

## PLANNING AND ZONING COMMISSION

**October 12, 2015**

The Planning and Zoning Commission, City of Kearney, Missouri, met in regular session at 6:30 P.M., October 12, 2015, at Kearney City Hall with Kathy Barger presiding. Other members present were Dan Holt, Chuck Davis, Jason Hoyt and Doyle Riley. Kent Porter and Darren Hiley were absent. Staff members present were David Pavlich and Shirley Zimmerman.

Kathy Barger opened the meeting with the Pledge of Allegiance.

### CONSENT AGENDA

- Minutes of the August 10, 2015 meeting

A motion was made by Dan Holt and seconded by Doyle Riley to approve the Consent Agenda as presented. The motion carried unanimously.

### PUBLIC HEARINGS

**REZONING-GARY SHANKS FROM R-1 TO C, UNDEVELOPED LAND EAST SIDE OF I35 FROM 92 HIGHWAY SOUTH TO 19<sup>TH</sup> STREET** Staff presented an application from Gary and Janet Shanks proposing to rezone approximately 106 acres from R-1 – single Family Residential District and “unzoned” to C – General Commercial District. The site is located along the east side of Interstate 35 and bound by the Shoppes at Kearney to the north, Centerville Cottages and the Shadowbrook subdivision to the east and 19<sup>th</sup> Street and the Beverly Place subdivision to the south.

Staff said the current Comprehensive Plan, approved in 2004, designates this area for multi-family development. That Plan identified a future interchange located at approximately NE 136<sup>th</sup> Street. The Federal Highway Department has since approved 19<sup>th</sup> Street for the future interchange. Additional commercial development in the area is reasonable based on a 19<sup>th</sup> Street location for the Interchange.

Watson Drive is currently being constructed through the property. The southern section of right-of-way butts the west edge of the Beverly Park subdivision. A sidewalk on the east side of Watson Drive will be 70 feet from the property line. Extra depth was provided to allow a treed buffer to remain along the adjacent Beverly Park lots.

This property is part of the Shoppes at Kearney Community Improvement District (CID) approved in 2013. A 1% sales and use tax is imposed with the CID boundary to provide funding for the future aquatics center.

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With the property being located in the CID and knowing that the future interchange will be located at 19<sup>th</sup> Street, it is understandable that commercial development is likely in this area. At the same time, the General Commercial District allows a wide range of permitted land uses. Some of those potential uses, such as welding, minor auto repair or self-storage buildings, would be better suited closer to Watson Drive, rather than the neighborhood.

Staff recommends a portion of the property be rezoned to C-P – General Commercial Planned District. Changes in planned districts require a public hearing and notification to property owners within 185 feet. This designation will allow more control over future proposed development.

Staff recommends C-P area consists of approximately 13 acres. The west line matches the west line of Centerville Cottages and extends south from Centerville Cottages to Beverly Park.

Kathy Barger asked the applicant if they would be willing to do the CP zoning.

Ron Cowger, engineer for Gary Shanks, said CP zoning would be very problematic to this project to have it run thru the project. He said C zoning would provide buffering. He said to do a CP zoning you need to have an associated plan for the land in advance. He said Watson Drive will encourage a big box C zoning. He said they would appreciate leaving it as C zoning for the present time.

Dan Holt asked how they would do a buffer and if it could be a berm. Mr. Cowger said they could possibly do a berm in the 35 foot buffer zone.

Staff said there Centerville Cottages has an option to buy another 7.5 acres to the south of their current location. If that occurs that would take the north half of the area abutting up to residential.

The floor was opened to the public.

Robert Coffey, 1711 Paddock Drive, said he is concerned about the roads in the residential connecting to Watson Drive. This will cause people to cut thru the neighborhoods to get to the Commercial business rather than use Watson Drive.

Yvette Sweeney, 1705 Paddock Drive, said commercial butting up to the neighborhood will affect the neighborhood and their family life style. She said if they zone without restrictions they won't have a quiet neighborhood any longer. She said it will impact their home values and life and people will start leaving the neighborhood.

Ms. Sweeney said we need to manage growth or we will become like Liberty. She said people in Kearney would rather keep their small town atmosphere and drive to Liberty to shop than have this next to their neighborhoods.

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Laurie Coffey, 1711 Paddock Drive, said she didn't understand why we would build commercial all around residential and especially around senior housing. She said it is not being fair to single family dwellings. She said the kids will no longer be able to play in the streets and have safe neighborhoods.

She asked if everyone here opposed to this zoning would please raise their hands. There was a show of hands.

Lorie Brown, 1610 Paddock Drive, asked why only some people got letters about this rezoning. Staff said they are required to only send letters to anyone living within 185 feet.

There being no further comments from the floor, the floor was closed.

Chuck Davis asked if Paddock Drive would be extended into the development. Staff said if that was to occur they would arrange the roads to not attract people to use it as a cut thru.

Kathy Barger said she believed that most of the area should be C but she said she thought we needed more control over the area butting up to the neighborhoods. She said that would be important in her decision to support this rezoning.

Dan Holt said if we do a CP it sounds like half of the 13 acres might already be senior housing which would provide a buffer. He said if we do straight C they would have to do a 45 foot buffer which could be a berm and trees.

Kathy Barger said Mr. Cowger has asked us to remove the CP rezoning so this really isn't an option.

Doyle Riley asked if we could prevent Paddock Drive from connecting to Watson Drive. Staff said there is already a right-of-way to the North but we would discourage a direct connection to Watson Drive.

Chuck Davis asked what the advantage of us approving the CP zoning is. Staff said with the CP we can restrict certain uses and they have to come back every time they make any kind of change.

Dan Holt asked if the CP would make it easier to not allow Paddock Drive to extend into the development. Staff said that would be reviewed either way.

Dan Holt asked what we are voting on. Staff said the applicant wants the entire project to be C zoning and Staff has recommended that the 13 acres south of the senior housing along the east side be zoned CP.

**REZONING-GARY SHANKS FROM R-1 TO C, UNDEVELOPED LAND EAST SIDE OF I35 FROM 92 HIGHWAY SOUTH TO 19<sup>TH</sup> STREET** Ron Cowger said if

this is about uses it is hard for them to develop because at this time they have no idea what might be interested in going in that area.

Doyle Riley asked if we pass the C zoning, then they can build anything that meets the C guidelines. Staff said that is correct.

Jason Hoyt asked if the Board of Aldermen can over rule the decision of this Board. Staff said this Board is only a recommending Board and yes they can over rule the decision made here.

Doyle Riley asked if Watson Drive is a requirement to get the Interchange at 19<sup>th</sup> Street. Staff said it will meet the requirement of having a road to get people to destinations when they come off the Interstate.

Dan Holt said it wasn't the intent for Watson Drive to connect to residential streets and encourage people cutting thru the neighborhoods.

A motion was made by Dan Holt and seconded by Chuck Davis to recommend to the Board of Aldermen to approve the application from Gary and Janet Shanks proposing to rezone approximately 106 acres from R-1 – single Family Residential District and “unzoned” to C – General Commercial District located along the east side of Interstate 35 and bound by the Shoppes at Kearney to the north, Centerville Cottages and the Shadowbrook subdivision to the east and 19<sup>th</sup> Street and the Beverly Place subdivision to the south, contingent upon meeting all Staff comments. The motion carried by a vote of four to one with Kathy Barger voting nay.

Chuck Davis asked, if when the applicant brings in development plans, can we request not to connect Paddock Drive into the development.

Doyle Riley said if nothing else we should use speed bumps etc. to discourage people cutting thru residential areas.

**AMENDMENT – VEHICLE SALES / RENTAL LOT SPACING REQUIREMENT**

Staff said in April-May 2007 the Planning and Zoning Commission and Board of Aldermen passed a zoning amendment requiring review and approval of a conditional use permit for vehicle sales and rental lots. The ordinance also established design criteria, minimum lot size and spacing requirements from other lots with the same land use.

The intent of the ordinance, through use of the spacing requirement, was also to prevent a conglomeration of dealerships, similar to “The Miracle Mile”, along the entrances to our City.

## **AMENDMENT – VEHICLE SALES / RENTAL LOT SPACING REQUIREMENT**

In 2013, an amendment was approved reducing the minimum spacing for vehicle sales and rental lots from 1,500 feet to 500 feet. This resulted in the dealership located at the northwest corner of North Jefferson/33 Highway and Major Street.

A proposed amendment would focus the 500 foot spacing requirement to sites located along 92 and 33 highways. Properties along side streets, with generally lower visibility, would be potential locations for a vehicle sales lot without an applicable spacing requirement. Approval would allow a potential used vehicle dealership on a developed lot at 700 North Country Avenue that has remained vacant for many years. Other potential locations would include the corner of Washington and Platte Clay Way, south of Mosaic and lots in Innovation Business Park. These additional properties are located in commercial areas, where buffering along residential uses is not an issue and the Centerville area is home to related ancillary uses including a car wash and vehicle maintenance shop. Because the minimum size requirement of one acre has not been changed, the proposed ordinance still discourages dealerships from locating on small tracts in and among residences near downtown.

Kathy Barger asked if these would only be allowed in commercial areas. Staff said yes.

The floor was opened to the public,

Dirk Moss, TDR Auto, 801 North Country Avenue, said the distance is currently 500 feet and he would like to see it left that way. He said he bought his property with that in mind. He said if you allow them to be too close together and one of them has a bad reputation then it rubs off on the good ones. He said he has been in the community 20 years and has worked hard to develop a good reputation and doesn't want to risk losing that.

Keith Piercy, 700 N. Country Avenue, said he has lived in this community for 25 years and has worked hard to try and get a business in the building owned by his Mother. He said he didn't appreciate Mr. Moss indicating he would be running a shoddy business. He said he has an opportunity to put in a car lot if the amendment would pass.

There being no further comments from the public, the floor was closed.

Chuck Davis asked how many feet would be between the two locations. Staff said about 75 feet.

Dan Holt said if we shorten this an entire corner could become car lots. Staff said it has to be an acre in size.

Dan Holt said we didn't want to have a long row of car lots but this will encourage that.

Keith Piercy said he doesn't see why we can't regulate like others do. He said he has spent a lot of money on his building and is denied being able to do business there.

**AMENDMENT – VEHICLE SALES / RENTAL LOT SPACING REQUIREMENT**

Chuck Davis said he would love to see Mr. Piercy be able to go into business but ordinances are written for a reason.

Doyle Riley said this decision has nothing to do with competition between businesses.

Jason Hoyt asked if this change would be for the entire city. Staff said yes.

A motion was made by Chuck Davis and seconded by Jason Hoyt to deny the amendment to the Zoning Ordinance pertaining to minimum spacing of vehicle sales or rental allowed as a conditional use in commercial and industrial districts. The motion carried unanimously.

**KEITH PIERCY-CUP FOR VEHICLE SALES/ RENTAL LOT 700 N COUNTRY**

A motion was made by Dan Holt and seconded by Doyle Riley to table the application by Keith Piercy for the purpose to locate a vehicle sales or rental lot on a 1 acre tract at the northwest corner of North Country and Centerville Avenue until the next meeting, pending the Board of Aldermen’s decision on the associated code amendment. The motion carried unanimously.

**INFORMATION & DISCUSSION ITEMS**

**COMPREHENSIVE PLAN** Staff said the Advisory Committee has been meeting for the Comprehensive Plan. There will be a public meeting work shop on November 17<sup>th</sup> at Kearney Junior High at 6:30 P.M.

**ADJOURNMENT** There being no further business on the agenda, a motion was made by Dan Holt and seconded by Doyle Riley to adjourn. The motion carried unanimously.

Approved: \_\_\_\_\_ Attest: \_\_\_\_\_  
Kathy Barger, Chairperson Darren Hiley, Secretary