

MINUTES

Independence Planning Commission
Independence Board of Zoning Appeals

Tuesday, December 3, 2019

Veterans Room Memorial Hall 5:30 p.m.

Call to Order

The Planning Commission meeting was called to order by Chair Mary Jo Meier.

Planning Commissioner Present

Mary Jo Meier, Steve McBride, Barb Emert, Michelle Anderson, Tony Royse, Brent Littleton (outside), Andy McLenon (outside), and Lisa Richard.

Planning Commissioners Absent

Philipp Umlauf

Staff Present

Kelly Passauer, Assistant City Manager/Zoning Administrator
Jeff Chubb, City Attorney

Visitors

Robert Deal

Minutes

- a. Consider approving minutes of the October 1, 2019 meeting.
Tony Royse made a motion to approve the minutes of the October 1, 2019 meeting, Steve McBride seconded the motion. The motion carried 8-0.

Planning Commission

- b. Consider a request to rezone tracts of land from R-3, low density multifamily dwelling district to C-2, commercial services district at 611 W. Main Street, 615 W. Main Street and 101 S. 12th Street.

Chair Meier opened the hearing and asked if any of the Commissioners had a conflict of interest, in which no one indicated that they did.

The following staff report was previously provided and reviewed:

Summary Regarding Rezoning Request:

The Planning and Zoning Commission received a request from SimonCRE JC Sparky V, LLC; and property owners Kendall and Sandra Shire; Billy Johnson; and Gregory and Paula Ferguson to rezone a tract of land from R-

3, low density multi-family residential district to C-2, commercial services district at 611 W. Main Street, 615 W. Main Street and 101 S. 12th Street.

The legal descriptions are:

Tract #1: The west 5.5 feet of Lot 4, all of Lots 5 and 6, and the east 11.5 feet of Lot 7, Block 60, Original City of Independence, Montgomery County, Kansas.

Tract #2: The west half of Lot 7 and all of Lots 8 and 9, except the west 2 feet of Lot 9, Block 60, Original City of Independence, Montgomery County, Kansas.

Tract #3: Lots 1, 2 and 3 and the east 17 1/2 feet of Lot 4, in Block 60, Original City of Independence, Montgomery County, Kansas.

Description of the Tract(s):

The area requested to be rezoned consists of a 28,242 square foot tract (.64 of an acre). This lot lies in the central portion of the City. The lot contains three residential homes that would be razed if the rezoning is approved.

Zoning and Uses of Property Nearby:

The property directly north, south and west is zoned R-3, low density multi-family, while the property to the east is zoned C-2, commercial services district.

Character of the Neighborhood

The area generally consists of a mix of commercial and residential.

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

The property under consideration is currently zoned for residential. The property is suitable for the present residential use classification.

Length of Time the Property has Remained vacant as Zoned:

The property is not vacant and contains three residential structures.

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

With the close location to residential properties directly to the west and south it is recommended that efforts be taken to minimize any negative impacts.

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:

Denial of the proposed rezoning will impact the proposed owner's use of the property as it will not allow them to develop a new retail store on these lots.

Conformance with the Comprehensive Plan:

General Development Goal – To provide ample opportunity for continued community development within an orderly, efficient and environmentally safe planning framework.

Commercial Goal – To provide sufficient neighborhood and community-wide shopping facilities efficiently distributed throughout the community and adequate opportunity for commercial expansion.

The proposal is consistent with general development and commercial goals of the comprehensive plan. The 1982 general development plan map recommends this area be developed as residential, however, it also recommends commercial uses a few blocks to the east.

This development will increase the encroachment of commercial areas on the residential areas within this neighborhood. However, this encroachment should be minimal if the proper restrictions are put into place.

Staff Recommendation

Staff's recommendation is to recommend approving the rezoning from R-3 to C-2 with the following restrictions which shall be binding on all future owners, assigns or heirs:

1. The applicant will obtain all necessary City of Independence and State of Kansas licenses and/or permits to operate the uses proposed.
2. All parking, entrance and exit drives must be designed to minimize traffic congestion on public streets.
3. Areas adjacent to residential districts shall be designed to minimize disturbance of residents by the erection between the commercial and residential uses on the west and south of a sight-obscuring fence of not less than five feet nor more than six feet in height, except where vision clearance is required. Shrubs, trees or hedges as approved by City staff may be substituted in lieu of such sight-obscuring fence.
4. Any additional exterior lighting on site will be designed in such a way that it will not be directed toward or create a nuisance to any

adjoining properties. Such lighting will need to be approved by the Zoning Administrator.

5. To limit noise that could affect adjoining areas there shall be no outside audio or paging equipment that exceeds a volume level that can be heard at any of the adjoining residential dwellings.
6. The location of solid waste equipment shall be designed by the company and will need to be approved by City staff. All solid waste shall be kept in containers which shall be screened from adjoining properties.
7. Any off-street parking areas will meet the minimum off street parking requirements; shall be maintained in appearance and shall be used solely for parking of the customers and employees of the business. Such parking area may not be used for storage of vehicles, equipment or merchandise.
8. A drainage plan designed to adequately handle a 10 year or greater storm event must be submitted by an engineer licensed in the State of Kansas to ensure that any increased runoff will be dealt with in such a way so as not to negatively impact nearby or downstream properties.
9. All property lines must be established by a surveyor licensed in the State of Kansas.
10. A detailed site plan and landscaping plan shall be submitted to and approved by City staff prior to any such work commencing.
11. All improvements will be maintained and kept in serviceable condition; and the property must be kept free of debris and trash.
12. The adjoining alley will be resurfaced and improved by the applicant as part of the project. Such resurfacing will need to meet specifications provided by the City, and such work will need to be approved by the Zoning Administrator.

Chair Meier asked if anyone in the audience wished to speak,

Robert Deal with Budding Web and Company noted that SimonCRE out of Arizona is their client and that the packet presented summarizes things quite well.

Lisa Richard wanted to know if a traffic study had been done and where the ingress and egress locations would be.

Robert Deal replied that they would not be granted access off of Main Street and that the ingress and egress sites would be off of 12th Street.

Lisa Richard had concerns about the traffic with Braums next door.

Robert Deal noted that the traffic for his business would be spread out through the day and that Braums traffic is more concentrated around lunch and dinner times.

Andy McLenon asked how goods would be delivered to the store.

Robert Deal replied that Semi-trucks would pull in and back up near the rear entrance, unload and pull back out.

Barb Emert asked what plans they had for the existing building.

Robert Deal stated that they would sell it for a different purpose.

Chair Meier closed the hearing and read through the staff's recommendation.

Lisa Richard asked what makes the restrictions enforceable.

Zoning Administrator Passauer explained that the zoning is contingent on the conditions being met.

Lisa Richard voiced her concerns about commercial development into historic residential neighborhoods but, also saw that commercial property available for development is limited and announced that she was in favor of the rezoning.

Brent Littleton moved to approve the rezoning from R-3 to C-2 based on the staff's recommendation with the restrictions. The motion was seconded by Barb Emert and approved 8-0.

The Planning Commission portion of the meeting was closed

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

c. None.

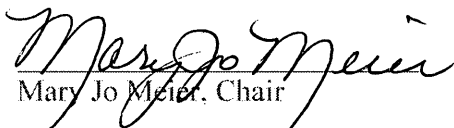
City Attorney Jeff Chubb reminded the members present not to hit reply all when responding to an email and that would be a violation of the KOMA rules.

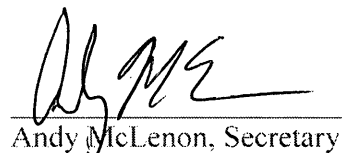
Lisa Richard asked if it was okay to talk to members of the public about rezoning issues.

City Attorney Chubb replied that it was okay.

Adjournment

The meeting was adjourned with a motion by Andy McLenon, seconded by Brent Littleton. The motion carried 8-0.


Mary Jo Meier, Chair


Andy McLenon, Secretary