

SMITHVILLE PLANNING COMMISSION

REGULAR SESSION

July 14, 2020

7:00 P.M.

Council Chambers

Due to the COVID-19 pandemic this meeting was held via the Zoom meeting app. City staff were at City Hall for the meeting.

Planning and Zoning Commission members attended via the Zoom meeting app. The meeting was streamed live on the city's FaceBook page through FaceBook Live. Attendance in person for the Public Hearing was made accessible for public comment on the agenda items at the Senior Center.

Those attending the meeting: Deb Dotson, Carmen Xavier, Alderman Melissa Wilson, Dennis Kathcart, Mayor Damien Boley, Chairman Rand Smith, and Development Director Jack Hendrix. Due to a technical issue, Connor Samenus was admitted to the meeting at 7:06 p.m.

1. CALL TO ORDER

Chairman Rand Smith called the meeting to order at 7:00 p.m.

2. MINUTES

The June 9, 2020 Meeting Minutes were moved for approval by DOTSON, Seconded by KATHCART.

Ayes 5, Noes 0, Abstain 1 (Alderman Wilson). Samenus was not present for this vote. Motion carried.

3. STAFF REPORT

HENDRIX reported:

We have issued 25 new single-family residential building permits since January 1, 2020.

We have numerous commercial projects that are preparing to come for site plan review or are preparing for construction. They are as follows:

- Herzog Foundation--- He anticipates that they will be coming forward with their site plan review for the September meeting.
- The owner of the property that surrounds Full Features Nursery recently came forward with a conceptual overlay plan. They are now preparing for a mini storage facility. As of today, they have submitted the first draft of those documents for our Public Works Director, Chuck Soules and Jack Hendrix to review. It appears there will be a 2-story building placed in the front and they will start working their way back in phases with the other storage buildings. The front building will be an indoor storage complex with a few exterior storage entrances.
- We are currently working with engineers on the Medical Marijuana manufacturing facility right now.
- Shamrock gas station---They will be tearing down the existing building and constructing a brand-new building at that location. They are currently working on plans for this. This will certainly be an enhancement.

HENDRIX has been told that the Eagle Ridge subdivision now has a new contractor and they are supposed to mobilize this week. We should see this development getting back on track and getting the going with the construction.

KATHCART asked if Price Chopper and Porter's are still on track for a Labor Day opening? Is the new strip mall still happening?

HENDRIX stated that for Porter's Ace Hardware, he spoke with Kent Porter this week and they have some curb changes they want to make in the parking lot. They will be ready to open by that time unless there is some major situation that occurs and cause contractors to shut down. Price Chopper is still planned to open by Labor Day, but they are running really tight on time. He is waiting for the construction plans for the strip mall and anticipates getting those plans within the next week. It looks like it is an 8,500 square foot strip mall with 7 potential units in it. The north portion of the building will also include a drive thru window. So, there is the possibility of a drive thru retail business there as well.

Mr. Hendrix introduced Leslie Deacon with John Stover and Associates. She works for one of the consulting team running our Comprehensive plan update process. Please click on the attached link to view her presentation:

<https://storymaps.arcgis.com/stories/b0fd7497e0294bc5a392341d73e4583a> .

4. PUBLIC HEARING – ZONING 2412 NE 157TH TO R-1B

HENDRIX stated that in the past Public Hearing for annexation have been done by the Planning Commission. The Board of Alderman designated this to the commission a long time ago, so we have always done it that way. In reviewing the annexation policy with the City attorney, they indicated there was a case law out that adjusted the thinking on that process. They suggested that we should for all future annexations take those directly to the Board of Aldermen. The Planning Commission will not have any impact or input on that other than when we start talking about the annexation policy and how the Comprehensive Plan brings that together. That is why we pulled the annexation from last month's meeting agenda and it went directly to the Board of Aldermen. As a result of those meetings the annexation has occurred. Now we need to set the initial zoning as it relates to this parcel of ground. This commission is required to set the zoning on all parcels in the city limits of Smithville. So, today on the agenda we will be setting the initial zoning for one house that is in an existing subdivision that is fully constructed in the Lakeside Crossing subdivision. With this annexation there are still about 10 out of 50 lots in that subdivision that are not inside the current city limits. The City attorney sent out letters to residents in that neighborhood and Mrs. Whaley went ahead and filed the application and the annexation has occurred. We have to go through the basic process of all the other rezoning's to make this technically legal but it's a little different because some of the questions in the Findings of Facts document don't make sense.

If you read the staff report on this, for example, one of the questions that we always discuss is the time the property has remained vacant as zoned. That doesn't really apply because it's been zoned residential in the county forever and it's not vacant. It's fully developed. I have submitted the staff report and we would recommend a Findings of Fact based upon those general factors that are laid out. If there's any discussion, the proposal would be to set this initial zoning on this as R-1B which is the zoning of all the city lots in that area (single family residential).

MAYOR BOLEY motioned to approve the Findings of Facts based on the staff report. Seconded by SAMENUS.

MAYOR BOLEY stated that he wanted to make everyone on this commission aware that we have about a dozen of these that we will probably see.

SMITH asked how this happens where you have a subdivision where you have several houses that are not in the city?

HENDRIX stated that it is an interesting story. The subdivision was being worked on through Clay County because, at the time the subdivision was being developed initially, it was not adjacent to the city of Smithville. At the time Lakeside Crossing was going in, the Strawberry Hill subdivision, which is on the other side of the road, had not annexed. These folks were building a subdivision and were hoping to annex into Smithville. But in order to do that they had to have an agreement to hook to the city sewers, so they had to have an agreement to annex. The property owner did that and then they started the development and started the design. Before they got to the point when they finally became contiguous to the city, they'd already sold 11 or 12 of the lots to builders. For some reason, they never told the builders that they needed annex so those lots couldn't come in because the owner of the lots must be the one to request voluntary annexation. So, we annexed everything but those 12 lots. When I got here in 2007, shortly thereafter, the next door neighbor to this lady annexed and the sales pitch we made to them was your sewer bill goes down if you annex. We charge more for people who are connected to our sewer or are connected to our water that don't live in the city limits. They pay more for their water or sewer and for those folks that was their decision. So, due to the annexation of Mrs. Whaley's property, her sewer bill is going to go down substantially because now she is in the city. That will be her benefit to it. We also have a similar agreement with the Quail Ridge subdivision. When those properties become contiguous, they are supposed to voluntarily annex. We haven't sent any notices to any of those folks because it was just a year or so ago that the Oaks at Paradise Pointe subdivision was annexed. Now that property is contiguous to a couple of the Quail Ridge lots so we anticipate that process will start there.

Public Hearing: None

Public Hearing closed

MAYOR BOLEY stated that he wanted to make everyone on the commission aware that as a part of our Comprehensive and Strategic planning, annexation is one of the topics we are working on quite a bit so expect to see a few of these. He said we're working on annexing Smith's Fork as well. It's a priority of the Board of Alderman.

XAVIER stated that she is curious as to the attorney's motivation of taking annexation issues from Planning & Zoning.

HENDRIX stated there is a case law that apparently says, using the exact language in the statute for chapter 71, it says the governor, the entity or the municipality, I don't remember that portion of the wording, shall hold a public hearing. In another law, that same language saying shall hold a public hearing was determined that it is a non-delegable duty. Which means they cannot delegate the Planning commission to hold that hearing. It must be a public hearing and it must be in front of the Board of Alderman.

XAVIER asked when this opinion was handed down?

HENDRIX stated that the legal opinion from our attorney came about a month and a half ago.

XAVIER stated that the city was not mandated to do this? It was just strongly suggested by interpretation.

HENDRIX stated the only time we would ever be mandated to do it is if we were sued and we lost. This is our attorney's efforts to avoid getting sued.

XAVIER stated that she was just worried about the word plans in Plans and Zoning. It's almost like an afterthought.

HENDRIX stated that parts of the Comprehensive planning process will include areas of future annexation. Where should we be looking to annex? Where are the areas we want to avoid? There are tactical reasons associated with growth, for example, generally in the planning discussion regionally, a lot of folks don't want to get what's called "Gladstoned" which is completely enveloped by Kansas City. They annexed everything around them, so Gladstone is landlocked and that happened in one fell swoop. They went from the existing boundary south of Gladstone all the way to 435 Hwy in one fell swoop. We want to make sure our growth area is where we want it to be not reacting to Kansas City's growth.

Discussion: None

THE VOTE: SAMENUS-AYE, ALDERMAN WILSON-AYE, XAVIER-AYE, DOTSON-AYE, MAYOR BOLEY-AYE, KATHCART-AYE, SMITH-AYE.

AYES-7, NOES-0. MOTION PASSED

5. **PUBLIC HEARING – REZONING 2000 NE 132ND FROM A-1 TO A-R**
6. **PUBLIC HEARING – PRELIMINARY PLAT – KYLEE MEADOWS – 22 LOT SUBDIVISION**

At the beginning of the meeting SMITH informed the commission that the City was notified yesterday that a scheduling conflict occurred with the applicant Eric Dunham. Mr. Dunham explained to the City that his main presenter could not be present tonight. Mr. Dunham has requested that items 5 & 6 on tonight's agenda be tabled until the August 11th meeting. SMITH stated that we need a motion and a second to do so.

KATHCART motioned to table agenda items 5 and 6 until the August 11, 2020 P & Z meeting. Seconded by XAVIER.

Discussion: None

THE VOTE: XAVIER-AYE, ALDERMAN WILSON-AYE, KATHCART-AYE, MAYOR BOLEY-AYE, DOTSON-AYE, SMITH-AYE.

AYES-6, NOES-0. SAMENUS was not present at the time of the vote. MOTION PASSED

7. ADJOURN

XAVIER made a motion to adjourn. SAMENUS seconded the motion.

VOICE VOTE: UNANIMOUS

SMITH declared the session adjourned at 7:53 p.m.