

MINUTES OF THE PLANNING AND ZONING COMMISSION

DATE: December 8, 2011

TIME: 6:30 pm

The regular meeting and public hearing of the Planning and Zoning Commission was held on the above date and time in City Council Chambers, third floor of City Hall with the following members and personnel in attendance: Shelby Lawhon (Chair), Matt Edwards (Vice Chair), Jay McClelland, Jim Hansen, Phil Young, Thomas Baird, IV, Jason Ray, Gloria Roling; Ralph Rognstad, Director of Planning & Development, Michael MacPherson, Principal Planner; Thomas Rykowski, City Attorney; Paula Brookshire, Engineer, Cody Marshall Engineer; Sandy Goddard, Administrative Assistant. ABSENT: King Coltrin.

ROLL CALL:

APPROVAL OF MINUTES:

The minutes of November 10, 2011 Planning and Zoning Commission were approved unanimously.

COMMUNICATIONS:

Mr. MacPherson stated that there were two communications for discussion. The first is in regard to item number two (2), Acquire 490 which is a request by City Utilities at 5900 S. Southwood Street, that the case be tabled till January 12, 2012.

Secondly, Mr. Nick Sibley who is an applicant for a Conditional Use Permit #396, which is item ten (10) on the agenda, has asked Mr. MacPherson to convey a request to Commission that he would appreciate any consideration to hearing his case heard first as his son is appearing in a play this evening and he would like to attend.

CONDITIONAL USE PERMITS:

1. **Conditional Use Permit 396**
(601 & 607 South Main)

Nick Sibley

Mr. MacPherson stated that the purpose of the request is to adopt an ordinance to approve a use permit to allow the adaptive use of an existing non-residential structure within an R-SF, Single Family Residential District for a single family detached dwelling at 601 and 607 south Main Avenue. The subject property is developed with an existing single-family dwelling and a vacant non-residential structure. Both existing structures are located on one tract of land which was permissible when the property was originally developed. The property owner is interested in converting the existing non-residential structure into a single family dwelling, however two principle residential buildings are not permitted on the same tract of land within the existing R-SF, Single Family Residential zoning district. The property cannot be subdivided into two lots because all of the requirements of the Subdivision Regulations and Zoning Ordinance cannot be met for the new lots. Approval of this Conditional Use Permit will permit the adaptive use of the existing non-residential structure for a single family dwelling. Both structures will remain on the same tract of land under the same ownership. No exterior alterations

will be made to the non-residential structure except for ordinary repair and maintenance of the structure. Approval of this request will facilitate the preservation and productive use of this existing non-residential structure. The use of the structure as a single family dwelling is compatible with the adjacent uses and will provide for infill of this existing vacant structure which could otherwise be a blight on the neighborhood if left vacant and not maintained. As part of this application the existing driveway on Mt. Vernon Street will be closed with the curb and gutter, sidewalk and parkway being restored. The applicant has agreed to maintain the existing exterior appearance of the non-residential structure and perform only ordinary repair and maintenance as needed. Staff is recommending approval of this use permit.

Mr. Lawhon opened the public hearing.

Mr. Nick Sibley, 1665 E Delmar; stated he was available for questions from Commission.

Mr. Lawhon asked what the building would be used for.

Mr. Sibley stated it would be used as a residential dwelling.

With no further speakers, Mr. Lawhon closed the public hearing.

Mr. Hansen motioned to **approve** Conditional Use Permit 396. Mr. Baird **seconded** the motion. Motion **carried** as follows: **AYES:** Lawhon, Edwards, McClelland, Hansen, Ray, Roling, Young & Baird; **NAYS:** None; **ABSTAIN:** None; **ABSENT:** King Coltrin.

FINALIZATION AND APPROVAL OF CONSENT ITEMS:

(These consent cases will be approved by Commission unless a Commissioner or someone else wishes to speak to them. If so, those cases will be moved to the appropriate place on the agenda and they may be spoken to, and voted on, at that time.)

CONSENT ITEMS:

1. **Planned Development 46 Final Development Plan** **Springfield Teachers Credit Union**
(1726 W Elfindale)

2. **Acquire 490** **City Utilities**
(5900 S Southwood, east side)

Mr. Baird **motioned to table** Property Acquisition 490, Item No. 1, till January 12, 2012. Mr. Young seconded the motion. The motion **carried** as follows: **AYES:** Lawhon, Edwards, McClelland, Hansen, Ray, Baird and Roling. **NAYS:** None. **ABSTAIN:** Young. **ABSENT:** Coltrin

3. **Relinquish Easement 769** **Bass Pro Outdoor World, LLC**
(1900-2000 block South Campbell)

Mr. McClelland **motioned to approve** Relinquishment Easement 769 and Planned Development #46 Final Development Plan. Mr. Baird seconded. The motion **carried** as follows: **AYES:** Lawhon, Edwards,

McClelland, Hansen, Young, and Baird. NAYS: None. ABSTAIN: None. ABSENT: King Coltrin.

HEARINGS:

1. Vacation 749

JD Division LLC & Reliant Industries, Inc.

(Alley, 1100 Block West Locust)

Mr. MacPherson commented the applicant is requesting to vacate a portion of the alley between West Division and West Locust Street in the 1200 block. The current alley does not continue west. This portion of the alley was vacated east from the railroad track previously. The request would vacate the alley another 149 feet east from the previously vacated portion of the alley. The vacated area would be retained as a sewer easement since there is an existing sewer line in the alleyway. No one has objected to the proposal and twenty-nine (29) property owners within 300 feet of the site have been notified of the action and there has been no objection to date and staff recommends approval.

Mr. Derek Lee, Lee Engineering, 2101 West Chesterfield Blvd; stated he is available for questions.

With no further speakers, Mr. Lawhon closed the public hearing.

Mr. Baird motioned to **approve** Vacation 749. Mr. Young **seconded** the motion. Motion **carried** as follows: **AYES:** Lawhon, Edwards, McClelland, Hansen, Ray, Roling, Young & Baird; **NAYS:** None; **ABSTAIN:** None; **ABSENT:** King Coltrin.

ZONING:

2. Z-16-2011

Sultan & Dr. Mehjabeen Zahirsha

(2125 West Kingsley)

Mr. MacPherson stated the purpose of the request is to rezone approximately 2.33 acres of land generally located at 2125 W. Kingsley Street from a PD-Planned Development 238 to a GR-General Retail. The applicant is requesting to rezone the property to a GR-General Retail District to eliminate the 50 foot setback required in PD-Planned Development 238, and replace it with the standard 25 foot setback required in General Retail District regulations. The rezoning is necessary to accommodate multiple proposed structures including medical and dental clinics, and a restaurant facility. The proposed use is consistent with adjacent development activity and staff recommends approval.

Mr. Lawhon opened the public hearing.

Mr. Paul Engel, Anderson Engineering, 2045 W Woodland; stated he is representing the applicant and available to answer questions from Commission.

With no further speakers, Mr. Lawhon closed the public hearing.

Mr. Hansen motioned to **approve** Z-16-2011. Ms. Roling **seconded** the motion. Motion **carried** as follows: **AYES:** Lawhon, Edwards, McClelland, Hansen, Ray, Roling, Young & Baird; **NAYS:** None. **ABSTAIN:** None; **ABSENT:** King Coltrin.

3. **Z-17-2011**
(507 East Kearney)

Great Southern Bank

Mr. MacPherson commented that the purpose of the request is to rezone approximately 2.3 acres of property located at 507 East Kearney Street from an R-HD, High-Density Multi-Family Residential District, and a HC, Highway Commercial District, to a HC, Highway Commercial District, and establishing Conditional Overlay District Number 45. The facility is a Great Southern Bank and there is a structure to the rear that would be used as an office facility that would support the bank and is the subject of this request. There is a Conditional Overlay District associated with the request and the required improvements as part of the Conditional Overlay District Number Five include that Kearney Street is classified as a primary arterial which requires fifty (50) feet of right-of-way measured from the center line. If the existing sign for Great Southern remains within the new right-of-way a license agreement would be required. A thirty (30) foot by thirty (30) foot right-of-way sight triangle is required at the intersection of Kearney Street and Benton Avenue. A thirty (30) foot by thirty (30) foot sight triangle is required at the intersection of Kearney Street and Washington Avenue. A sidewalk is required on the Benton Avenue frontage connecting to the existing sidewalk on Kearney Street. The sidewalk may be escrowed following the process as outlined by the City's Subdivision Regulations. A lot combination of the subject property is completed following the City's Subdivision Regulations and any access to Washington Street from the subject property is prohibited.

Mr. MacPherson commented that findings for this request are consistent with the recommendations of the Comprehensive Plan, which identifies this area as an appropriate location for medium intensity retail, office or housing. The perimeter landscaping, buffer yard requirements, bulk plane and height limitations, as set forth in the Zoning Ordinance, will mitigate the potential impact of commercial development on the surrounding properties. The proposed conditional overlay district will require sidewalks, additional right-of-way, access restrictions and sight triangles that will ensure that the subject property complies to current safety and public infrastructure standards. A neighborhood meeting was conducted on November 15, 2011, from 4 to 6 pm and there were five people who attended and there is not opposition that staff is aware of to the zoning request and staff recommends approval of the request.

Mr. Lawhon opened the public hearing.

Mr. Brian Kubik, 1531 E Bradford, representative for Great Southern Bank, stated he is available for questions.

Mr. Baird asked what the facility would be used for.

Mr. Kubik stated the building would be more of an emergency shelter should something happen to the main banking location on Glenstone; they would then operate out of the facility and the only way it can be occupied as an office structure is to change the zoning.

With no further speakers, Mr. Lawhon closed the public hearing.

Mr. Baird motioned to **approve** Z-17-2011 with Conditional Overlay District #45. Mr. Hansen **seconded** the motion. Motion **carried** as follows: **AYES:** Lawhon, Edwards, McClelland, Hansen, Ray, Roling, Young

& Baird; **NAYS:** None. **ABSTAIN:** None. **ABSENT:** King Coltrin.

4. **Z-18-2011**

MFA Petroleum Corp

(2738 East Kearney)

Mr. MacPherson stated the purpose of this request is to rezone approximately 1.92 acres of property generally located at 2738 East Kearney Street from a HM, Heavy Manufacturing District, to an IC, Industrial Commercial District, and establishing Conditional Overlay District Number 46. The request is associated with the Conditional Overlay District which requires additional right-of-way, sight triangles at the intersection, removal of a driveway and the construction of sidewalks along Kearney Street. The zoning initiated on the fact that the convenience store that is located within this zoning district is going to be rebuilt. It was a non-conforming use in the heavy manufacturing district, but it is a permitted use in the industrial commercial district. Kearney Street is classified as a primary arterial which requires fifty (50) feet of right-of-way measured from the centerline per City standards. It appears that about five (5) feet of additional right-of-way is required. An irrevocable consent to dedicate right-of-way would be acceptable along the frontage of the tire store's existing parking lot. A thirty (30) foot by thirty (30) foot right-of-way sight triangle is required at the intersection of Kearney Street and Burton Avenue. Sidewalk improvements meeting ADA standards are required on the Kearney Street frontage. A sidewalk permit from MoDOT will be required for this work. The driveways on Kearney Street are too closely spaced. Per MoDOT, two of the existing driveways on Kearney may remain. The center driveway must be removed. This request is consistent with the recommendations of the Comprehensive Plan, which identifies this area as an appropriate location for general industry, transportation and utilities. The proposed IC, Industrial Commercial District, is consistent and compatible with surrounding uses and districts. The proposed conditional overlay district will improve safety and public infrastructure.

Mr. MacPherson said the twelve (12) property owners within 185 feet of this site were notified and no one objected to the zoning request. A neighborhood meeting with property owners within five hundred (500) feet of the subject property was held on November 14, 2011, and there was no opposition expressed at the meeting with regard to the rezoning request. Staff is recommending approval.

Mr. McClelland asked about the site-triangle installation, the closing of the driveway on the property and how access to the commercial building on the property would be addressed.

Mr. MacPherson referenced the overhead display, showing the driveway to be closed, the driveways that would remain and where the site triangle would be located, indicating that there would be nothing allowed in that area to restrict vision for traffic safety. Mr. MacPherson stated that he would let the designer respond to the question on how access to the commercial building would be provided.

Mr. Lawhon opened the public hearing.

Mr. Kelly Short, 5051 South National, representing the owner, stated that they would take access to the building off of Burton Street, adding there would be a new entry driveway.

Mr. Baird asked what the commercial building was, and if semi-trucks would be entering and exiting the property and if Burton Street was set up to handle that type of traffic.

Mr. Short commented that the building is the Carol Tire Store, adding that Burton is set up for the traffic.

With no further speakers, Mr. Lawhon closed the public hearing.

Mr. Ray motioned to **approve** Z-18-2011 with Conditional Overlay District #46. Mr. Hansen **seconded** the motion. Motion **carried** as follows: **AYES:** Lawhon, Edwards, McClelland, Hansen, Ray, Roling, Young & Baird; **NAYS:** None. **ABSTAIN:** None; **ABSENT:** King Coltrin.

PLANNED DEVELOPMENTS:

5. Planned Development 187 Amended (1325 North Eldon)

Positronic Industries, Inc.

Mr. MacPherson said the purpose of the request is to rezone approximately 44.29 acres of property generally located at 1325 North Eldon Avenue from Planned Development District No. 187 to Planned Development District No. 187 Amended. The applicant is proposing to amend Planned Development 187 on approximately 44.29 acres to add a broadcast tower with a maximum height of 149 feet for radio transmission as a permitted use. The tower is not a permitted use in the original documents and exhibits. The existing Planned Development 187 was approved by City Council on January 23, 1995. The Planned Development permitted residential uses on the northern tract and industrial uses on the southern tract. The existing Planned Development only allowed for residential uses on the northern tract. This amendment would allow radio broadcast tower uses to the list of permitted uses within this development within the northern tract. Access to public thoroughfares section in the existing Planned Development prohibited access to Division Street and Eldon Avenue except from an internal street system. This amendment would allow one driveway access from the proposed broadcast tower to Division. All other prohibited accesses would remain the same as written in the original planned development.

This proposal is consistent with the intent of the existing Planned Development to provide for residential developments with opportunities for employment and living in the same location, as well as the Growth Management and Land Use Plan element of the Comprehensive Plan which identifies this area suitable for industrial, transportation and utility uses. This amendment continues to provide for residential uses on the northern tract as well as providing for the proposed radio broadcast tower use. A neighborhood meeting was held on October 26, 2011, and twenty-four (24) residents living within a 185 feet were contacted by mail with no opposition to the proposed zoning request. Staff is recommending approval.

Mr. Lawhon opened the public hearing.

Andrew Peters, 1736 E. Sunshine, Marshall, Waters and Woody Architects commented he is available for questions.

Mr. Hansen asked if houses would be built on the property.

Mr. Peters stated he represents Myers Communications whom will be leasing the property to build a broadcast tower. The current owner, Positronic, does not wish to develop the property.

Ms. Roling asked Mr. Peters to point out where the tower would be located on the property.

Mr. Peters pointed out the tower location on the map, stating it is an AM radio station. They are required to have grounding and due to issues with sinkholes on the property the tower had to be moved to the point where none of the grounding in the ground would be in the rim of the sinkholes.

Mr. McClelland asked if the radio broadcast tower would interfere with the Willard School bus emergency communications transmissions.

Mr. Peters said that the Myers Communication Technical Expert, Dale Blankenship, stated that the frequencies of this channel are not near any of the other broadcast frequencies and should not interfere with the communications. There will be fencing around the tower itself and around the three anchor points. It will be a privacy fence to restrict access. There will be no lights on the tower, as it is less than the one-hundred (150) feet height requirement of the FFA.

With no further speakers, Mr. Lawhon closed the public hearing.

Ms. Roling motioned to **approve** Planned Development 187 Amended. Mr. McClelland **seconded** the motion. Motion **carried** as follows: **AYES:** Lawhon, Edwards, McClelland, Hansen, Ray, Roling, Young & Baird; **NAYS:** None. **ABSTAIN:** None; **ABSENT:** King Coltrin.

6. **Planned Development 339**
(3850 S. Campbell)

Jared Enterprises, Inc.

Mr. MacPherson commented that the purpose of the request is to rezone approximately 6.08 acres of property generally located at 3850 South Campbell Avenue from Planned Development District No. 21, 8th Amendment to Planned Development District No. 339. The amendment on the new Planned Development is to modify the signage requirements for the development on the subject property, Vatterott College at Primrose and Campbell, The existing Planned Development permits the existing detached sign for Krispy Kreme, but restricts additional signage within the district to two monument style site identification signs with a maximum height of eight (8) feet and one-hundred-fifty (150) square feet of effective area. The applicant would like to place one on-premise detached sign (in addition to the existing Krispy Kreme sign) on the property to advertise the Vatterott College facility on the property. If approved, the normal requirements of the Zoning Ordinance would apply to this site to determine the number and spacing of signs and the maximum height and size of each sign. The subject property is at the southeast corner of Campbell Avenue, a primary arterial, and Primrose Street, a secondary arterial. The other quadrants of the intersection are zoned GR, General Retail and HC, Highway Commercial. Approval of this request would be consistent with the surrounding development and would result in signage consistent with the existing signs in the area. Approval of this request is not expected to have any adverse impacts. The other requirements within the existing Planned Development remain, including the permitted uses, intensity of use, parking and landscaping will remain. Approval of this request would provide for signage requirements consistent with the surrounding development and existing signs in the area. A neighborhood meeting was held on November 15, 2011, at Vatterott College with one member of the public in attendance and there were no objections to the planned zoning change. Eight (8) property owners within 185 feet of the subject property were notified by mail of this request and staff has not received any adverse comments. Staff recommends approval.

Mr. Lawhon opened the public hearing.

Mr. Curtis A. Jared, 2279 S. Inglewood Road, with Jared Enterprises, stated he is available to answer questions.

With no further speakers, Mr. Lawhon closed the public hearing.

Mr. Baird motioned to **approve** Planned Development 339. Ms. Roling **seconded** the motion. Motion **carried** as follows: AYES: Lawhon, Edwards, McClelland, Hansen, Ray, Roling, Young & Baird; NAYS: None. ABSTAIN: None; ABSENT: King Coltrin.

MASTER SIGN:

7. **Master Sign Plan – Fuldner Plaza**
(3534 East Sunshine)

Fuldner Properties, LLC

Mr. MacPherson stated the purpose of this request is to approve a master sign plan for the Fuldner Plaza Development. The subject property is developed with multiple buildings including retail and office uses. The property was subdivided into a three (3) lot subdivision with the approval of Subdivision Variance 41 in 1976. The applicant has applied for a Master Sign Plan to allow additional signage to advertise and identify development on the property and provide for more equitable signage for the uses on the property. With regard to zoning ordinance requirements a Master Sign Plan application may be approved for the purpose of establishing consistent, logical and equitable signage for: Multiple uses on a single lot; a building group of a single use or multiple uses that may involve multiple properties; or a large tract that contains a single use with multiple services. The main intent of a Master Sign Plan is to provide clarity of communications regarding tenants and services to users of the premise or building group. A Master Sign Plan is not intended to provide special or additional signage allowance in terms of total effective area than would otherwise be permitted by Section 5-1400 of the Zoning Ordinance.

The applicant is seeking to create a Master Sign Plan to allow additional signage on the subject property to provide more equitable signage for advertisement of the uses on the property. In addition, approval of this application will improve an existing non-conforming situation with the signage for this development and provide for the signs to be updated and improved with updated looks, new technologies and quality materials. Currently, there are three signs existing on the subject property. As part of this application, one of the signs will remain unchanged, one existing sign will be modified and one sign will be removed and replaced with a new sign. The existing Sunshine Plaza Offices sign will remain on the site without any modifications. The existing Furniture Broker sign will remain at the current location; however, a digital reader board will be added to the existing sign. The existing Anthem sign will be removed and a new Fuldner Plaza sign will be placed in the same general location but will have a greater setback from Sunshine and will be moved to better accommodate a private easement. The subject property is located within the Sunshine Street and Schoolcraft Freeway Interstate Highway Commercial Sign District, which permits properties within a 660 foot radius of the intersection to have on-premise detached signs that are seventy (70) feet in height and six-hundred (600) square feet in effective area. The normal requirements for on-premise detached signage are a maximum height of forty (40) feet and a maximum effective area of three-hundred-fifty (350) square feet. The tallest sign on the subject property is the existing Furniture Broker sign at thirty-one (31) feet in height with an effective area of one-hundred-sixty-two (162) square

feet. The existing Sunshine Plaza Offices sign is five (5) feet tall with an effective area of thirty-two (32) square feet. The proposed Fuldner Plaza sign is twenty-eight (28) feet tall with an effective area of one-hundred-fifty-five (155) square feet. The existing and proposed signs are significantly smaller than what is permitted under the requirements of the Zoning Ordinance for properties within the Sunshine Street and Schoolcraft Freeway Interstate Highway Commercial Sign District if the necessary spacing and lot frontage requirements can be met. Approval of this Master Sign Plan does not constitute approval of a sign permit. Prior to the placement of the proposed signs, a sign permit must be obtained and all other applicable codes and ordinances met. With the size of the signage and the height being less than what is allowed in that district, our findings are that the application meets the requirements for establishment of a Master Sign Plan and approval of this plan will allow for more equitable signage for the development and staff is recommending approval.

Mr. Lawhon opened the public hearing.

Mr. Mark Wessell, 2531 N Patterson, Missouri Sign & Neon representing Mr. Fuldner and Fuldner Plaza, and owners of the other two tracts of land, stated he is available for questions.

Mr. Hansen asked for clarification of the signage remaining and new signage being allowed.

Mr. Wessell reviewed the site plan from the staff report and stated it is conforming to the set back rules and inside the property line. It exceeds the requirements of right-of-way set-back for signage. Mr. Wessell reviewed the overhead map, showing Commission where the signs would be located on the three tracts, the existing signs and the signs that will be moved.

With no further speakers, Mr. Lawhon closed the public hearing.

Mr. Young motioned to **approve** Master Sign Plan – Fulder Plaza. Mr. Baird **seconded** the motion. Motion **carried** as follows: AYES: Lawhon, Edwards, McClelland, Hansen, Ray, Roling, Young & Baird; NAYS: None. ABSTAIN: None; ABSENT: King Coltrin.

ANY OTHER MATTERS UNDER COMMISSION JURISDICTION

There being no further business, the meeting was adjourned at approximately 7:40 p.m.

Michael MacPherson

Michael MacPherson
Principal Planner