

MINUTES

Independence Planning Commission/Board of Zoning Appeals

Tuesday, November 7, 2017

Veterans Room Memorial Hall 5:30 p.m.

Call to Order

Planning Commissioners Present

Steve McBride, Mary Jo (Dancer) Meier, Philipp Umlauf, Brian Beecham, Brent Littleton and Andy McLenon*.

Planning Commissioners Absent

Barbara Emert, Jim Hardy and Nick McCollam*

*Outside Appointments are not on the Board of Zoning Appeals

Staff Present

Kelly Passauer, Assistant City Manager/Zoning Administrator

Visitors Present

Julie Bruington, George and Elaine Glines, Bill and Phylis Dozier, Andrew Demo, Ken and Marcia Bosse, Rusty Arnold, Barbara Dodson and Jennifer Christensen.

a. Consider approving minutes of the September 5, 2017 meeting.

Philipp Umlauf made a motion to approve the minutes of the September 5, 2017 Planning Commission/Board of Zoning Appeals minutes, seconded by Steve McBride. The motion carried 6-0.

Planning Commission

b. Consider a request for a conditional use permit for a pre-primary school (preschool) in an O&P district at 1201 N. 10th Street and 515 W. Oak Street.

Staff provided the following staff report to the board in written form prior to the meeting:

Summary

The Planning and Zoning Commission has received a request for a conditional use permit from Rusty Arnold Superintendent of School on behalf of the Board of Education USD 446 for a preprimary school (preschool) at 1201 N. 10th Street and 515 W. Oak Street.



Appendix “A” of the Zoning Ordinance allows a preprimary school (preschool) as a permitted use in the C-1 and C-2 districts. Preprimary schools (preschools) are allowed as a conditional use in the R-2, R-3, R-4, R-5, O/P and C-3 zones. Preprimary schools (preschools) are not permitted in the A-1, R-1, M-1 and M-2 zones.

Land Use Category	Code	A-1	R-1	R-2	R-3	R-4	R-5	O/P	C-1	C-2	C-3	M-1	M-2
Schools, preprimary	6811			C	C	C	C	C	P	P	C		

Conditional Use Permit

The zoning ordinance in section 901.1 (page 87) describes the purpose of a conditional use as:

“...those types of uses which are considered by the City to be essentially desirable, necessary or convenient to the community but which by their nature or in their operation have:

- 1) a tendency to generate excessive traffic,*
- 2) a potential for attracting a large number of persons to the area of the use thus creating noise or other pollutants,*
- 3) a detrimental effect on the value of potential development of other properties in the neighborhood, or*
- 4) an extraordinary potential for accidents or danger to the public health or safety.*

Such conditional uses cannot be allowed to locate as a ‘right’ on any parcel of land within certain districts without consideration of existing conditions at the proposed locations and of properties neighboring the specific site considered, nor

without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse effects."

Staff Report

The Planning Commission has the authority to place additional conditions on the site that they deem necessary to protect the best interests of the City, the surrounding property and to achieve the objectives of the ordinance.

In considering those types of uses which may be desirable, necessary or convenient to the community, the Commission should review and make recommendations based in part on 901.1.

Additionally, the decision of the Planning Commission to recommend approval or denial of the proposed conditional use shall be based on the following criteria (902.2):

- a. *The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation.*
- b. *The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.*
- c. *The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.*
- d. *The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:*
 1. *The location, nature and height of buildings, structures, walls and fences on the site, and*
 2. *The nature and extent of landscaping and screening on the site.*
- e. *Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (article VII).*
- f. *Adequate utility, drainage, and other such necessary facilities have been or will be provided.*
- g. *Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.*

Action by the Planning Commission

Any recommendations regarding a conditional use permit for the subject properties shall be based on Section 902.2 previously outlined in this report. After considering any public comments the Planning Commission may either approve or deny the requests. Following your action, the application and your recommendation will be forwarded to the

City Commission at which time they will have 30 days to adopt, modify or deny the Planning Commission's recommendation.

Staff Recommendation

City staff recommends granting the conditional use permit with the following conditions:

1. The conditional use permit is not transferable to another location.
2. The applicant must follow all City codes.

If any of the above conditions are not met the conditional use permit will no longer be valid. The basis of staff's recommendation is that granting the conditional use permit is consistent with the criteria "a through g" of Section 902.2 of the zoning code.

Rusty Arnold, Superintendent of Schools represented the applicant, Board of Education USD 446. Mr. Arnold reviewed the applicant's request. Andrew Demo who resides at 1120 N. 12th Street expressed his concern about the volume of traffic, as he indicated that there is already an issue with traffic. Mr. Arnold indicated that there will be a morning and afternoon session, and that there are already forty pre-school children at Jefferson. Mr. Arnold indicated that traffic would increase, however, he is not sure how much. Mr. Arnold indicated that he will get that information to Mr. Demo. A motion was made by Steve McBride and seconded by Mary Jo Meier to grant the conditional use permit for a pre-primary (preschool) with the conditions as recommended by staff. The motion carried 6-0.

- c. **Consider a request to rezone a tract of land from R-4, medium density multifamily dwelling district to O&P, office and professional district located at 2207 N. 10th Street.**

Staff provided the following staff report to the board in written form prior to the meeting:

Summary Regarding Rezoning Request:

The Planning and Zoning Commission received a request from Tri-County Special Education Interlocal #607 and Coffeyville Congregation of Jehovah's Witnesses to rezone the above listed property from R-4, medium density multifamily dwelling district to O&P, office and professional district.

The legal descriptions is:

Outlot "A", Woodstock Addition #1, a Replat of Woodstock Addition, a Subdivision of Lot 8, Block 2, Highland Park Addition, Except Lot 1 and the East 10 feet of Lot 2, Pfeifer Addition, being a subdivision of a portion of Lot 8, Block 2 of Highland Park Addition to the City of Independence, Montgomery County, Kansas.



The applicant intends to utilize the structure for professional offices for Tri-County Special Education. The following staff report and recommendation will consider the requested in accordance with the Golden Factors.

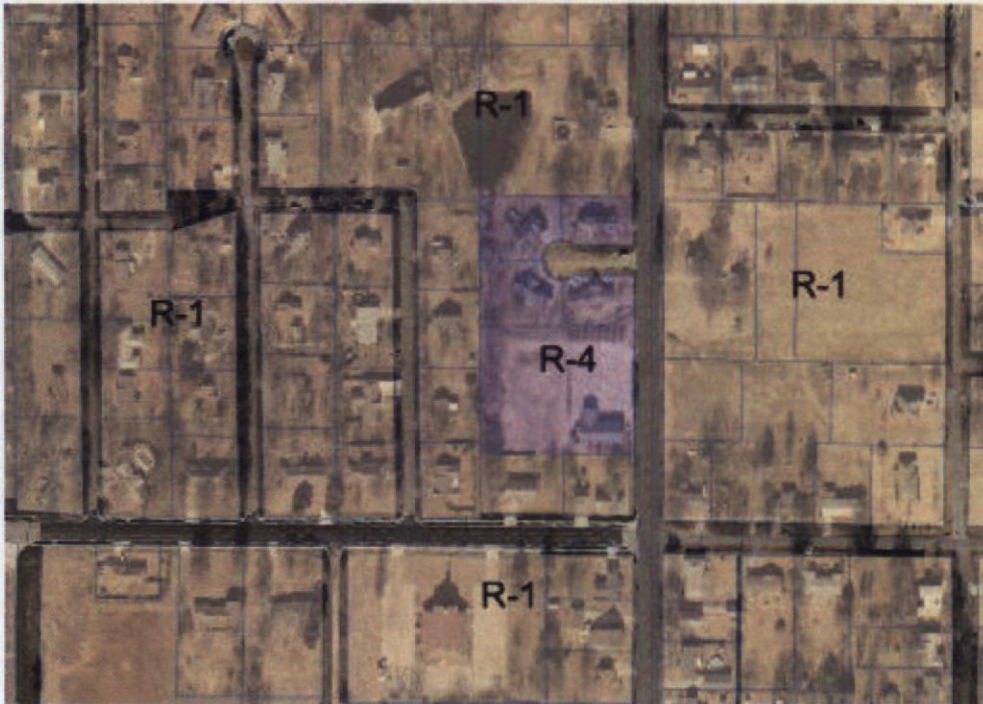
Description of the Tract:

The estimated 1.8 acre tract is located in the northern portion of the City with approximately 290 feet of frontage on the west side of North 10th Street. The tract is located between Mulberry Street to the south and Donald Avenue to the north. The property slopes downward toward the north with an elevation variance of approximately 6' between the north and south property lines. The property contains a structure and a parking lot that was previously utilized for a church.



Zoning and Uses of Property Nearby:

The adjacent property to the north is also zoned R-4, all other adjacent property is zoned R-1, large lot single family dwelling district.



Directly to the north and further to the west approximately 1,620' there are parcels zoned R-4. The parcel to the north consists of single family housing, while the parcel further west consists of a nursing home. Further to the west approximately 1,910' there is another parcel zoned O & P which consists of offices.



To the southeast of the subject parcel approximately 1,200' is a parcel zoned C-2 which is utilized for offices. The C-2 zone continues south along Pennsylvania Avenue (Highway 75).



Character of the Neighborhood:

The area generally consists of residential, religious, educational and commercial uses. There is a church approximately 200' south and a school approximately 1,050' southwest of the subject parcel.





Suitability of the Subject Property for the Uses to which it has been Restricted:

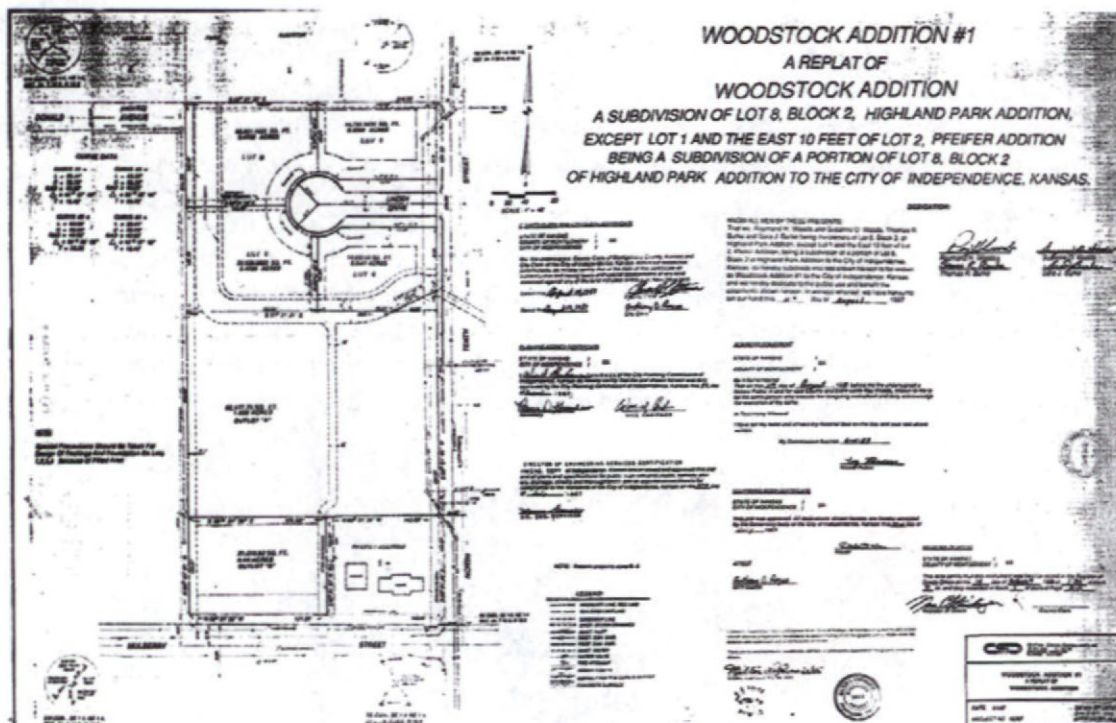
The property is zoned R-4, Medium Density Multi-Family District, which permits apartments, boarding or rooming houses, nursing homes and various public and quasi-public land uses. The past use of the site has been as a church. Churches are allowed as a conditional use in an R-4 zone.

		Permitted Zoning District											
Land Use Category	Code	A-1	R-1	R-2	R-3	R-4	R-5	O/P	C-1	C-2	C-3	M-1	M-2
Churches, synagogues and temples	6911	C	C	C	C	C	C	P	P	P	P		

The property is not necessarily unsuitable for the classifications of uses to which it has been restricted, however, occupancy by office uses of relatively low intensity may have less impact on the immediate neighborhood than other uses permitted in the R-4 district.

Length of Time the Property has Remained vacant as Zoned:

The property is occupied by a structure that was designed as a church, with a large portion of the property to the west that is currently vacant and has not been developed. There is a 10' drainage easement that runs north and south towards the middle of the property that cannot have permanent structures constructed over it.



Extent to which Removal of Restrictions will Detrimentially affect Nearby Property:

This proposal will use the existing structure on the site for offices for Tri-County. The site lies directly adjacent to single-family residences to the north, west and south. The residences to the west are buffered by the large portion of the site that is vacant. The property directly east is vacant and is buffered by 10th Street which is a four-lane street. There are some additional single family residential properties on the east side of 10th Street further north and further south.

The impact upon adjacent property relates to the activity on the site, as well as traffic generated by the facility. Most of the activity and traffic generated by the rezoning will likely occur during ordinary business hours as contrasted by the evening or weekend activity that was most likely generated when utilized as a church. Traffic generated will most likely be more than what was generated by the church during normal business hours, and less than what was generated by the church during weekend or evening hours.

Relative Gain to the Public Health, Safety and Welfare by the Destruction of the Petitioner's Property as Compared to the Hardship Imposed upon the Individual Landowners:

This property is zoned R-4, Medium Density Multi-Family Dwelling District, which permits apartments, boarding or rooming houses, nursing homes and various public and quasi-public land uses. Denial of the proposed rezoning will not destroy the value of the petitioners' property; however, it will render it difficult to use the existing structure for an economically viable purpose. Denial of the rezoning could create an incentive to demolish the existing structure to accommodate apartments or other uses permitted in the R-4 zoning district. The current development of the site creates a particular challenge to future users and to the City.

It was developed for a specialized purpose, and the adaptive re-use possibilities are limited. An office for Tri-County Special Education may be one of the better fits that can be found for such a unique structure with the locational characteristics of this site. Moreover, the general welfare is served by the provision of Tri-County Special Education services. It is anticipated that the rezoning will impose no hardship on individual landowners.

Conformance with the Comprehensive Plan:

The evaluation of the conformance of this request with the City's Comprehensive Plan is based upon the General Development Plan Map included within that document as well as the with the recommendations, goals, objectives and policies of the plan. The General Development Plan Map, as stated on page 82 of the Comprehensive Plan, does not attempt to set a specific land use for each and every parcel in the study area. It does depict this general area for residential land use.



The goals, objectives and policies of the plan do not specifically address office and professional types of development, and are oriented more to new development than to the re-use of existing structures. Nevertheless, the re-use of unique structures such as the one in question, makes good sense from a planning standpoint. The application under consideration does not conflict with the Goals, Objectives and Policies of the Comprehensive Plan.

Staff Recommendation

As indicated above the existing facility on the site under consideration presents a challenge to the community because of its unique design. Churches, nursing homes and hospital facilities are difficult to deal with from a planning standpoint because they are frequently located adjacent to or near single family homes, and are not readily converted to single family use. It is unusual to find a perfect fit for the structure. In this case the property is zoned for a use that would impact the area if it was to be developed to its full potential. The office and professional zoning may be the best fit given the site in question. City staff recommends rezoning the property from R-4, Medium Density Multiple Family District to O&P, Office and Professional District.

A motion was made by Brent Littleton, seconded by Mary Jo Meier to recommend rezoning 2207 N. 10th Street from R-4 to O&P as recommended by staff. The motion carried 6-0.

Board of Zoning Appeals

No items

Adjournment

The meeting was adjourned with a motion by Philipp Umlauf, seconded by Brent Littleton. The motion carried 6-0.



~~Philipp Umlauf~~, Chair

Nick McCollam, Chair



~~Nick McCollam~~, Secretary

Andy McLendon, Secretary