

MINUTES
Independence Planning Commission
Independence Board of Zoning Appeals
Tuesday, October 6, 2020
Veterans Room Memorial Hall 5:30 p.m.

Call to Order

The Planning Commission meeting was called to order by Chair Andy McLenon.

Planning Commissioners Present

Andy McLenon (in person), Michelle Anderson (via phone), Brent Littleton (in person), Kendall Neill (in person), Rachel Lyon (in person) and Anthony Royse (in person).

Planning Commissioners Absent

Mary Jo Meier, Lisa Richard and Barb Emert

Staff Present

Kelly Passauer, City Manager/Zoning Administrator, and Lydia Collins,
Administrative Aide

Visitors

Brian Norvelle – The Hub Church

Minutes

Consider approving minutes of the August 4, 2020 meeting.

Anthony Royse will sign in lieu of Michelle Anderson since Michelle is not at the meeting in person.

Brent Littleton made a motion to approve the minutes of the August 4, 2020 meeting, Kendall Neill seconded the motion. The motion carried 6-0.

Planning Commission

- a. Public hearing to consider text amendments to Appendix B-Zoning of the City code relating to Sections 1701 – 1705.

On August 27, 2020 the City Commission initiated a public hearing before the Planning Commission to consider a text amendment removing building inspection responsibilities from the zoning code. Several years ago, when the original ordinances were adopted, the Building Inspector and Zoning Administrator duties were filled by the same employee. Past restructuring has separated these duties; however, the code was not updated to reflect this change. In addition, the Building

and Flood Administrator has been working with ISO Specialist Melissa Mitchell to implement the CRS program for the City of Independence. As part of that process, it was noted that some of our ordinances needed to be updated. On June 30, 2020 the City Commission adopted Ordinance 4330 regarding the duties and qualifications of the building inspector. The attached proposed ordinance would remove Building Inspection Responsibilities from the Zoning Code; however, these responsibilities would remain in the Building Code.

City code 1604.2 provides the following regarding text amendments:

1604.1. Recommendations: Upon the conclusion of the public hearing the planning commission shall prepare and adopt its recommendations and shall submit the same, together with a record of the hearing thereon, to the governing body. Said recommendation may be for approval, disapproval or approval in part and reasons for the recommendations shall be included as appropriate.

1604.2. Amendments to text: When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the recommendation of the planning commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items:

- a. Whether such change is consistent with the intent and purpose of these regulations;
- b. The areas which are most likely to be directly affected by such change and in what way they will be affected; and
- c. Whether the proposed amendment is made necessary because of changed or changing social values, new planning concepts or other social economic conditions in the areas and zoning districts affected.

If the Planning Commission wishes to approve this text amendment, then it is recommended that the following determinations be included in the motion:

- a. That such change is consistent with the intent and purpose of these regulations;
- b. That the areas which are most likely to be directly affected by such change will include the corporate City limits; and
- c. The proposed amendment is made necessary because of past restructuring of job duties, and all zoning districts will be affected.

The Planning Commissioners were provided the following additional documents for their review:

1. Request for Commission Action (RCA) to the City Commission for their August 27, 2020 meeting
2. Ordinance 4330 adopted by the City Commission on June 30, 2020
3. Proposed Ordinance
4. Public Hearing Notice

Kendall Neill made a motion to recommend a text amendment to Appendix B-Zoning of the City Code relating to removing building inspection responsibilities from the zoning code, Rachel Lyon seconded the motion. The motion carried 6-0.

- b. Public hearing to consider text amendments to Appendix B-Zoning of the City code including, but not limited to Appendix A. "Listing of Permitted and Conditional Uses" including, but not limited to "Retail trade not elsewhere listed."

On September 10, 2020 the City Commission initiated a public hearing before the Planning Commission to consider a text amendment to Appendix B-Zoning of the City code including, but not limited to Appendix A. "Listing of Permitted and Conditional Uses" including, but not limited to "Retail trade not elsewhere listed."

City code 1604.2 provides the following regarding text amendments:

1604.1. Recommendations: Upon the conclusion of the public hearing the planning commission shall prepare and adopt its recommendations and shall submit the same, together with a record of the hearing thereon, to the governing body. Said recommendation may be for approval, disapproval or approval in part and reasons for the recommendations shall be included as appropriate.

1604.2. Amendments to text: When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the recommendation of the planning commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items:

- a. Whether such change is consistent with the intent and purpose of these regulations;
- b. The areas which are most likely to be directly affected by such change and in what way they will be affected; and
- c. Whether the proposed amendment is made necessary because of changed or changing social values, new planning concepts or other social economic conditions in the areas and zoning districts affected.

City staff has been approached by a new business located in an industrial district who is manufacturing honey and coffee products who would also like to conduct retail sales both related and unrelated to their operations. 607.2.n. allows "Retail sales for permitted industrial uses when located on the same site as the industrial use." However, since some of the retail sales are not related to their industrial use it would require modifying the "Listing of Permitted and Conditional Uses" to allow "Retail trade not elsewhere listed" as a conditional use in the M-1 and M-2 industrial districts. Currently, "Retail trade not elsewhere listed" is currently allowed as follows:

		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	C-4	M-1	M-2
Retail trade not elsewhere listed	5990	C							C	P	P	P		

It should be noted that if this text amendment is ultimately approved by the Commission, it would still require the business to go through the conditional use permit process, which is similar to the rezoning process. A public hearing would need to be held before the Planning Commission, and their recommendation would be forwarded to the City Commission for final consideration. The recommendation from the Planning Commission could include additional conditions. If the City Commission approved the conditional use permit, they could also modify the conditions recommended.

If the Planning Commission wishes to approve modifying “Retail trade not elsewhere listed” to allow such use as a conditional use in the M-1 and M-2 districts, then it is recommended that the following determinations be included in the motion:

- a. That such change is consistent with the intent and purpose of these regulations;
- b. That the areas which are most likely to be directly affected by such change will include the M-1 and M-2 districts which will allow “Retail trade not elsewhere listed” with a conditional use permit which does provide an opportunity for property owners within the notification area to voice any concerns to both the Planning Commission and City Commission prior to approval;
- c. The proposed amendment is not made necessary because of changed or changing social values, new planning concepts or other social economic conditions in the areas and zoning districts affected.

The Planning Commissioners were provided the following additional documents for their review:

1. Request for Commission Action (RCA) to the City Commission for their September 10, 2020 meeting
2. Public Hearing Notice

Kendall Neill made a motion to recommend a text amendment to Appendix B-Zoning of the City Code to modify Appendix A. “Listing of Permitted and Conditional Uses” to allow “Retail trade not elsewhere listed” as a conditional use in an M-1 or M-2 zone, Brent Littleton seconded the motion. The motion carried 6-0.

- c. Public hearing to consider a conditional use permit for a church in a C-4, highway commercial services district at 3176 W. Main Street.

Summary

On March 3, 2020 the Planning Commission determined that a conditional use permit would be required for a church with potential seating for up to 250 at 3176 W. Main in a C-4 district per Section 901.1 of the City Code. The Planning Commission has received a request for a conditional use permit from Brian Norvell,

the Pastor at the Hub of Indy Church which is being relocated to 3176 W. Main Street. The land is zoned as C-4, highway commercial district, and will remain as such. Pending the approval of this conditional use, the proposed use for this land is to remodel an existing building to accommodate a church.



Conditional Use Permit

The zoning ordinance in section 901.1 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 Planning 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 and 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 regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:*
 - i. *The location, nature and height of buildings, structures, walls and fences on the site, and*
 - ii. *The nature and context 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 hazards and to minimize traffic congestion in public streets and alleys.*

Action by the Planning Commission

Recommendations regarding the conditional use permit for the given subject properties shall be based on Section 902.2, previously outlined in this report. After consideration of all factors, the Planning Commission may either approve or deny the conditional use permit. 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 recommend granting the conditional use permit with the following conditions:

1. The applicant will submit a site plan meeting the off-street parking and loading regulations in Article VII of the Zoning Code, including, but not limited to:
 - a. A minimum of one parking space per 4 seats or 8' of bench length in the main auditorium, and
 - b. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety for pedestrians and vehicular traffic on the site.

2. If the parking lot surfacing is expanded beyond its current size, the applicant will submit a drainage plan sealed by a licensed Kansas Engineer.
3. The conditional use permit is not transferable to another location.
4. 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 the staff's recommendation is that granting the conditional use permit is consistent within the criteria of "a through g" of Section 902.2 of the zoning code.

The Planning Commissioners were provided the following additional documents for their review:

1. Public Hearing Notice
2. Notification areas
3. March 3, 2020 Planning Commission Minutes
4. Application

Tony Royse made a motion to grant a conditional use permit for a church at 3176 W. Main with the following conditions:

1. ***The applicant will submit a site plan meeting the off-street parking and loading regulations in Article VII of the Zoning Code, including, but not limited to:***
 - a. ***A minimum of one parking space per 4 seats or 8' of bench length in the main auditorium, and***
 - b. ***Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety for pedestrians and vehicular traffic on the site.***
2. ***If the parking lot surfacing is expanded beyond its current size, the applicant will submit a drainage plan sealed by a licensed Kansas Engineer.***
3. ***The conditional use permit is not transferable to another location.***
4. ***The applicant must follow all City codes.***

Brent Littleton seconded the motion. The motion carried 6-0.

d. Other items for discussion:

1. Letters sent to past members
2. Other discussion – Andy asked the City to get information about tiny houses and marijuana dispensaries. Revisit the County gravel parking.

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

e. None.

Adjournment

Kendall Neill moved to adjourn the meeting, with Rachel Lyon seconding the motion, which passed 6-0.

Barb Emert

Barb Emert, Vice Chair

Signature: Barb Emert
Barb Emert (Nov 4, 2020 15:55 CST)



Michelle R Anderson

Michelle Anderson, Secretary

Signature: Michelle R Anderson
Michelle R Anderson (Nov 4, 2020 15:57 CST)

