

October 13, 2016
MINUTES OF THE PLANNING AND ZONING COMMISSION
Springfield, Missouri

The Planning and Zoning Commission meeting regular session October 13, 2016 in the City Council Chambers. Vice Chairman Randall Doennig called the meeting to order.

Roll Call - Present: Jason Ray (Chair), Randy Doennig, Cameron Rose, King Coltrin, and Dee Ogilvy.
Absent: Matthew Edwards, Melissa Cox, David Shuler, and Andrew Cline

Staff in attendance: Bob Hosmer, Principal Planner, Nicholas Woodman, Asst. City Attorney, Tom Rykowski, Asst. City Attorney, Dawne Gardner, Public Works Traffic Engineer, Julie Hawkins, Public Works Project Engineer.

Minutes: The minutes of September 1, 2016 were approved unanimously.

COMMUNICATIONS :

Mr. Hosmer reported on the September 6, 2016, September 19, 2016, and October 3, 2016 City Council meeting actions.

Mr. Hosmer also noted that October is also Community Planning Month and Jason Ray (Chair) read the Proclamation as submitted.

UNFINISHED BUSINESS:

Z-12-2016 w/COD #111
2832 East Sunshine Street
Applicant: Robert L. O'Block, Trust

The applicant's representative has requested that this case be tabled again and placed on the Planning and Zoning Commission meeting for the November 10, 2016. Staff recommends approval.

COMMISSION ACTION:

Mr. Doennig motioned that we table Z-12-2016 w/COD #111 (2832 East Sunshine Drive) to the next meeting (November 10, 2016). Mr. Rose seconded the motion. The motion **carried** as follows: Ayes: Ray, Doennig, Rose, Ogilvy, and Coltrin. Nays: None. Abstain: None. Absent: Cline, Edwards, Shuler, and Cox.

NEW BUSINESS :

CONSENT ITEMS :

Request to Acquire 516
614 West Division Street
Applicant: City Utilities

Relinquishment of Easement 841
2020 East Battlefield Road
Applicant: Evangel Temple Christian
Center

COMMISSION ACTION:

Mr. Doennig motioned that we approve consent items Request to Acquire 516 (614 West Division Street) and Relinquishment of Easement 841 (2020 East Battlefield Road). Ms. Ogilvy seconded the motion. The motion **carried** as follows: Ayes: Ray, Doennig, Rose, Ogilvy, and Coltrin. Nays: None. Abstain: None. Absent: Cline, Edwards, Shuler, and Cox.

PUBLIC HEARINGS:

Z-15-2016

404-420 East Madison Street

Applicant: Ken E. Porter, John B. Duncan, and T&N Investments, LLC

The applicant's representative has requested that this case be tabled again and placed on the Planning and Zoning Commission meeting for the November 10, 2016. Staff recommends approval.

COMMISSION ACTION:

Mr. Rose motioned that we table Z-15-2016 (404-420 East Madison Street) to the next meeting (November 10, 2016). Mr. Coltrin seconded the motion. The motion **carried** as follows: Ayes: Ray, Doennig, Rose, Ogilvy, and Coltrin. Nays: None. Abstain: None. Absent: Cline, Edwards, Shuler, and Cox.

Z-16-2016 w/COD #113

519, 525, & 529 East Cherry Street

Applicant: Jason Murray

Mr. Hosmer states that this is a request to rezone approximately 0.68 acre of property generally located at 519, 525 and 529 East Cherry Street from Planned Development No. 232 to a CC, Center City District and establishing Conditional Overlay District No. 113

The Growth Management and Land Use Plan element of the Comprehensive Plan also designates this area within the Greater Downtown land use district. This district, which pertains to the downtown and University Plaza portions of Center City, promotes high-intensity office, retail and housing, preferably in mixed-use buildings with a strong pedestrian orientation. The Major Thoroughfare Plan classifies Cherry Street as a Secondary Arterial roadway. A traffic study was not required. The applicant is also requesting that the total required parking can be reduced by 20% of the total number of parking spaces required by providing bicycle parking spaces at a rate of two (2) bicycle spaces for each required off-street automobile space. Staff is supportive of a greater reduction of automobile parking with more bicycle parking similar to the UN, University Combining District and previous zoning cases in this area. The accompanying Conditional Overlay District will provide off-street parking requirements for residential uses. Staff recommends approval

Mr. Ray opened the public hearing.

Mr. Jason Murray, PO Box 2965 representing the project. There are 2 lots that make up the project and would start with saving the 3 story brick on the east side and make them into new apartments and the remaining buildings on the other lot will be demolished at a later date. We will be putting parking on each side as well as an underground parking garage.

Mr. Essam Elkady, owner of 511 E. Cherry has concern over his 18 parking spots and uses the common driveway between 511 and 519 East Cherry and it has been used over 50 years and states that there is an easement by prescription. His concern is with the applicant possibly putting up a fence resulting in losing 9 parking spots and his tenants having to park along Cherry Street which is narrow. He states that he can prove the easement but would have to go through litigation so he would like the Commission to prevent Mr. Murray from putting in a fence.

Mr. Ray asked if staff was aware of this issue.

Mr. Hosmer states that they are aware of it and have had discussions with the adjacent property owner. The Planning and Zoning office have not found anything as far as an easement.

Mr. Elkady stated that it an easement by prescription and would be easy to prove in court.

Mr. Hosmer noted that we are only looking at the rezoning of the property, the details as far as the development will have to be worked out.

Mr. Elkady asked if there is anyway that a fence would not be built and eliminating his parking spaces.

Mr. Hosmer noted that there is no documentation prohibiting a fence.

Mr. Elkady noted that parking along Cherry Street would be disastrous and would not have enough parking as well as being very small and congested and Center City is not limited by any parking.

Mr. Rose asked Mr. Elkady if he has spoken with the developer about his concerns.

Mr. Elkady stated that he has spoken with Mr. Murray and that Mr. Murray does not want to talk about it because he does not know yet. He said he would have to go to court but would like a condition that prohibits a fence.

Mr. Coltrin asked about the driveway and parking on Mr. Murray's land.

Mr. Elkady stated that if Mr. Murray puts in a fence he will not use the parking because the tenants have to back through the land the he has been using for 50 years. He states that it is Mr. Murray's land, but by easement by prescription he has a right to use it.

Mr. Tom Rykowski stated that an easement by prescription is an operation of law by which overtime you acquire certain legal rights over another person's property based upon continued and uncontested use. However we cannot today state that Mr. Elkady does or does not have an easement by prescription and that is something that would have to be agreed to by the owner of the proposed development or go to court and get an order to do that. Even if there was an easement over the land it would not impact the zoning, but would impact his legal rights of development.

Mr. Elkady asked if the zoning could be put on hold until there was an agreement over the fence.

Mr. Rykowski noted that it would be the applicant's decision.

Mr. Rose asked if rezoning to Center City does not guarantee that a fence will not be built.

Mr. Hosmer stated that there could be a condition made on the zoning.

Mr. Ray stated that the rezoning does not have any impact, however you are correct that we could request a provision to not include a fence, however it up to the applicant and the other issue would be the request to reduce the required parking and how does that play into the situation.

Mr. Hosmer stated that Center City does not have any parking requirements, but typically when we have zoned to Center City District we require the applicant provide parking on-site.

Mr. Ray asked Mr. Murray to explain what the conversations have been about the development of the site.

Mr. Murray stated that Mr. Elkady was at the neighborhood meeting and expressed his concerns about the fence and he was told that there are no plans at this time to build a fence and has spoken with his architect about the parking. Mr. Murray noted that Mr. Elkady also has access to a drive along the west side of his property noting that there are two ways in from Cherry Street.

Mr. Coltrin asked Mr. Murray how long the Family Violence Center has had the property.

Mr. Murray believes they have been there from the late 1990's.

Mr. Jerald Benson owner of 516 & 520 East Elm has concerns regarding the unlit area next to his property where people are parking and possible criminal activity and is worried if there will be any unlit parking on the new proposed property.

Mr. Ray closed the public hearing.

Mr. Ray noted that this is a difficult situation for the property owners, however at this time there is too much unknown about the possible development and doesn't believe there is any malicious attempt to cut off access. At this point it is not job of this commission to add a requirement for an exclusion of a fence for this rezoning purpose. Other matters regarding access to property and parking spaces will need to be addressed amongst the property owners.

COMMISSION ACTION:

Mr. Doennig motioned that we accept Z-16-2016 w/COD #113 (519, 525, & 529 East Cherry Street). Mr. Rose seconded the motion. The motion **carried** as follows: Ayes: Ray, Doennig, Rose, Ogilvy, and Coltrin. Nays: None. Abstain: None. Absent: Cline, Edwards, Shuler, and Cox.

Utility Substation Facilities Amendments

Citywide

Applicant: City of Springfield

Mr. Hosmer stated that this is a request for Text Amendments to Section 36-303. (30) (b) Utility Substations Facilities. Staff is requesting amendments to the design standards of utility substation facilities. The current requirements state that if a utility substation facility building, fence or wall is painted that neutral colors shall be used.

Staff believes there are situations where alternate colors may be appropriate and proposes to modify this section of the Zoning Ordinance to remove the paint color requirement. Staff recommends approval.

Sec. 36-303. - General provisions. Note: Language to be deleted is stricken. Language to be added is underlined.

(30) Utilities.

(b) Utility substation facilities. Utility substation facilities shall be permitted in any district and shall comply with the following requirements:

1. All utility substation facilities are exempt from the height requirements of this article but shall meet all other lot size, bulk, and open space requirements of this article.
2. When the facility is not contained within an enclosed building, a fence or wall at least eight feet high shall be provided. If the building, fence, or wall is painted, neutral colors shall be used. The fence or wall shall meet the front setback requirements of the district up to a maximum of 25 feet. If a chain link security fence is provided and a front setback is required, a vegetative screen that will reach the height of the fence within three years after planting shall be planted between the fence and the street. A vegetative screen is not required if the chain link security fence is more than 100 feet from the property line.

Mr. Ray opened the public hearing.

No speakers.

Mr. Doennig closed the public hearing.

COMMISSION ACTION:

Mr. Rose motioned that we approve Utility Substation Facilities Amendments (Citywide). Mr. Doennig seconded the motion. The motion **carried** as follows: Ayes: Ray, Doennig, Rose, Ogilvy, and Coltrin. Nays: None. Abstain: None. Absent: Cline, Edwards, Shuler, and Cox.

Initiate Transfer of Development Rights Amendments

Citywide

Applicant: City of Springfield

Mr. Hosmer stated that this is a request to Initiate Text Amendments to Section 36-303. Transfer of Development Rights. Staff is requesting that the General Provisions (Section 36-303) of the Zoning Ordinance be modified to clarify that the Transfer of Development Rights for Overnight Shelters, Soup Kitchens and Transitional Service Shelters prohibit the transfer of those development rights to the COM District. The current language prohibits the transfer of development rights for these uses to the Center City district, but not to the COM district. At the time of adoption, the Center City district included the Commercial Street area. When Commercial Street was rezoned to the new COM district in 2000, the prohibition on transfer of development rights was inadvertently omitted.

Staff requests that Commission initiate amendments to the Zoning Ordinance. If approved staff will prepare and draft changes to the Zoning Ordinance and schedule a public hearing at both Commission and City Council. Staff recommends approval.

COMMISSION ACTION:

Mr. Rose motioned that we approve Initiate Transfer of Development Rights Amendments (Citywide). Mr. Doennig seconded the motion. The motion **carried** as follows: Ayes: Ray, Doennig, Rose, Ogilvy, and Coltrin. Nays: None. Abstain: None. Absent: Cline, Edwards, Shuler, and Cox.

Initiate Floor Area Ratio and Maximum Building Coverage Amendments

Citywide

Applicant: City of Springfield

Mr. Hosmer stated that this is a request to Initiate Text Amendments to Floor Area Ratio and Maximum Building Coverage. Staff is requesting to modify the Zoning Ordinance to cleanup language and uses referencing Floor Area Ratio (FAR) and Maximum Building Coverage which were removed in other sections as part of amendments in 2014. This will include modifying the accessory building and uses section referencing Maximum Building Coverage and the number and size of accessory buildings allowed per lot.

Staff requests that Commission initiate amendments to the Zoning Ordinance. If approved staff will prepare and draft changes to the Zoning Ordinance and schedule a public hearing at both Commission and City Council. Staff recommends approval.

COMMISSION ACTION:

Mr. Doennig motioned that we approve Initiate Floor Area Ratio and Maximum Building Coverage Amendments (Citywide). Ms. Ogilvy seconded the motion. The motion **carried** as follows: Ayes: Ray, Doennig, Rose, Ogilvy, and Coltrin. Nays: None. Abstain: None. Absent: Cline, Edwards, Shuler, and Cox.

Initiate Off-Street Parking for Food Convenience Store Amendments

Citywide

Applicant: City of Springfield

Mr. Hosmer stated that this is a request to Initiate Text Amendments Off-Street Parking for Convenience Food Stores. Staff is requesting to modify the off-street parking requirements for convenience food stores. Staff has recently found issues with convenience store uses and their required off-street parking requirements being excessive especially for outdoor activities. Staff will review other community's requirements for these uses and determine whether an improved parking ratio can be proposed.

Staff requests that Commission initiate amendments to the Zoning Ordinance. If approved staff will prepare and draft changes to the Zoning Ordinance and schedule a public hearing at both Commission and City Council. Staff recommends approval.

Mr. Coltrin asked if people have asked for less convenience food parking spaces.

Mr. Hosmer noted that there has been requests by companies who have other stores in other cities for fewer parking spaces and the City has done a precursor look in other cities. By allowing parking on the islands when filling up with gas you leave your vehicle there and do not pull up to the front door if you go into the store. A lot of communities allow the islands to be counted towards their parking spaces and want to make sure we are inline with other cities.

Mr. Doennig noted that if we are counting parking spaces at the pump then we are reducing of the amount of impervious surface which at some stores seems expansive.

COMMISSION ACTION:

Mr. Doennig motioned that we approve Initiate Off-Street Parking for Food Convenience Store Amendments (Citywide). Ms. Ogilvy seconded the motion. The motion **carried** as follows: Ayes: Ray, Doennig, Rose, Ogilvy, and Coltrin. Nays: None. Abstain: None. Absent: Cline, Edwards, Shuler, and Cox.