

Parkville Special Planning & Zoning Commission
Tuesday, December 14, 2010, 5:30 p.m.
City Hall Boardroom

Minutes

ITEM 1. CALL TO ORDER

Chairman Katerndahl called meeting to order at 5:32 p.m.

ITEM 2. ROLL CALL

Members present:

Keith Cary

Judy McRuer

Dean Katerndahl

Bryant Lamer

Bob Lock

Pam Scott

Marvin Ferguson

Lonnie Scott

Members absent with prior notice:

Tony Tognascioli

Sean Ackerson, AICP, Assistant City Administrator / Community Development Director
Tracy Sisney, Department Assistant

ITEM 3. GENERAL BUSINESS

Item 3(A) Approval of Planning & Zoning Meeting Agenda.

Chairman Katerndahl opened the meeting by asking for a motion to approve the agenda as presented.

Alderman Ferguson moved to approve the agenda as published. Commissioner Lamer seconded. Motion passed 8-0.

Item 3(B) Approval of Minutes from the November 9, 2010 Planning and Zoning Commission Meeting.

Chairman Katerndahl called for any changes. Hearing none he asked for a motion to approve the minutes of the November 9, 2010 Planning and Zoning meeting.

Alderman Ferguson moved to approve the minutes of the November 9, 2010, Planning and Zoning Commission meeting as submitted. Commissioner Pam Scott seconded. Motion passed 8-0.

ITEM 4. PUBLIC HEARING

Item 4(A) A conditional use permit to allow replacement of antenna and structural alterations to an existing cell tower at 6205 NW Kelly Drive, Parkville, MO, in the Bell Road Industrial Park. Case PZ10-21.

Chairman Katerndahl deferred to staff. Director Ackerson stated that the existing cell tower which was approved in 1997 was constructed prior to any CUP requirement standards for cell towers, which is significant in that it is considered pre-existing and allowed to continue as is. Before the Commission this evening, only addresses new antennas after 1997. The CUP proposed does not address any part of the old cell tower; it only addresses the new that is being proposed. The current criteria do not apply to any pre-existing structures.

Ackerson added that the height of the structure will not change, removal of part of the existing antennas will not affect the current height, nor will the screening change, the setback will not change and staff is recommending approval subject to the new antenna meeting/exceeding current standards and regulations of the FAA, the FCC and any other Government regulations, approval of a building permit, including review of structural modifications by a third party engineer with post construction inspection reviewed by same, all modifications being of a light, neutral color and any conditions the Planning and Zoning Commission might add.

Applicant, Kristina Ortolani, Verizon Representative, 821 Dawsonville Hwy, #250-324, Gainesville, GA 30506, stated that there were currently 9 antennas of which 3 would be removed, leaving 6 antennas in place.

Director Ackerson added that this agreement for said cell tower exists in perpetuity

He stated that he had also received a memorandum from the National which has residences in proximity to the current tower that they would like to go on record as not being opposed to the CUP but would like to be made aware of any type of visible changes.

Commissioner Pam Scott stated that she had looked at the screening and wondered if the Planning and Zoning could propose changes. Ackerson answered that we could not due to the pre-existing adoption. He added that in the winter it does not look as screened from the public as in the spring and summer months when there is still greenery on the trees.

Commissioner Lock asked if the proposed panels will retain the same look. Ms. Ortolani responded that it would look the same.

Chairman Katerndahl opened the Public Hearing. Seeing no one from the public, the Public Hearing was closed.

Commissioner Pam Scott moved to approve Item 4A to allow replacement of antenna and structural alterations to an existing cell tower at 6205 NW Kelly Drive in the Bell road Industrial Park subject to staff conditions. Commissioner Lonnie Scott seconded. Motion passed 8-0

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| <p>Item 4(B) An amendment to Parkville Municipal Code, Title IV, Chapter 470, Supplementary Use Regulations -- Conditional Uses, Section 470.040, Conditional Uses Enumerated, to allow petroleum product storage and distribution facilities as a conditional use permit. Case PZ10-22.</p> |
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Vice President Lamer recused himself from Items 4B and 4C as his law firm is currently representing the applicants.

Chairman Katerndahl deferred to staff. Director Ackerson stated that Items 4B and 4C are related applications, although 4B is for an amendment to the zoning code as a permitted use for which it is currently not permitted as a conditional use permit and that 4C is an application for usage of the facility, but the applicants have requested that it be tabled at this time.

Ackerson said that specifically, this amendment to code is to allow fuel storage as a conditional use permit. The combined applicants, Equilon Enterprises, d/b/a, Shell Oil Products and Conoco Phillips Co. are intending to get the text amendment changed so that it would allow the potential buyers in this case to make the application for 4C.

Ackerson said there was quite a bit of history behind this application that dated back to the 1950's and that half of the property was located in Parkville and half of the property was located in Riverside, with improvements in the 1960's and this was a continuous operation until 2004, when it became idle and then closed in 2006, with the exception of maintenance type operations. The current owners desire to sell the property and have negotiated a contract with Magellan as buyers. When staff initially reviewed this property in compliance with our codes, we found that since the adoption of zoning in 1964, our codes have not included, that this is a permitted use. The property is zoned I-3 and those codes contain a list of permitted uses under different categories. We found a petroleum products category, but it is not closely related to this use, so we then looked at it as a non-conforming use and what we found was there had been changes made to the site that there were no permits for. The significance of that is our code, with regard to non-conforming use reads "that except for as otherwise provided, herein, the lawful use of a building on May 20, 1975, maybe continued although its use does not conform to the revisions hereof".

We and the owners went back through our records and came up with some permits in the 1990's, but there were other things that we found that were not permitted. Ackerson stated that there had been many discussions for alternatives to this site, ranging from de-annexation to making it all contiguous in Riverside or the other way around to pursuing action through the Board of Zoning Adjustment to where we are today in allowing a text amendment allowing them to "reuse" the property under conditional use permit.

Ackerson said he would like to discuss the proposed text amendment as presented. He added that he had added a memo that proposed some additional language changes. He added that his intent was to make as narrow an application as possible.

Commissioner Pam Scott asked that with pipes as the primary delivery system into the facility, how does the product get out of the facility. Ackerson said he would let the applicants explain it fully, but that is how the process worked before, but the current buyer does not intend to utilize that same process, at this time, but do want to reserve the right to do so in the future.

Jim Nolan, Corporate Real Estate Group with Conoco Phillips stated that Mr. Ackerson's answer was correct. That this facility is used as a terminal and the primary business model terminal is to pipe in the product and then truck it out but all of that has historically been done from the Riverside portion of the property and that will not change. Magellan, who they have a contract with for purchase of the property, has another terminal in the Fairfax Industrial District and they have chosen not to reopen the truck bay without first going back to Riverside to get a revision. Their model is to store and pipe, they just don't want to preclude trucking it out in the future.

Mr. Nolan continued to the other text change they are requesting. He stated, that as proposed, that last sentence says "may not include storage of unrefined materials or on site refinement of fuel or other petroleum products" and added that they do not have a problem with that in theory, but, technically, the blending process does occur onsite so we are asking for a revision of that portion of text to include "except as used in the blending process or onsite refinement of fuel or other petroleum products".

Commissioner Pam Scott asked Mr. Nolan to explain the blending process.

Mr. Nolan introduced Brett Bowman, the area terminal supervisor to come up and further explain. Mr. Bowman explained there were a variety of different blends that occur. He added there was no pressurized storage at this facility so no butane blending would happen. He explained the only blending at this facility would be additives and tank to tank transfers.

Chairman Katerndahl asked if the blending happened as the product was leaving the facility. Mr. Bowman stated that it depended on what the additive was, but since this was not a trucking facility it would be added in the incoming stream.

Commissioner Pam Scott asked how the additives got to the facility. Bowman answered that the small additive tanks were already onsite, and were approximately 20 gallon tanks and that it was all done with tubing or pipes once the additives were trucked in. He added that this could be misconstrued as a refinery, but that it is not, it is a refining process.

Commissioner Cary asked if there is no distribution by truck out of the facility, what business advantage is there for the company to use this just as storage or blending facility. Mr. Bowman replied tankage is very expensive and with this facility, they are already in place.

Commissioner Lock stated that the blending process sounds more safe than using the actual word "refinery" but has concerns to safety matters and how they could affect the community. Mr. Bowman answered that as far as the products go, they are not highly toxic, no respirators are used and the PPE used when unloading is not that hazardous. He added that as far as the process goes, he said the greatest exposure is probably just off loading the truck.

Director Ackerson added that he would like to remind the Commission that this is for text amendment approval only, and that most of the questions being asked would be for the actual Conditional Use Permit application.

Chairman Katerndahl opened the Public Hearing. Seeing no one from the public, the Public Hearing was closed.

Chairman Katerndahl asked Director Ackerson if he felt comfortable with the recommended changes from the applicant. He answered that yes he was and had to remind himself of exactly what he just reminded the Commission about, that this was a text amendment change only. Discussion ensued with regard to simplifying the proposed text amendment.

Commissioner Pam Scott moved to approve text amendment subject to all staff conditions and with revised text amended as stated. Alderman Ferguson seconded. Motion passed. 7-0.

Item 4(C) A conditional use permit to allow use of an existing fuel storage facility at 6699 River Park Drive for petroleum product storage and distribution. Case PZ10-23. Staff requests this item be tabled.

This item was tabled.

Item (D) An amendment to Parkville Municipal Code, Title IV, to create a new Chapter 427, "OTD-R" Old Town District-Residential zoning district and adopt associated design guidelines. Case PZ09-26.

Chairman Katerndahl recused himself as a representative of POPNA.

Vice Chairman Lamer opened the public hearing and stated that his understanding was that we were going to listen to Chairman Katerndahl's presentation that we would not be taking any action and we would follow up with work shop type open houses in January. Ackerson confirmed.

Dean Katerndahl, 404 Main Street, Parkville MO, POPNA representative stated that currently the OTD Residential area is zoned multi-family which makes it both more difficult to redevelop and presents a conflict in keeping the character of the neighborhood. He added that POPNA Association wanted to do something that was not very intrusive on the property owners and had held several workshops and had worked together closely with its citizens and that POPNA had determined that it was very difficult to get this area redeveloped. The potential conflicts are due mostly to keep the areas historic in appearance and to protect the character of the downtown area as indicated by the Parkville Master Plan. One suggestion was made to develop a type of conservation district that is currently being used in other metropolitan cities and used that to craft a proposed ordinance instead of guidelines that would set out requirements that would aid staff, the Planning Commission and the Board of Aldermen make decisions about what helps maintain that character but it does not dictate that items such as historic windows be utilized in all residences. It also makes the area a single family use along with multi family usage with a special use permit.

Mr. Katerndahl added that during the spring and summer of 2009 an open house was presented to the community to ask questions and provide input. He said the group unanimously adopted this to recommend this to the City for adoption. He added that the group had also worked with Director Ackerson so that it would work with the City's ordinances. Ackerson added that some of the language provided in the packets was language that was adopted by the City's Master Plan. Director Ackerson said that there was a keen interest in the past for historic preservation, but mostly during these meetings he heard a lot of "Parkville is not historic, it is just old". He added that in 1986 there was an architectural inventory survey, looking for a specific pattern that would qualify parts of Parkville for historic preservation or placement on the registers and did not find one large consistent pattern of representation of any type of a certain historic district.

Residents and Commercial property owners have expressed that they would like to maintain the historic charm and character of the downtown area, not actual periodness. Mr. Katerndahl stated that the next step would be to take it out into the neighborhood and invite everyone that is in the area to come in and comment in a couple of locations to get some more input.

Vice Chairman Lamer stated that we need to set up some dates, get the public involved, and then have the Planning Commission meet again

Commissioner Cary asked if the Commission was being asked to take action on this item. Katerndahl answered that he was there to get the public hearing opened for discussion.

Mr. Katerndahl stated that his understanding was that if this was adopted, then the City would step back in and there would be an additional process to apply that zoning.

Ackerson answered that is was similar to the TND District that was previously adopted, where a plan was given and the language adopted first and that the Commission would be involved if major changes were trying to be made by applicants looking for a rezoning.

Commissioner Pam Scott added that there was a picture in the packet that she had requested the original picture be sent to her so that she could tweak its appearance, so that it would be clearer to all who viewed the picture in the future.

Commissioner Lock moved to close the public hearing. Commissioner L. Scott seconded. Motion passed. 7-0.

*Alderman Ferguson excused himself at 6:33 p.m. due to a previous appointment

Item (E) Amendment to Parkville Municipal Code Title IV, Chapter 480, *The Board of Zoning Adjustment* to redefine and regulate: the establishment and continuation; membership, compensation, terms of office, vacancies, and removal; officers; procedures; and powers, duties and functions of the Board of Adjustment. Case PZ10-11

Chairman Katerndahl deferred to staff. Director Ackerson stated that Items E & F are related and have been before this Commissioner before, but was removed and tweaked in order to bring forward into compliance with State statutes. He said that Item E is in regards to the Board of Zoning Adjustment (BZA) and that Item F is Planning and Zoning (P&Z).

Chairman Katerndahl opened the public hearing and deferred to staff.

Ackerson explained there was an effort by the Board of Aldermen in the spring to go through the municipal code and do some housecleaning in order to freshen up the language for committees, commissions and boards. During this time appointments were getting ready to take place and we discovered that much of the City's code had become substantially outdated. Some alternative language was adopted and some old, unused committees were eliminated.

During this time, the Board had a few workshops to decide how it would like to participate with regard to these other committees, commissions and boards. At that time, they decided not to have any Board of Aldermen active on any other committees, commissions or boards. As an outgrowth of that, they adopted new language amended under the Mayor's authority to make appointments, which created a new chapter, that categorized all the committees and how appointments were made which led to a discussion among the Board members regarding their participation on other committees, commissions and boards. The discussion was that the members had initially filled these roles, due to a lack of staff resources. They ultimately decided that they wanted to not have elected officials serve in voting capacities on any of the City's committees, commissions or boards, that they thought it may be a duplication, even though technically it might not be a conflict of interest, but thought it would give the appearance of a conflict but later found that this proviso would find a conflict with Alderman Ferguson who sits on the finance committee, the BZA and the P&Z. At once, the Board took up the issue again and took the stance that Board members could act as liaisons. It was further decided that there was no conflict with Ferguson serving on the BZA as state statutes stated.

Ackerson stated that Item 4 (F) did present a conflict, but the revised language now would allow Ferguson to remain without conflict.

Ackerson said that staff is recommending approval of both Item 4E and 4F, as proposed, and as kind of the next step in the Board's approval that they passed in November.

Commissioner Lamer asked for confirmation that this would not impact Alderman Ferguson from the Planning and Zoning committee. Director Ackerson confirmed this.

Chairman Katerndahl asked if the Commission could vote on both items at the same time. Vice Chairman Lamer suggested doing both separately.

Commissioner Pam Scott moved to approve Item 4 (E) and adopted the amendment for the Board of Zoning Adjustment. Commissioner Lamer seconded. Motion passed 7-0.

Item (F) Amendments to Parkville Municipal Code, Title IV, Chapter 498, Planning and Zoning Commission, to redefine and regulate: the establishment and continuation; membership, compensation, terms of office, vacancies, and removal; officers; procedures; and powers, duties and functions of the Planning and Zoning Commission. Case PZ10-12.

Commissioner Cary asked if anyone thought it odd that the Planning and Zoning Commission were being asked to vote one way or the other on our own Ordinance provisions. Ackerson answered that procedurally you have to do in fact that this is part of the zoning code and procedurally the zoning code can only be amended following a public hearing for the planning commission.

Commissioner Cary moved to approve Item 4 (F) and adopted the amendment involving the Planning and Zoning Commission. Commissioner Lock seconded. Motion passed 7-0.

Item (G) Amendments to Parkville Municipal Code, Title IV, Chapter 483, to redefine the authority, procedures, hearing requirements and process, review criteria, protests, successive applications, and effective form of amendments to the Parkville Zoning Code and official zoning map/zoning district boundaries. Case PZ10-16. Staff requests this item be tabled.

Chairman Katerndahl asked if this Amendment was related to the previous but was not yet ready for discussion. Ackerson answered that it was not directly related but explained that one of the common complaints was that from the Planning Commission, often you are given the authority to make a decision, but there really is no guidance as to how to do it or what parameters to use or criteria, if any. What this text amendment is specific to consideration of text amendments, consideration of rezoning and what type of considerations you make.

This amendment will provide that basis of guidelines rather than suggestions. It will provide more structure. We truly need a codes rewrite but it is not possible from a budgetary standpoint. But at this point, in the draft that is to be adopted, we have some funds to get us started. He explained it would be a joint venture, with the Board, staff and Planning and Zoning.

This item remained tabled.

ITEM 5. REGULAR BUSINESS

None.

ITEM 6. UNFINISHED BUSINESS

None.

ITEM 7. OTHER BUSINESS

Chairman Katerndahl announced upcoming meetings dates as listed on the agenda.

Commissioner Pam Scott voiced her concern that with respect to the text amendment that the Commission approved earlier for petroleum usage, that their would be an applicant here, that was wanted to do whatever it is he wants to do and she wanted to know what Parkville gets out of it. She understood them to say it was not hazardous but its many barrels of refined petroleum, in our City limits. If anything happened there, we and others all around would need to fight that fire, so in terms of revenue to the City, what is possible? Ackerson replied that we would receive property taxes annually. Scott asked if Riverside wanted it. Ackerson stated he could not speak for Riverside, but knew at one time they wanted to purchase the property and we had no interest in selling it, so now we are trying to regulate it. Discussion ensued.

ITEM 8. ADJOURNMENT

Commissioner Lock moved to adjourn. Commissioner McRuer seconded. Motion to adjourn passed 7-0.

Meeting adjourned at 7:18 p.m.

Submitted by: _____
Tracy Sisney, Department Assistant

12/15/10
Date

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