Z-24-2014. Mr. Lawhon **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Baird, Hansen, Ray, Lawhon, White, Cox and Shuler. Nays: None. Abstain: None. Absent: Young.

Planned Development 346 - KD Concepts, LLC

Mr. Hosmer stated this is a request to rezone approximately 0.49 acres of property generally located at 2915 East Battlefield Road from Planned Development District No. 140 1st Amendment to Planned Development District No. 346. It is generally located at the intersection of South Lone Pine and East Battlefield. The applicant is requesting a Planned Development District No. 346 to allow a drive-thru

restaurant. The intent of the Planned Development is to construct a new 6,000 square foot building for a drive-in restaurant with outside seating and for office and retail uses. The original Planned Development did not allow drive-thru restaurants, but did allow seat down restaurants. The original PD, however, limited restaurant uses to a 5,000 square feet maximum. There is currently a restaurant on the adjacent lot that is within the original PD that is using 2,700 square feet of space. There is only 2,300 square feet of restaurant space available within the original PD. The new PD will allow for a 3,000 square feet drive-thru restaurant with a maximum floor area for retail uses of 5,000 square feet. The floor area ratio will remain at 0.30 with a 20% open space requirement as the original PD. This proposal also is being built over existing stormwater facilities and detention basin berm that will have to be re-engineered to meet city stormwater requirements. The proposed amendment keeps with the intent of the original Planned Development. There will be a fifty (50) foot building setback and a twenty five (25) foot parking lot setback along Battlefield Road. No structure shall exceed the height of two (2) stories above grade. All structures shall be constructed with masonry or acrylic stucco exterior walls and sloped roofs or other materials which are compatible with the residential nature of the area. Approval of this request will provide for more intensity where investments have already been made in public services and infrastructure. The additional uses proposed are not expected to have any additional impact on adjacent properties. The proposed building and parking lot will be setback from the south property line the same distance as the existing building.

Mr. Hosmer commented there have been a few calls on this property as far as potential noise from the outside seating area. Staff recommends approval of the request.

Mr. Baird asked for clarification of the information on the 6,000 square foot restaurant on page 2 of the staff report and a 3,000 square foot restaurant on page 8 of the staff report.

Mr. Hosmer stated the building will be 6,000 square feet. There are some limitations on the restaurant use which will be 3,000 square feet. That's the limitation on the property.

Mr. Baird said the building will be 6,000 square feet, but 3000 will be dedicated to the restaurant, is that correct.

Mr. Hosmer said that is correct.

Mr. Hansen asked about the phone calls received regarding the project.

Mr. Hosmer stated that he had received a call from an individual that lives in a residence behind the property who had some issues regarding noise from the outside seating area and the potential for an outside order box. Mr. Hosmer stated he is not aware of an order box proposal at this time.

Mr. Hansen asked if an order box would be allowed.

Mr. Hosmer said yes, it is not prohibited in the PD.

Mr. Hansen asked if it is prohibited now in the current PD.

Mr. Hosmer stated that drive-in restaurants are not allowed in the current PD.

Mr. Edwards opened the public hearing.

Mr. Derek Lee, Lee Engineering, 2101 W. Chesterfield Blvd., commented they can build the exact same size, 6,000 square foot building in the exact same footprint but they cannot do the restaurant because they only have 2300 square feet and the restaurant is 3,000 square feet. Mr. Lee said he presented the two story structure with profiles as the restaurant on the bottom and an office for the 3,000 square foot on top. The restaurant they are proposing is a low volume drive thru. Mr. Lee said he did his own personal traffic study at the location on Sunshine and counted cars that went by, going four (4) times during their busiest times and there were no more than two cars at the drive thru at a time and there would frequently be 10 or 15 minutes during that peak time where nobody would be there. It is not like a McDonalds or an Andy's.

Ms. Cox asked in reference to where the actual drive thru is being proposed, if the Gourmet Taco Company moved out and another drive thru restaurant moved in, say McDonalds for the sake of argument, that would pose a huge traffic issue at the private drive access, as that drive thru empties immediately onto the opening off Battlefield.

Mr. Lee stated the Traffic Department actually made them design this like it's going to be a McDonalds. The City Code requires seven (7) traffic spaces whether it's a McDonalds or an Andy's and whether or not your backing out onto Campbell or Kansas Expressway or Glenstone, all the places that Mr. Lee states he drives by where they are actually backing out into the street, so it actually meets the same code as what they have to meet.

Ms. Cox commented she sees a lot more than seven cars at a McDonalds expressing her concern about the traffic congestion if in fact it does not stay a Gourmet Taco Company. Ms. Cox asked staff if there is anything that could occur there that could potentially improve that particular traffic situation.

Mr. Hosmer stated this meets code as far as stacking for the number of cars that would be required for a McDonalds or for any other drive thru.

Mr. Lee stated they could actually stack twice the amount that is required by code without backing up onto Battlefield.

Ms. Cox commented that the public traffic would not necessarily know that they would or would not start stacking into the private drive that was toward Battlefield or cut off the access into the other parking lot. It seems like a very cramped layout and seems to be a potential cluster problem in the event that a higher traffic restaurant moves into that location.

Ms. Gardner stated this could trigger another traffic study, but also during the plan review if Gourmet Taco Company closed and a McDonalds was proposed if staff is concerned about the circulation in their layout then staff would not let them proceed without a layout that staff believes would work.

Mr. Hansen clarified that Mr. Lee is proposing a 3,000 square footprint for the building which extends ten (10) feet into the present detention basin.

Mr. Lee said yes.

Mr. Hansen noted they are going to raise the whole lot up to the 1,233 level.

Mr. Lee stated that most of it is already raised, but yes.

Mr. Hansen stated they are going to build out across to the detention and it is going to be the same level.

Mr. Lee stated there is a portion of the detention basin that will increase in volume at the bottom of the pond. When they put a wall in, right now there is a slope, so there is a portion of the pond that will get bigger at the bottom of the basin and then an equal portion that will get smaller at the top of the basin so that the volume remains the same. They have submitted that wall and the design calculations to the City of Springfield and it was previously approved because they are keeping the volume the same.

Mr. Hansen noted that it appears that the concrete retaining wall will be even with the north extent of the berm; in other words you are building out totally over the berm. That's what it looks like from the drawing.

Mr. Lee pointed out the wall on the display; it is along the face and then cuts up that way.

Mr. Hansen noted that from the drawing the concrete wall is on the lot line.

Mr. Lee pointed out the contours stating they are going to cut those down to the necessary elevation and then the contours at the top they will fill that portion so the volume matches. They are not taking any volume out of the basin; the City will not allow them to do that.

Mr. Hansen stated he remains unconvinced, asking Mr. Colson to expound on that.

Mr. Colson commented he is requiring the applicant to submit new drainage calculations; the project was approved two (2) years ago that was a similar design without a drive thru. They are coming back with basically the same retaining wall design they had originally but staff is making them resubmit new drainage calculations to verify all that.

Mr. Hansen stated the detention basin is not always adequate to what it has to put up with and occasionally will flow over Battlefield. Mr. Hansen said he would assume that occasionally it will flow through the restaurant here if that is the case.

Mr. Lee stated the finished floor of the restaurant is 1,233 and so down at the bottom of where it hits the road is 1231 so they are creating an overflow spillway, if you will, where the water doesn't go through the restaurant, but it actually goes through this area, pointing out the spillway on the display.

Mr. Hansen asked what the level is at that point.

Mr. Lee stated the one hundred (100) year water surface elevation is two (2) feet below what they have set the restaurant at so the restaurant is setting two (2) feet higher than the highest storm in one hundred (100) years and all of that is by code.

Mr. Hansen commented that assuming that the culvert there retains it full flow through the whole water event.

Mr. Lee stated they are assuming it goes over the top. Mr. Lee pointed out on the display where it is several feet lower than it is at the restaurant so it overtops and they know that and they are still putting the

building higher than what the overtop will be.

Mr. Baird commented that if the applicant were not able to replace the volume they wouldn't be allowed to move forward with the project, is that correct.

Mr. Colson said that is correct; adding it is not really all overflowing because of the detention basin size. It is in a flood plain. The water actually backs up on their site so the flood plain on the one hundred (11) year, that area is going to be under water, but it's not because of their detention basin design. It is backwater from the flood plain from the major drainage area.

Mr. Hansen asked if the detention basin is supposed to handle the flow from that waterway.

Mr. Colson said the detention basin drainage comes from the north to the south. What is happening here, pointing out the red lines to left in the display, is the floodway. The water is backing up from the south and backing up to the north. The drainage from the detention pond comes from the north towards the south, but the flood plain, the ponding, the one hundred (100) year flood level is actually coming from the south and ponding up toward the north. They do have a spillway for a one hundred (100) year storm event which is a normal thing for designing detention basins; we require a spillway for a hundred (100) year storm event so that they can actually determine if there is an event that would exceed their detention basin that it will go through a narrow spillway and that way they can control where the flooding will actually go. The spill is right over the big box culvert and it won't go into their building. It will go out into the street where the flood plain backs up currently.

Mr. Hansen stated the source of flooding Battlefield is not the waterway going behind this property, but the Southern Hills creek, which comes down along the railroad tracks.

Mr. Colson stated that is why the blue area, pointing out on the display, which is identifying the flood plain is there, yes, because it's a backup from the other creek and it's not on their detention or their development.

Mr. Hansen stated Commission has the proposed plan, but no elevations, adding Mr. Lee discussed the two story elevation they had but they haven't seen that and asking about the style of the structure.

Mr. Lee described the proposed structure.

Mr. Edwards asked Mr. Lee if there were any design guideline standards in the PD.

Mr. Lee said there are.

Mr. Hosmer stated it has sloped roofs as one of the requirements; the structure will have a masonry acrylic stucco exterior walls, sloped roofs and other materials which are compatible with the residential nature of the area. That was from the original PD.

Mr. Lee stated the elevation they submitted didn't have that, but they can put a sloped roof on it. The plan presented to the neighborhood did not have a sloped roof, it had a flat roof.

Mr. Edwards noted to staff there is a question with the roof issue; considering Mr. Lee has already submitted upon this and it has gotten to this point, asked if this is going to be a sticking point for him.

Mr. Hosmer referred to exhibit (1) one and exhibit (2) two of the staff report; exhibit (2) two is the site plan and exhibit (1) one is the criteria for development and would be developed according to the guidelines which requires a sloped roof plus the materials that are used. Mr. Hosmer noted this is typically how staff does a Planned Development.

Mr. Barry Williams, 2846 E. Ridgeview, commented he lives directly to the north of this proposed project. Dr. Guy Webb lives to the east of that. The resident to the west is an elderly person who does not get out at night. Mr. Williams stated there are a number of concerns the neighbors have; first and foremost is noise. They get noise from the refuse trucks picking up trash from the Metropolitan Grill to the east. The design here has two particular noise issues for the neighbors. One is the drive thru and related to that is the issue of outside seating. Mr. Hosmer has said the seating would be on the north side of the building. The hard sided building would function as a band shell to direct the noise straight north into the neighborhood. The open dead end drive between 2846 Ridgeview and 2906 Ridgeview will serve as a noise funnel for outside noise coming from the restaurant. The neighbors would ask if you are going to make this part of a commercial corridor, at least direct the noise to the corridor and not the neighborhood. If there are revisions to the retention pond; when that retention pond went in ten (10) years ago, we had month long difficulty with stagnant water and only after repeated appeals did the City come out and with some very specific demonstration prove that was not designed correctly. They came in with a jack and hammered a notch so that it did not become a permanent mosquito breeding facility. If the retaining wall is to be changed that should be one of the concerns because there is a history of a problem and difficulty reconciling it. Mr. Williams stated the neighbors take turns calling to report the noise level.

Mr. Hansen asked about the noise from the Metropolitan Grill.

Mr. Williams said there is an outside seating area on the west side of the building and they are supposed to stop music and activities at 10:00 p.m. and with some regularity after 10:00 the neighbors will call and ask the Metropolitan Grill to turn off the outside speakers. Mr. Williams stated that is not something they should have to do. The Metropolitan Grill design faces west. This current proposed design will face directly into the neighborhood and with the hard background, there is nowhere for the noise to go except north.

Mr. Edwards asked Mr. Lee to address the concerns about the noise.

Mr. Lee stated the neighbors who came to the neighborhood meeting did not have an issue with those things. The owner has said that he will plant trees. Mr. Lee said when he stood in the area where the restaurant will be there were only two houses that were visible. One of the owners came and commented they were not sure what they thought about it and they would get back with Mr. Lee if they had an issue and they did not fill out one of the comment cards. Mr. Lee stated they can put some trees in the detention basin. The outdoor eating area is small. It is not a big area.

Mr. Edwards asked about the drainage in the basin asking if Mr. Lee foresees any problems with the water draining off as apparently there was a previous stagnation issue.

Mr. Lee stated they will be required to make it drain.

Mr. Edwards asked Mr. Lee if he foresees any problems with the wall going in that would impede what they have naturally done now on the drainage.

Mr. Lee said no, pointing out on the display where the low area lays and where the wall will be constructed. The area where the wall is going is a slope; three (3) to one (1) slope, and those areas drain very well.

Mr. Williams asked to address Commission again. In the previous zoning there was a provision for visual and sound with trees pointing out his residence; the display showed very little buffering, adding they have limited faith in those kinds of promises because of their previous experience. Mr. Williams informed Commission that the neighborhood meeting was not in the neighborhood. It was at the library center across town because the nearest library meeting area was taken; but to call it a neighborhood meeting is to stretch the use of that terminology.

Mr. Edwards closed the public hearing.

Mr. Edwards noted that the developer has proposed to put in some foliage as a sound barrier and would propose if anyone does make a motion in the affirmative on this case if you do so feel; you might add that as a condition to that motion to make certain they do follow through. Mr. Edwards asked staff if that would be ok to do that as a motion or do they need to amend it before hand.

Mr. Hosmer asked if Commission is proposing vegetation on the other property or on the site property because they own only this site.

Mr. Edwards stated he wouldn't think they could plant vegetation on someone else's property.

Mr. Hosmer stated the drainage basin is not part of this property.

Mr. Lee stated they were proposing putting it in the drainage basin because that is how it would serve the residents the best. If the City is ok with them putting it in the detention basin they would be willing to do that.

Mr. Colson commented they had an ARC meeting on August 19, 2014, and the comment at that time was that any proposed landscaping in the regional detention basin is not recommended. But it will need to be shown that if they do want to do that it will not impact the flow pads or the detention basin capacity.

Mr. Lee stated they can do that, they can put some trees that are not in the flow path and a tree doesn't affect the volume of the basin.

Mr. Edwards commented if they do go forward with that and that ends up something that they do Commission may not require it tonight, but in good faith, since Mr. Lee proposed this, it would be nice to see the follow through on this if they allow you to do that.

Mr. Lee stated the owner has committed to do that with one of the other residents and they didn't require it but said he would do it and feels confident they can get a row of trees in there to block those two houses.

Mr. Baird asked Mr. Lee what would be the effect of planting the trees from both a sound perspective and ascetic perspective.

Mr. Lee stated pointed out a growth of trees in an area on the display, adding it makes a large difference.

Ms. White asked if they own the detention area and if they can plant trees on that property.

Mr. Lee said the City of Springfield owns the property. Mr. Lee stated he can put trees that will not be in the flow line and they don't take up volume. In the past the City has supported trees in detention basins because they add to the aesthetics of the basins and help with drainage in smaller basins.

Mr. Hosmer stated the property does not belong to the City; they have a drainage easement.

Ms. White asked if Mr. Lee can guarantee these trees can actually be placed in the area he is talking about planting them.

Mr. Lee said with the easement they have and what he is saying is right, but Mr. Lee said to him, it is semantics because the home owners association doesn't have an issue with the trees there. It will be the City and the easement and the drainage features there. Mr. Lee said he can't put the trees in the flow line and he can't take volume.

Mr. Colson said he believes there is a way to work it out if the plantings are in the right spot, adding he would prefer it not be in the basin. It is hard to maintain around trees in detention basins when they have to be mowed.

Mr. Hansen commented to minimize the effects of a detention basin is inviting disaster. This basin may be infringed on and plant trees and pinch it in with concrete walls and it may not add that much to the downstream effect, but all the other things upstream that are compromises they are all accumulative and they all go down stream. Soon the little trickle up above is a raging torrent across Battlefield. When we talk about compromising the detention; this is a good size regional detention, this is not just an individual basin this is for a large watershed. Mr. Hansen said it makes him nervous to discuss modifying this and obstructing it and planting trees in it.

Mr. Colson stated that is exactly why staff is requiring the applicant to redo and resubmit drainage calculations again for review. This site is not exactly like what was approved a few years ago, so they are going back to re-verify that the volume of the detention basin will not be reduced.

Ms. Cox commented that her assumption is that the detention that is built right now has easements that probably go toward the residential property to the north and potentially to the east and that regional detention is designed to manage this entire development once it is fully developed, is that correct.

Mr. Colson said yes. The whole detention basin is an easement; but they are responsible for maintenance. When a detention basin serves more than one property it has to be in an easement so everyone has access and can use it and maintain it.

Ms. Cox asked why the detention basin was made in such a way that it actually has to be changed in order to accommodate this development property.

Mr. Colson stated because the developer wants to develop it; there is not a big change in the volume and he can do a retaining wall and still maintain the...

Ms. Cox said it is just a certain portion of the property was already in the regional detention; they want to develop it in such a way that it encroaches upon that detention at this point so they must do x, y, or z, right.

Mr. Colson said yes.

Mr. Lee stated with this zoning change they could still build the wall and the 6,000 square foot building. Those were things they weren't asking for they are asking for 700 more square feet of restaurant inside a building they could build anyway and they are asking for a drive thru lane. Mr. Lee said while they are going to look at them again, those things were presented two years ago at one point and were approved then so if we went back to that exact same thing we should be able to do that exact same thing again.

Mr. Edwards said Mr. Lee has made it very succinct what he is asking for here and while we do know storm water is an issue they can build that building right now. Mr. Edwards said he would support the request.

Mr. Lawhon stated that one of the great things about having public hearings is that it involves responsibility and accountability. Mr. Lawhon stated he has heard two things this evening, one having to do with the detention basin; the engineering, construction, and maintenance of that. The other is about planting trees to mitigate or buffer any kind of sound pollution that might flow into those homes in Southern Hills. Mr. Lawhon stated they have been assured that all of these things are going to be addressed adding he feels this is a proper use of that particular property and he will support of the request.

Mr. Hansen commented that it has been said this was approved two years ago so why wouldn't it be approved today. There were a lot of things approved years ago that would not be approved today. Mr. Hansen stated Commission has to look at the current issues and not what happened two years ago. Mr. Hansen stated said this needs to be reviewed on what all can be done with a piece of property with the zoning that is proposed. Assurances have been made that this will be a high end restaurant, but Commission has no assurance of what's going to happen in the future with this property. If the drive thru is approved, that opens up a lot of possibilities of what can be on this property in the future. There was a purpose when this PD was set up that excluded a drive in window for a reason. Mr. Hansen said that modifying the PD to include that would be a major change in the density and use of this property that was not originally intended. The possible traffic problem that would come from this with cars entering and exiting through a gap in the median that is continuous from the east and from the west with the only break there at the driveway, which may be adequate for an office building or a bank, but to think of a key of cars lining up at a drive in window and then parking on the street and waiting and then trying to get off the street onto Battlefield seems to be inviting trouble. This proposed restaurant has to be 3,000 feet and so it needs to be built out over an existing detention basin that's been engineered to function as is. Mr. Hansen said for those reasons he will be voting against the proposal

Mr. Lawhon motioned to **approve** Planned Development 346. Mr. Baird **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Baird, Ray, Lawhon, White, Cox, and Shuler. Nays: Hansen. Abstain: None. Absent: Young.

Mr. Edwards called for a ten minute break.

Mr. Baird asked staff what determines what amount of information this Commission gets as far as information leading up to the meeting. Mr. Lee referenced elevations and discussed things at the neighborhood meeting that Commission did not receive.

Mr. Hosmer stated the elevations they received early on were different renderings; there were several different site plan changes so what staff received were not the elevations. It is not requirement of the Planned Development, but staff did not receive revised elevations from the engineer.

Mr. Baird commented that it is sometimes difficult for Commission to make decisions when they don't know what is actually going to be developed and some of it is foresight, because what we are designing for and what Commission is asked to look at is worst case scenario, but occasionally that is difficult. Mr. Baird asked for help in understanding or navigating that path.

Mr. Hosmer commented on a straight zoning case Commission will not know what will be built on a property. Commission will look at the uses that are in that district and is the use an appropriate use for that area, taking into consideration traffic comments, stormwater comments. On a Conditional Overlay District it is pretty much the same thing. A Planned Development you will get a little more information; there will be a site plan. This Planned Development we looked at has a range of office, retail and it happens to be that the applicant wants a restaurant because it wasn't allowed in the previous Planned Development.

Mr. Edwards commented that something that is as equally important is the gentleman who spoke had a valid complaint about the nature of the neighborhood meeting. Mr. Edwards said it is important that those meetings remain localized for folks because that did seem cheeky to move the neighborhood meeting that far away from the actual neighborhood.

Mr. Hosmer said it is City policy to have those meetings as close as possible to the neighborhood; not in the neighborhood but close but in a facility where they can handle enough people. Mr. Hosmer commented they will emphasize that with the applicants.

Conditional Use Permit 412 - RKJ Properties, LLC

Mr. Hosmer said this is a request to approve Conditional Use Permit 412 to reduce the front yard setback from 25 feet to 15 feet at 1235-1249 East Cherry Street in an R-HD, High Density Multi-Family Residential District in the Rountree Urban Conservation District #2 Area E. The reduced setback along Cherry Street allows the building to be moved closer to the street and will allow for more onsite parking. In addition, placing the building closer to the street brings activity to the street and creates an edge along the sidewalk that promotes pedestrian activity and safety. The reduced setback does not create any sight or safety issues with fire protection or for travelers on the adjacent roadway. Mr. Hosmer mentioned there are existing structures that have setbacks below the required twenty-five (25) feet setback along Cherry Street, using Imo Jeans building on this site as an example, disclosing the structure is currently setback six (6) feet from Cherry Street. There are two (2) homes at 1250 and 1256 East Cherry Street directly across from this proposed property that have approximately a fifteen (15) to sixteen (16) feet setback. Area E serves as the home to many Missouri State University students and contains a mixture of multi-family and single family housing stock. The Cherry Street Corridor is zoned R-HD on both sides from National Ave to just short of the Pickwick/ Cherry Commercial Area. The development of this site will comply with all of the requirements of the Zoning Ordinance for the R-HD, High-Density Multi-Family Residential District and UCD#2 Area E requirements. All requirements for off-street parking, open space, bufferyards, and height standards will be met with the development of this property. 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 front yard setback along the south property line

(Cherry Street) may be reduced to fifteen (15) feet. All other standards of the Zoning Ordinance, and other applicable ordinances, shall be adhered to.

Ms. Cox touched upon the other apartment buildings and townhouses in the vicinity of the proposed site, asking if any of those have less than a twenty-five (25) foot setback.

Mr. Hosmer asked Ms. Cox if she is talking about the property at Kickapoo and Cherry and the property to the west. Mr. Hosmer noted the apartment building on Kickapoo and Cherry was built prior to the ordinance change in 2010 so it was not a requirement for them to do that.

Ms. Cox asked about the Kingston Arms across the street.

Mr. Hosmer stated they are at about fifteen (15) feet. Mr. Hosmer asserted that there might have been some purchase or dedication of right of way there to reduce the front yard setbacks.

Mr. Edwards asked when this area was zoned high-density multi-family.

Mr. Hosmer remarked it was probably in the 1940's or 1950's; it has been awhile. The houses on the north side from Kickapoo down to Pickwick have more single family housing stock that are rentals or single family uses.

Mr. Edwards opened the public hearing.

Mr. Neil Brady, Anderson Engineering, 2045 W. Woodland remarked he is representing the applicant.

Mr. Edwards clarified they would build a fire lane behind the structure.

Mr. Brady stated they would meet fire code but do not anticipate a drivable lane around that part. It will be accessible without having a drive lane around it.

Mr. Edwards observed that what they explained in the last meeting it sounded as if the fire code was the impetus on moving the building forward.

Mr. Brady stated that does help them yes.

Mr. Edwards opened the public hearing.

Mr. Matt Stevens, 901 South Pickwick, explained he is the current Rountree Neighborhood Association Chair. Mr. Stevens provided a petition with names and address and comments from people in the neighborhood who are opposed to the setback. Mr. Stevens explained the issue is making the site not fit within the current neighborhood. The UCD was set out with the City's help on how to uphold the neighborhood, what the neighborhood should look like, and how it should be developed. Mr. Stevens stated they are asking that the proposed structure fit in with the neighborhood. The setback being proposed doesn't fit.

Mr. Jimmy Brooks, 1317 E. Harrison, commented he is in opposition to the proposed development because of the size of the building and the setback.

Mr. Jeff Barber, 746 S. Weller, commented he is a Board member of the Rountree Neighborhood Association adding he is in opposition to the proposed. Mr. Barber relayed none of the dwelling units will ever have a family in it; a multi-family dwelling comes out to two (2) cars per family and in this situation, one car, one bedroom, ninety-six (96) cars. Mr. Barber suggested that in this situation maybe a parking district would be appropriate. The detention basin does not currently indicate an outlet on any of the drawings that have been submitted. Mr. Barber mentioned the size of the proposed structure, safety issues with regard to electrical lines and traffic, with a nearby school, a bus pickup zone and kid traffic.

Ms. Louise Knauer, 944 S. Weller, read a portion of a letter from a resident sent to City Council regarding the scale of the project and the parking on the street which will negatively impact the area. The setback is detrimental to the neighborhood. Ms. Knauer asked Commission not to grant an exception in this case.

Mr. Mike Brothers, 1016 S. Pickwick noted they have approximately two hundred names on the petition that was presented by Mr. Steven. Mr. Brothers stated the neighborhood is concerned about a trend which relates to the setback issue and in future Cherry could look a lot like Kimbrough Avenue does today and open the door to that happening all along Cherry. Mr. Brothers stated at the neighborhood meeting the developer indicated at that time that he would be willing to come back to the twenty-five (25) feet; the six parking spaces is not a worthwhile trade off.

Mr. Edwards closed the public hearing.

Mr. Edwards asked Mr. Brady to address the comment regarding the neighborhood meeting and about moving back to the twenty-five (25) foot setback.

Mr. Brady disclosed that this project could move forward with the twenty-five (25) feet se back, but they would have reduced parking so they are trying to maximize the amount of parking and in discussions with City Staff, that is what they felt was the best option to do.

Mr. Hansen asked why they need the extra parking.

Mr. Brady said that seems to be one of the biggest issues is not having enough parking so they are trying to maximize the number of parking spaces available.

Mr. Hansen pointed out they are trying to maximize the occupancy as well.

Mr. Brady asserted that is correct which is what a reasonable developer would do.

Mr. Hansen clarified that if the occupancy was cut back a little bit then they would not need the extra parking and need the extra ten (10) feet.

Mr. Brady commented potentially.

Mr. Edwards affirmed that the owner of the property is asking for a setback under the rules. The community has some valid concerns. Mr. Edwards asserted that the neighborhood doesn't own the property, and the owner has asked for some rules allowed under the law to present his request before Council.

Ms. Cox inquired about the alley in the back of the property and with the site plan drawing it appears they are developing parking all the way to the alley. Ms. Cox asked if the fire egress is in the front that is the worry.

Mr. Hosmer said that is correct adding they would pull through the Cherry Street area.

Mr. Rognstad said they would pull in approximately one hundred-fifty (150) feet if they need to and back out on the parking lot.

Mr. Hosmer clarified that the applicant is proposing to build twenty-four (24) units; with the twenty-four (24) units the current standard is two (2) parking spaces per unit. Therefore, forty-eight spaces would be required. The parking standards does allow for a bicycle reduction which would reduce five (5) spaces, so they could build twenty-four (24) units with (43) forty-three spaces. The reduced setback would allow them to build more on-site parking and that is one of the issues staff was concerned about, such as parking on the street and spillover from the apartment complex; so to answer the earlier question, denying the request would not reduce the units, but would possibly reduce the on-site parking.

Mr. Hansen remarked that sounds like a pretty good trade going by what the neighborhood has said, the impression is that the neighborhood sees this as the first of many that will march right down the block and they will have a canyon; Cherry Canyon. Mr. Hansen noted that Commission can grant the variance according to what Council initiated in the past but they are not required to and added he does not see this as being a special case particularly if they can build the same development with five (5) less parking spaces. Mr. Hansen said he does not see the overriding need there.

Mr. Baird commented that whether this building is put at fifteen (15) feet or twenty-five (25) feet, which is what appears the neighbors would like, it is still not going to be in line with every other building on the street; there are buildings with more and buildings with less. Mr. Baird said it is difficult for him to see how this building is going to stick out with the variances and setbacks that are currently there. There are other four story buildings west of the proposed development. If this project were economically feasible, or profitable at both segments, whatever the setback, the developer would do either one. If the developer could get away with the fifteen (15) foot setback it may be more profitable.

Mr. Edwards observed there are other three (3) story buildings and a ten (10) story building in the area and feels a four (4) story structure is not inappropriate there. It is already zoned for it and has been for eighty (80) years now at least, so he does not have a problem with the four (4) story development especially considering if you cross National and head Cherry through the University and go to St. Agnes you will see pretty much the same level of development on the way through there. Everything in the City Guidelines and the Comprehensive Plan tells us what we want as a City and told the City we want is infill development and a denser population in Center City. Mr. Edwards pointed out that Rountree Neighborhood is in the middle of what he considers the center of the city. That is something that makes it a special neighborhood but also provided it with challenges. As the City grows you run into this abutment of development and wanting to preserve what is there. Mr. Edwards noted the Rountree neighborhood may consider changing the UCD to be more attuned to what could happen within their parameters and to make the rules the way they want. Mr. Edwards said he would support the request adding under the rules the owner has the right to petition Council and we may want to look at those rules. Everyone needs to think about the Kimbrough corridor and ask ourselves if that is really where we want to go.

Mr. Lawhon stated that as he looks at this he has to determine if this is within the Comprehensive Plan, within the rules and it is; he will be voting in favor of the request because the property owner is well within their rights to do what they want to do with this lot.

Ms. White commented she is a Rountree kid, adding she knows what the struggle is here and the change of use in the neighborhood and understands the desire to hold back that change. Commission's role here is very narrow; good developers take care of their property. It will look better than some of the houses that are nearing the end of their life cycle. Ms. White stated that she has to, within the very narrow confines of what Commission has been asked to decide, support this proposal.

Mr. Rognstad mentioned that the decision Commission makes is not whether the applicant can go forward and ask Council, but whether or not Commission thinks this is in keeping within the character of the development. This is in some ways softer a decision than what Commission makes with zoning. Mr. Rognstad commented he has concerns that some Commission members have questioned whether or not they think the development along Kimbrough is appropriate being closer to the street. If Commission feels it significantly changes the character of this area to the detriment of the community then Commission needs to make their decision based on that. From staff's perspective, this is on the north side of Cherry and backs up to the higher density to the north. This is really a question of what Commission thinks the character of the street would be. City Council will weigh Commission's recommendation of approval; that Commission believes it is within the character of the area to have buildings closer to the street.

Mr. Baird remarked that with those comments, he believes this proposal fits within the character of the neighborhood. The developer is not asking to be looked at any different from the buildings that are already there nor is there a height difference in the building from those currently there. Mr. Baird said he plans to support the request.

Ms. Cox expressed that she has no problem with the height and the density for the area as it has been zoned that way for a long time. Ms. Cox clarified that this project can go forward regardless of the fifteen (15) foot or twenty-five (25) foot setback, remarking that she does not see the point of pulling the building forward if it doesn't need to do so from an ascetic's standpoint. Ms. Cox asserted she does not disagree with the overall appointment of the development, but affirmed she will be voting down the setback request.

Mr. Hansen expressed his understanding of passing this on to Council to tell the neighbors that one guy has more power than two hundred (200), adding he doesn't think that is all Commission can be concerned with here. Some believe this is in keeping with the neighborhood, but apparently two hundred (200) people that live there don't think it's in keeping with the character of the area. We say an owner has a right to do what he wants with his property, but two hundred (200) people have a right to protect their property. We are talking about one property verses (200) properties; they are all concerned with their neighborhood, their property values, the ascetic's and what they bought into that neighborhood for in the first place. Mr. Hansen observed those are pretty powerful motivators and emotions and to say this owner can do what he chooses to do with his property is not really true. We don't allow feeder operations in the city or mobile homes in infill lots. There are a lot of things we don't allow because they don't contribute to how we want to see our community. Mr. Hansen said he doesn't have a problem with the development, with the height, but they can do it within the confines of what's there already and what's there already is actually decided by those who live there, by those who own property there and live there. Mr. Hansen commented he can't in good conscience just punt this to Council to make up their minds. Commission is passing on a

recommendation and Mr. Hansen said he recommends to Council that they not approve this project with reduced set back.

Mr. Ray said it is not a big point to him whether it is fifteen (15) feet or twenty-five (25) feet but it seems like there is not a whole lot of damage to the developer if Commission doesn't approve this. The project will go forward, they are going to have the same number of units, they will make the same amount of money each month and they will have to pour less asphalt for the parking lot. If the neighborhood decides they would rather have six more cars added to the parking problem on the streets of the neighborhood instead of this building closer to the street, Mr. Ray explained he feels it is logical to side with the neighborhood. Mr. Ray interjected he is not taking sides, rather explaining he will vote against approving the recommendation.

Mr. Lawhon motioned to **approve** Conditional Use Permit 412. Mr. Ray **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Baird, Lawhon, White, and Shuler. Nays: Ray, Hansen, and Cox. Abstain: None. Absent: Young.

Text Amendment Temporary Uses/Special Events Amendments - City of Springfield

Mr. Chris Straw, Director of Building Development Services stated that what Commission has before them tonight is a consolidation of a number of Code Sections and specifically for Commission review is Exhibit D, which deals with the Zoning Ordinance. The purpose is to consolidate Zoning Ordinance, City Code and numerous other codes to collectively group all the special event type of events we have here in Springfield and make them easier for the public to understand, easier for the public to access as well improve the enforcement capabilities specifically dealing with, for example, noise. Right now they have to do it with the means of decimal meter. The ordinance will change that to where it will become a nuisance type approach which the police department will deal with.

Mr. Hansen clarified that aside from the one change, everything else is just relocating these codes...

Mr. Straw said that is correct; basically it's taking out the numerous codes and consolidating them all into this one ordinance to deal with special events.

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

Mr. Baird motioned to **approve Text Amendment Temporary Uses/Special Events Amendments**. Mr. Lawhon **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Baird, Hansen, Ray, Lawhon, White, Cox and Shuler. Nays: None. Abstain: None. Absent: Young.

Subdivision Variance 349 - Gillenwaters Development, Inc.

Mr. Hosmer commented the applicant is requesting a variance from Section 407(2) of the Subdivision Regulations, which requires all lots to abut by their full frontage on a publicly dedicated street. The applicant is proposing a subdivision variance that will allow the subdivision of Lot 1 of Davis Industrial Park into three (3) manufacturing lots. Lots two (2) and three (3) do not have full frontage on a publicly dedicated street. The proposed administrative re-plat will allow two additional manufacturing lots to be created. The City vacated most of Pythian Street east of Glenstone in 1962 creating the long narrow strip that has frontage on Pythian. Planning staff supports the request for a lot without full frontage on a public street

because there are pre-existing conditions with the existing driveway access. The property will be used industrially and the applicant is dedicating a 26 ft. wide cross-access easement from Pythian Street to Bergman Street to provide emergency access.

Mr. Edwards opened the public hearing.

Mr. Jared Rasmussen, 550 E. St. Louis commented he is available for questions.

Mr. Edwards closed the public hearing.

Mr. Edwards said he will support the request as this is consistent with repurposing and redevelopment of existing buildings. It is nice to see this building being used.

Mr. Hansen motioned to **approve** Subdivision Variance 349. Mr. Baird **seconded** the motion. The motion **carried** as follows: Ayes: Edwards, Baird, Hansen, Ray, Lawhon, White, Cox and Shuler. Nays: None. Abstain: None. Absent: Young.

There being no further business, the meeting was adjourned at approximately 9:05 p.m.

A handwritten signature in black ink, appearing to read 'Bob Hosmer', written over a horizontal line.

Bob Hosmer, AICP
Principal Planner