

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's December 6,
2022 Meeting**

I. Call to Order

Present: Tim Haynes, Kendall Neill, Lisa Richard, Anthony (Tony) Royse, Rachel Lyon, Andy McLenon, Michelle Anderson

Absent: Mary Jo Meier, Brent Littleton

Guests: Morris Quigley, Billie Jo Quigley, Chuck Beale, Abby Beale, Judith Umlauf, Kyle Owens, Barbara Phillips

II. Minutes

- a. Consider approving minutes of the November 1, 2022 Planning and Zoning meeting.

Motion:

On the motion of Tim Haynes, seconded by Rachel Lyon the Commission approved the minutes of the November 1, 2022 Planning and Zoning meeting.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Andy McLenon, Kendall Neill, Lisa Richard, Anthony (Tony) Royse

Nay: None

III. Board of Zoning Appeals (Does not include outside City appointments)

- a. Public Hearing to receive comments on a variance request to exceed size and number of signs in a C-3, business district zone at 113 W. Myrtle Street.

Kendall Neill opened the public hearing.

This item was adjourned from the Tuesday, November 1, 2022 meeting. It was explained that the applicant asked for the meeting to be adjourned to the February 7, 2022 Planning Commission and Board of Zoning meeting.

Motion:

On the motion of Kendall Neill, seconded by Tim Haynes the Commission adjourned the public hearing to consider a variance to exceed the size and number of signs in a C-3, central business district at 113 W. Myrtle Street to February 7, 2022 at 5:30 pm.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Kendall Neill, Lisa Richard, Anthony (Tony) Royse

Nay: None

- b. Public Hearing to receive comments on a variance request for accessory uses as "permanent occupancy as housekeeping units" at 701 Taylor Road and 2423 Linda Jean Drive.

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's December 6,
2022 Meeting**

Kendall Neill opened the public hearing.

Chuck Beale stated that the garage itself is 900 square feet, 25 x 36.

Tony Royse asked if the utilities are separated or shared and does each structure have their own meter.

Chuck Beale stated that the electric and water is separated.

Tim Haynes asked if each structure had its own driveway and whether there were any concerns about emergency services.

Chuck Beale said yes, there are two driveways. There is still one stall for the garage. The remodeled part is a studio apartment. There is a driveway off of Taylor and one off of Linda Jean.

Kendall Neill closed the public hearing.

Motion:

On the motion of Tim Haynes, seconded by Rachel Lyon the Commission authorized a variance for "permanent occupancy as housing units" as an accessory use at 701 Taylor Road (also known as 2423 Linda Jean Drive).

**Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Kendall Neill, Lisa Richard
Nay: Anthony (Tony) Royse**

IV. Planning Commission

- a. **Public Hearing to receive comments to consider rezoning a tract of land at 701 Taylor Road from R-1, large lot single-family dwelling district to R-3, low density multifamily dwelling district.**

Kendall Neill opened the public hearing.

Anthony Royse felt that there is a difference with the garage being used as a "mother-in-law" type housing and multi-family housing. The R-1 zoning is large lot with a big yard and this is nothing but a spot zoning which only benefits the property owner and is a disadvantage to the nearby land owners. In looking at a two-family structure that has to be 4,000 square foot, does that mean each structure has to be 4,000 square foot or larger? With the rezoning there are large business that could go in and they do not belong in an R-1 neighborhood. This is not a place for an R-3. There is no benefit.

Kelly Passauer said no, the 4,000 square foot per dwelling unit is the lot area

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's December 6,
2022 Meeting**

and the lot is 20,000 square feet.

Lisa Richard asked why the rezoning is needed since a variance was just issued.

Kelly Passauer said that the variance was needed to allow the garage to be rented out to another family long-term since that is not allowed by City code. Rezoning to R-3 seemed the best way to allow more than one family to reside on one lot. The most this type of low density zoning would allow would be a duplex or triplex.

Kendall Neill closed the public hearing.

Motion:

On the motion of Lisa Richard, seconded by Tim Haynes the Commission approved rezoning a tract of land at 701 Taylor Road from R-1, large lot single-family dwelling district to R-3, low density multi-family district.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Andy McLenon, Kendall Neill, Lisa Richard

Nay: Anthony (Tony) Royse

- b. Public hearing to receive comments on a request for a conditional use permit for "Antiques - Retail" in a C-1 neighborhood business district at 504-506 South 10th Street.

Kendall Neill opened the public hearing.

Rachel Lyon told the applicants that they had cleaned up the area very well.

Kendall Neill closed the public hearing.

Motion:

On the motion of Tim Haynes, seconded by Rachel Lyon the Commission approved a conditional use permit for "Antiques-Retail" in a C-1 neighborhood business district at 504-506 South 10th Street with the following conditions:

1. The conditional use permit is not transferable to another property owner or to another location.
2. The applicant must be in compliance with all City codes and must continue to be in compliance with all City codes. This would include the requirement to acquire a City occupation license which must be renewed annually.
3. The exterior of the property must be cleaned up and kept clean to meet City code.

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's December 6,
2022 Meeting**

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Andy McLenon, Kendall Neill, Lisa Richard, Anthony (Tony) Royse

Nay: None

- c. Public hearing to receive comments to consider rezoning three tracts of land at 600, 606 and 610 West Main Street from R-3, low density multifamily dwelling district to C-2, commercial services district.

Kendall Neill opened the public hearing.

Discussion was had about how many car washes there are in town and how this has been a topic of debate lately.

Kendall Neill closed the public hearing.

Lisa Richard does not think the intent of the Comprehensive Plan was to make the area between the downtown and the railroad tracks commercial. She stated that one of the goals is to phase out commercial businesses from residential areas and R-3 was to be used as a buffer. She recommended that the Board table the hearing until they could go over the Comprehensive Plan to make sure that it is being followed.

Kendall Neill reminded the Board that there are several C-2 businesses right there in the same area. Going back and using the 1982 Comprehensive Plan as the basis of our decisions is difficult to do because it is so outdated in terms of how the world operates today.

Kelly Passauer said that if the rezoning is approved the side and rear yard setbacks adjoining residential will be 25 feet.

Lisa Richard asked if the company would be doing a variance on that next.

Kelly Passauer said it depends how they develop it.

Rachel Lyon said that things have changed in forty years, it does not have the same residential appeal. She does not know of any problems with the other car washes.

Kelly Passauer said that you could include a privacy fence as a condition of rezoning.

Lisa Richard said housing was eliminated for the other businesses and now another home is being eliminated and we are caving in to every little step because we do not want to be considered anti-business.

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's December 6,
2022 Meeting**

Kendall Neill said that Independence is growing and the value of the downtown housing project is going to go up. Because of this carwash project, many businesses will benefit from building the carwash and the City will receive revenue. The spot we are talking about is a sore spot to people driving through the city. It will end up being a nice looking building that will be kept nice.

Tony Royse stated that this item is not about the car wash but about rezoning. If it is rezoned as a C-2 there are several businesses that could go in there that would not be appropriate to a residential neighborhood. There is no way to buffer noise and trash from a carwash and the residential neighborhood.

Andy McLenon said this board has been talking about the Comprehensive Plan for the last ten years. This location is going to become a C-2 whether we like it or not. No one is going to construct a brand new home right there on a major thoroughfare. If we do not pick up the bill to rezone this area, the City will pick up the bill for demolishing it.

Lisa Richard moved to table the public hearing until the next meeting to discuss when there is more information about what the intent is for that area. If the Comprehensive Plan is not going to be used then it should not be brought up. The motion died due to lack of a second.

Motion:

On the motion of Anthony (Tony) Royse, seconded by Kendall Neill the Commission approved rezoning three tracts of land at 600, 606 and 610 West Main Street from R-3, low density multi-family dwelling district to C-2, commercial services district.

Aye: Michelle Anderson, Rachel Lyon, Andy McLenon, Kendall Neill, Anthony (Tony) Royse

Nay: Lisa Richard

Abstain: Tim Haynes because he could not decide

- d. Public hearing to consider a text amendment to the zoning code relating to temporary signs.

Kendall Neill opened the public hearing.

The City Commission initiated a public hearing before the Planning and Zoning Commission to consider a text amendment to the zoning code relating to political signs in order to comply with State statutes. The proposed text amendment to be in compliance with K.S.A. 25-2711. Placement of political signs during election period. No city or county shall regulate or prohibit the

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's December 6,
2022 Meeting**

placement of or the number of political signs on private property or the unpaved right-of-way for city streets or county roads on private property during the 45-day period prior to any election and the two-day period following any such election. Cities and counties may regulate the size and a set-back distance for the placement of signs so as not to impede sight lines or sight distance for safety reasons.

Kendall Neill closed the public hearing.

Motion:

On the motion of Tim Haynes, seconded by Anthony (Tony) Royse the Commission approved a text amendment to Section 803.3 Temporary signs: all political signs, real estate signs, garage sale signs, or other signs of a temporary nature for a personal gain shall conform with the following requirements: a. No temporary signs of any nature shall be attached to any public utility pole or shall be installed within the right-of-way of a public road or street, provided however, this subsection shall not apply to the placement of political signs during the 45-day period prior to any election and the 2-day period following any such election. b. This ordinance shall take effect upon its publication in the official city newspaper. The nature and effect of this amendment is to be in compliance with State law.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Andy McLenon, Kendall Neill, Lisa Richard, Anthony (Tony) Royse

Nay: None

- e. Consider initiating the rezoning of a tract of land at 800 N. 21st Street to M-1, light industrial district.

On July 29, 2004 the City Commission adopted an ordinance annexing the former SMP property at 800 N 21st Street. Earthcare, who currently owns the property, approached City staff wanting to know how the property was zoned. City staff was unable to locate any documentation that initiated the rezoning of this property after it was annexed. In order to correct this issue, the Planning Commission is being asked to consider initiating rezoning of this parcel to M-1, light industrial district at the January 3, 2023 agenda.

Motion:

On the motion of Anthony (Tony) Royse, seconded by Rachel Lyon the Commission initiated a public hearing on January 3, 2022 to rezone 800 N 21st Street to M-1, light industrial district.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Andy McLenon, Kendall Neill, Lisa Richard, Anthony (Tony) Royse

Nay: None

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's December 6,
2022 Meeting**

V. Discussion

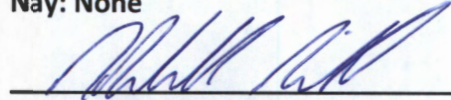
VI. Adjournment

Motion:

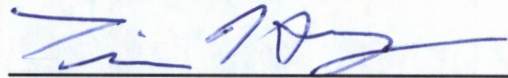
**On the motion of Andy McLenon, seconded by Kendall Neill the Commission
adjourned the meeting..**

**Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Andy McLenon, Kendall
Neill, Lisa Richard, Anthony (Tony) Royse**

Nay: None



Kendall Neill, Chairperson



Tim Haynes, Secretary