

**Parkville Planning & Zoning Commission
Meeting
June 8, 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:

Dean Katerndahl, Chairman
Judy McRuer, Vice Chairman
Keith Cary (arrived at 5:35)
Pam Scott

Lonnie Scott
Bob Lock
Tony Tognascioli (arrived at 5:39)

Members absent

Marvin Ferguson
Bryant Lamer

Also present:

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

ITEM 3. GENERAL BUSINESS

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

Chairman Katerndahl requested a motion to approve the Agenda for the Planning and Zoning, June 8, 2010 meeting.

Commissioner Lonnie Scott moved to approve the agenda as published. Commissioner Pam Scott seconded. Motion passed 5-0.

Item 3(B) Approval of Planning & Zoning minutes from May 11, 2010 meeting.

Chairman Katerndahl requested a motion to approve the minutes of the May 11, 2010 Planning & Zoning meeting as presented.

Commissioner Lock moved to approve the minutes of the March 9, 2010 meeting as presented. Commissioner Lonnie Scott seconded. Motion passed 5-0.

ITEM 4. PUBLIC HEARING

Director Ackerson noted that although the Agenda stated there are items presented for Public Hearing, this is in error. All items presented are for regular business.

ITEM 5. REGULAR BUSINESS

**Item 5 (A) Application for change in use for 307 Main Street to *The Local* restaurant.
Case No. PZ10-07.**

Chairman Katerndahl deferred to staff. Director Ackerson stated that there would be no exterior changes to the façade and the only issue at hand would be parking. He added that the Commission was to decide if the new use will create significantly more business so that the Commission would not approve the application due to parking restrictions or if it substantially meets the intent of approved uses. Ackerson said that across the intersection was the funeral home with a parking lot that was generally empty except for scheduled events. He added that Mr. DeMint, owner of the funeral home, submitted a letter for the applicants and had agreed to share the parking lot for restaurant patrons, when not in use and that 5-6 parking spaces were available now, off street and that because the restaurant was located close to the end of OTD, there shouldn't be much conflict.

Commissioner Pam Scott asked if Mr. DeMint, owner of the funeral home, made clear his plans of when he would need the parking lot and when it would be available/unavailable. Ackerson said that Mr. DeMint has worked with other businesses in the area and this has never been an issue.

Commissioner Tognascioli stated that he had a problem with the application because our regulations say they have to have parking. He added that there was already a restaurant there and if the funeral home is being used, it will be very busy. He said if we approve the application based on the parking available it would greatly impact the community.

Director Ackerson stated that the issue of parking spaces has come up in the past, but specifically with restaurants, patrons will park and walk to their restaurant of choice. He added most of the conflicts would be on weekends.

Commissioner Tognascioli said that they have occupancy for seating 34 people and should plan for that many people and cars.

Commissioner Pam Scott asked if based on our requirements, they would need 5 more spaces than the previous retail tenant. Ackerson answered that there would also be potential for patrons who lived near or around the area for walking customers as well as the off street parking spaces and should not create a huge problem.

Commissioner Lock stated that there were not many available alternatives, he was happy to see new businesses come to the downtown Parkville area and as a community we should take what we can get and address the parking situation when and if it becomes a huge problem. He said that with the neighborly approach of the funeral home owner and shared parking, he believed it to be a good move.

Chairman Katerndahl said he lives right across the street so he would be affected as well. He added that the neighbors have always dealt with parking in a positive manner and will continue to do so.

Commissioner Lonnie Scott agreed that a lot of neighbors/patrons will have the ability to walk to the restaurant and would be in support of the application.

Commissioner Pam Scott suggested that the owners visit with any other businesses with parking lots and talk to them about shared parking during off peak hours.

Commissioner McRuer inquired about handicapped parking. Director Ackerson stated that while there were designated handicapped parking areas in downtown, there were not any immediately available on street. He added that the facility was ADA accessible with a ramp and bathroom facilities.

Applicants, Melissa Petry and Jacob Borman, 6910 NW 79th Street, Kansas City, MO stated that Mr. DeMint, owner of the funeral home, will put up "No Parking" signs when the parking lot is not available. They added that although they have 34 seats, they were not hoping for 34 cars, but rather would like to provide a family atmosphere where one family came in one car. They added that they have been watching the parking situation on weekends and that there is an average of 9-11 parking spaces available in the evenings.

Commissioner Lock added that it would not be a bad thing to have a parking problem, which means the City of Parkville is thriving. He added that Parkville needed new business.

Commissioner Pam Scott suggested that with the name of the restaurant being "The Local" and being committed to using locally grown foods, encouraging patrons to park and walk and push for going "local" in the OTD area.

Commissioner Pam Scott moved to approve item 5A as presented. Commissioner Lonnie Scott seconded. Motion passed 6-1 with Commissioner Tognascioli having a nay vote.

Item 5 (B) Application for consideration of revised Final Site plan for a convenience store and car wash on 2.3 acres generally located at the southwest corner of 45 Highway and Brink-Myer Road. Alan Hoambrecker, manager, Hoambrecker Properties, LLC. Case No. PZ10-08.

Chairman Katerndahl deferred to staff, adding that there was incomplete information in the Commissioners packets. Director Ackerson added that the Commission had received a portion of the drawings as well as the revised site plans that are being proposed, floor plans, elevations and lighting/illumination plan. Separately, the Commission received a landscaping plan as well as a general summary of the approval process. Also enclosed, was a history of this project. Ackerson stated that this application was first presented in 2007. He added that there have been many changes since that time and the final site plan was amended in 2009. Ackerson went on to list the changes from the 2007 plan to the amended 2009 plan that was approved, including changing the covenants and restrictions to include such changes as initially this was part of a much larger project, as well as a different owner of the entire development. The covenants and restrictions are now stand alone related only to this application rather than the development as a whole entity.

Discussion ensued regarding the north, south, east and west facades, as they were called out on the plans and were clarified before moving ahead.

Director Ackerson said that he pointed out the older, previously approved changes because with the new plans before them, those past, previously approved changes are still listed on the plans. Those changes were subject to several conditions such as the landscaping on the 45 Highway side be used to replace the function of the windows, relocation of evergreens on the rear façade, addition of an awning over the window on the rear façade, lighting on the man door

on the rear façade and modifications of the covenants and restrictions, which is moot at this point, because they have been redone. Ackerson stated that those are the 2009 amended approvals.

Ackerson told the Commission that for this meeting is the balance of what is shown on the new plans. Generally, he said it is modification to the parking lot, the parking lot layout, removal of a planter island, changing of the curb line, and removal of some parking in the northwest corner of the site, changes to the exterior façade of both the car wash and the main building and changes to the landscape. Ackerson added that there are few items that have not had the reviews completed due to short turnaround, and they are as follows:

SP101, site plan drawing, in the NW corner, identified as #2 and #5, show the west entry being removed and as well as a pole light being removed, and should be shown as future improvements. There was an agreement approved by the Board of Aldermen to delay those until such time as a connection can be provided to a development to the west.

Commissioner Pam Scott asked what the Board requested. Director Ackerson stated that the deferred agreement was requested by the applicant, Mr. Hoambrecker, and granted by the Board. Commissioner Tognascioli inquired about the entrance on the west side and whether or not MoDot had seen it. Ackerson explained that it did not connect to 45 Highway; it only connected the west of the abutting property, so MoDot would not have been required to look at it.

On page SP101 of newly submitted plans, #4 was previously approved so the rest of the changes on this page are being proposed as changes for this evening's meeting.

On page A101 of newly submitted plans, #3, #4, #6 and #8 were previously approved in prior application. All other changes are proposed changes for this evening's meeting.

On page A202 of newly submitted plans, #4, #9, #11, #12 and #14 were all previously approved in prior application. All other changes are proposed changes for this evening's meeting.

On page E01 of newly submitted plans, show the redistribution of lighting with the proposed light fixtures.

On page L101 of landscaping plans received this evening, shows modifications where the planter island is removed to relocate landscaping in the southern property line, also where the curb line has been relocated, along with other minor changes.

Ackerson stated that since all the review entity reports were not back at this time, he would be happy to go over these changes and answer any questions and said the applicant was also here and could answer questions, as well. Ackerson said some of these changes work, but one doesn't work, as well as other recommendations that could help with some of these changes as suggested alternatives.

Chairman Katerndahl stated that he wanted to be clear on one issue. He asked if the Commission was being asked to make these changes, because this project was not constructed according to plans that the Commission had previously approved, but are now being asked to approve what has already actually taken the place of the previously approved plans. Director Ackerson answered that was his understanding. Chairman Katerndahl added that it appeared a person can build whatever they wished and then come back to the Commission for approval and wondered why the Commission was needed for approval in the first place. Ackerson added that had some of these been previously brought to the Commission for revisions, it would not

have been so difficult. He added that some of these changes do not work and would not have been approved in such a manner and will require modifications in order to make them work, which may mean physical improvements to do so. Chairman Katerndahl asked if the City of Parkville was short staffed and unable to catch problems like this. Ackerson responded that staff had conducted many inspections of the project. He said the applicant was first given notice in February, followed by a notice in March and in April that these were changes that required Planning Commission approval before proceeding. Commissioner Tognascioli stated "but they didn't stop". Commissioner Pam Scott stated that during this time, the applicant was before this Commission on several occasions for signage to which Chairman Katerndahl added that the Commission could have addressed some of the changes then. Chairman Katerndahl added that he was disturbed by this. Commissioners McRuer and Pam Scott agreed.

Commissioner Tognascioli asked about the stormwater detention basin. Ackerson stated that there was a separate stormwater plan that was approved. He added that generally, this site does not detain water or treat water on site. Discussion ensued regarding water detention with Ackerson providing a brief background on all that was approved prior with the City of Parkville, as well as the State. Commissioner Tognascioli stated that the site plans leave a bit to be desired with the lack of information. Ackerson stated with that regard, what the Commission had before them was not a full blown site plan, but just documented the modifications to the original 2007 approval.

Commissioner Pam Scott stated that her understanding was that the changes had to do with the location of the drive, as well as the immediate elimination of a drive for future use. Ackerson said that no, one issue being pointed out was that some of the area would just stay in a natural grassy state and not be graded until future plans for connection.

Commissioner Pam Scott continued and asked if the other changes included removing 9 actual or faux windows, removing awnings, relocating a window and a door or two. Ackerson said that 3 of the faux windows were previously approved to be removed. They were originally included just to break up the façade but since approved for removal and the replacement for them included trees and bushes. Ackerson added that although some of the landscaping had changed, there would be no reduction in the amount. Commissioner Scott asked if the removal of the peninsula island had already been approved for removal. Ackerson answered that it had not.

Commissioner Pam Scott asked about the Staff Analysis that stated the current application proposed to remove several features, including windows and landscaping. Ackerson answered that there is one area of landscaping that he was not sure if it was being removed or not because the drawings that were submitted late Thursday had it being removed and the drawings received today, did not.

Commissioner Pam Scott inquired as to why the peninsula was removed. Ackerson answered that we would have to ask the applicant as he had no idea.

Commissioner Cary asked how the "as-built" project varies from the original approval. He said Director Ackerson had stated earlier that some of the changes were relatively minor and could be changed but others were more serious changes and could he explain that statement. Ackerson explained that he felt some changes were easily mitigated back to the intent of the original plans, which were to have four sided architecture and not have expansions of blank walls. The most major concern, that he does not believe works and we can discuss how to make it work, is the fencing for the patio on the front of the store. He said that unfortunately it had already been installed. Commissioner Tognascioli asked what kind of fence? Ackerson answered an aluminum fence. He added that the original plans had an open patio that was

enclosed on two sides, the rear and parallel portion, with the front parking lot side being left open. Ackerson added that since the original approval, the applicant had decided to include alcohol service on the patio. In order to serve alcohol, the structure must be enclosed. So the sidewalks have already been poured, part of the parking lot has already been poured, so he believes the applicant thought the easy fix would be to just fence in that entire area. Ackerson does not believe the functionality of the sidewalk that is left. There may be enough physical separation between the building, which we do not know yet, because the reviews from the building department and the fire department are not back. What does not work is the sidewalk outside the patio. He explained that the way the parking lot is designed, there is not enough separation left between the vehicle overhang and the fencing. The task will be to figure out a way to widen the sidewalk or eliminate those two parking spaces.

Commissioner Cary asked, if by lack of separation do you mean vehicles will pull up and hit the fence? Ackerson answered that he does not think they will hit the fence, but a standard vehicle overhang is about two feet which would leave no functioning sidewalk. Commissioner Pam Scott asked if this had already been built. Ackerson answered yes and explained that everything the Commission is looking at has already been built.

Ackerson informed the Commission that the internet access down here was unavailable but he had pictures of the fencing taken from the site and could show the Commission the fenced area. After all saw the pictures, Commissioner Pam Scott commented that for all the hard work by the applicant and this Commission had gone through approval after approval to make this architecturally appealing, the fenced area was really tacky, for lack of a better word. Ackerson said that if this had come before the Commission as it was supposed to, it most likely would not have been granted an approval. Chairman Katerndahl concurred. Katerndahl asked if the fence could be moved back. Ackerson stated that part of what is being requested is where the fence ties back into the building, there is a new door in the front façade to allow patrons to go in and get pizza and beer and allow them onto the patio from the inside as they cannot go back outside and enter the fenced area from outside the store.

Upon hearing the applicant in the audience, Chairman Katerndahl addressed Mr. Hoambrecker and gave his apologies to him while the Commission tried to work through the issues. Chairman Katerndahl stated to the applicant that he would get his chance to speak. Mr. Hoambrecker can be heard from the audience area stating "if you would let me talk, I could explain this to you so that you would understand it, because I do know the exact specifications that I was approved by Paul and I know everything about it".

Director Ackerson stated that Paul has said that this has not been approved. It is not part of the building plan. Mr. Hoambrecker stated once again from the audience "it's approved, do you want me to speak, I'll speak but I think you are getting misinformation but I will try to tell you"

Chairman Katerndahl asked Mr. Hoambrecker to come forward and enlighten us.

Commissioner Cary asked Ackerson if other than the fence issue, were there any larger issues, like the fence with no easy remedy. Ackerson replied that even though there are many things, most have an easy fix.

Commissioner Lonnie Scott asked if the liquor regulations were a City or State Law. Ackerson replied that it was a State law. Commissioner Pam Scott asked if this really met the intent of the law. Ackerson stated that he did not know the answer to that question. Commissioner Pam Scott questioned whether or not this was sufficient.

Mr. Alan Hoambrecker, applicant, stated that “when I sat back there and listened to the story that was told, I wouldn’t vote for me. I have never been so appalled and so upset in my entire life. To sit and listen to the way Sean spins this it sounds as though, going back to your comment, that I just went willy nilly, did whatever the hell I wanted to do and did my own thing. That was never the case, you guys know me, I’ve been coming here for four years now, do you think I would do anything, without getting an idea or permission or a view? I’m not that kind of person that I would just go spending money. You asked me questions, you (points to Commission) brought up the point a little bit ago, when you said something about the fence doesn’t look very good and then you said you’d been there. You don’t even know what kind of fence it is, you’ve never seen it. I would question if anybody here has actually been to the site, been in the building or seen the property”.

Mr. Hoambrecker said “to answer your question about the fence, when it came up and we were approved for liquor by the drink, the law is you have to have access from inside the building to outside, we used Nick & Jakes as our example, ok, when the comment came up, Paul was there, I think Sean was there, but there were a lot of people there, Dean was there, the whole bit, you wanted the numbers, I’ll give you the numbers, you had to have a 4’ way to get in and out of there, ok, that’s why we put the new door in where we did. The sidewalk, going back to numbers is 7’ wide. You had to have a little over a 3’, I want to say, it was like 34” to go through there. There is 3 ½ on each side there, I went right down the middle. I am pretty much assuming, you used the word tacky, Geiger fence would be extremely upset, with your depiction of their fence. It is wrought iron”.

Commissioner Pam Scott stated that the fence looked nice, it was the location.

Mr. Hoambrecker said “but I had no other choice, how to get there. It was actually Paul’s idea that that’s what we would do and I’m not here to bring Paul into it at all but when you are approved for liquor by the drink, you had to have a way to get from inside the building to outside to the patio. We had no other choice but to knock out a wall, so that’s why it was built the way that it was”.

Chairman Katerndahl asked why it was not brought to the Planning Commission first. Part of the concern is more the process that was not followed.

Mr. Hoambrecker stated “and again, shame on me, but part of my process was that Paul and Dean and all these guys knew what their talking about”.

Director Ackerson said he would like to address that because, contrary to Mr. Hoambrecker’s testimony, we have sent out correspondence to Mr. Hoambrecker on this since the beginning of the year, that any modification to the site plan required the Planning Commission’s approval in accordance within our adopted codes. He added that they have talked about issues with regard to the plans, and nothing has been approved. The statement Mr. Hoambrecker made about “that’s appalling that that wouldn’t be done”, Director Ackerson reiterated that the plans before the Commission this evening, have been done without approval.

Mr. Hoambrecker said “it’s done to the degree, you want to know why these things are so late, because I get a phone call at 2:45 on Friday before Memorial Day that you need to have all these documents in and you need to have them here by Tuesday”.

Chairman Katerndahl stated that it sounded like you got a note in February and March saying you needed these documents.

Mr. Hoambrecker said “no, you need to have all these documents here if you want your occupancy permit; you need to have them here by Tuesday”.

Katerndahl asked the applicant if he never received any correspondence in February or March. Mr. Hoambrecker responded that he was not aware of any. Director Ackerson added that he would be happy to go and get copies of the correspondence for the Planning Commission’s viewing.

Mr. Hoambrecker stated that “I can show you a number of times, I can show you emails, just like he can, of Sean, what do I need to do, what do I need to do. He had a meeting set up with me at 10:00 out there at the store, so we could walk through everything, then he said I double booked, am I lying? I double booked my appointment, I can’t make it out there, let’s see if we can’t meet again. So I’m not here to not take any of the blame, not at all, but I want to assure you of a couple of things. When I sit here and I hear people make the comments, and you didn’t, but I’m just saying that if I ran willy nilly and did whatever I wanted to do out there, that couldn’t be any farther from the truth. When I hear people say that I adjusted all the landscaping, and blah, blah, blah, it might have got moved back, but I didn’t take anything away from it. As a matter of fact, I was adamant that we didn’t take anything away from it. I would also encourage anybody here, if you could find a nicer convenience store in the whole city, I am not talking Parkville, in the whole city, I would challenge you to that”.

Hoambrecker continued “I will also go back to a comment that was made to me a year and a half, two years ago, before I ever started building, it came from Mayor Richardson. Alan, are you not building this building because we’re making you overbuild it. I said absolutely. I said you are sitting here telling me, you want windows on the back of the store, you want windows on the side of the store, I said why? They don’t serve any purpose other than cosmetic. I said, I went a step further, I said listen; I would agree that Quik Trip is the biggest name in town. If you can take me to a Quik Trip and show me windows on the back of the building, I would do it and you can’t find one. So we agreed that we would change what the material was made out of and put some, I don’t know what you want to call them, but different pieces in there and change the line in there to break up the façade, is what they wanted. I guess I am just speechless, you know, if you guys had any idea, how many people come up to me, every, single day and ask when are you gonna get open, when are you gonna get open and I’m not trying to build something shabby, I’m not, I think if you guys would all come out and take a look at it, you would agree that it’s the nicest store in Kansas City and every time I turn around I’m being treated like I’m building this shack out there and I’m just running and doing whatever I want to do. The reason I wanted to speak, and I’m sorry that I’m so passionate about this is I have had a hand in every single thing that’s went on. You asked about how the thing got out, that was a little out of control, I happened to be away and the guy just ran the curb line straight and went ahead and poured it already, I couldn’t affect that part. But I didn’t sit and purposely say, let’s cut that out”.

Hoambrecker continued “just so you know, I’ve got product coming in there right this minute. I’m not trying to push, I’m just telling you the facts, the reason this came to a head the way that it did. We have a scheduled opening date of Monday. I know like it seems that I’m trying to put pressure on you guys but it was my understanding that the way we built it, there wasn’t anything wrong with it and then I come to this meeting and it sounds like I just built this shack out there and I just screwed around with the landscaping and I changed the parking lot every which way you could, took windows out. They are getting on me about the lights that were put out. The lights that were put out were spec by Richard Kopp. They were 3K a pole, there are 9 poles out there, that’s 27K worth of lights just to shine on the parking lot. I got them for 900.00 and their nice lights, they are the box lights like they have over at YMCA and I am being chastised for the lights that go on the building and they are the same ones that are on Price Chopper. I have said this over and over and over again, you know, you guys have said, everybody is sitting here

talking about 360 degree architecture, has anybody looked at the back of Price Chopper? Have you just taken a look at it? When you drive out of here, there is nothing special about that building. The back is horrid. I would put mine up against it, everyday of the week”.

Chairman Katerndahl interrupted to state that Mr. Hoambrecker should not have agreed to it.

Mr. Hoambrecker said “I never wanted to agree to it, but I’ve been pushed and pushed and finally when I pulled back and said I can’t do it, that’s why I didn’t build, that’s when Mayor Richardson came to me and said what are we doing wrong. What are we doing wrong? Why can’t we get something built out there? I said you are making me put things in here that serve no functional purpose whatsoever. When I first started down this path 5 years ago, I was told you are the Gateway from the West, does anyone remember that? You were asking earlier, where is Parkville, it stops at Brink-Myer Road, as soon as I come out on Brink-Myer Road, I’m out of Parkville, I’m in Platte County. I feel like I’m trying to do things nice and I feel like I’m getting my teeth kicked in. That I’m just running rough shod out there and I got to tell you, it just makes me fume. I have people; you guys say you’re here for the whole City. The problem is the people who live out there, don’t live in the City. I would encourage you all to come out there, come out tomorrow, I’m there at 6:00 a.m., and you come out there and take a look at it. Sorry”.

Commissioner Cary asked in terms of the fence, he would like to make sure all are on the same page, at least in terms of the facts as it exists now. He asked if the case was that the fence splits the 7’ sidewalk. Mr. Hoambrecker said yes. Commissioner Cary asked if it was Mr. Hoambrecker’s position, that the 3 ½ feet outside the fence is adequate and does not present a problem. Mr. Hoambrecker responded “again, you are going to think that I made this up, but I adamantly looked at it from the beginning and yes, I would absolutely, without fail, to the degree, and it probably doesn’t show this on the blueprints, but since there were people coming from that way, I put another, there is no handicapped, whatever those red bump things are on there, but there is a handicapped way to come right up that ramp, so you don’t have to go, there’s a handicapped entrance on both sides of the sidewalk as well as right dead in the middle. So yeah, you could probably get a Hummer or something, I’ve never heard the part of 2’ overhang before”.

Commissioner Cary asked again if it was Mr. Hoambrecker’s position, that vehicles could pull into those first two parking spaces and have whatever overhang they have, if their front tires are touching the bumper block, there would still be adequate space for people to walk on the sidewalk between the front of those parked vehicles and the fence that splits the sidewalk. Hoambrecker answered absolutely. Commissioner Cary then asked if in Mr. Hoambrecker’s view there was no problem with the fence. Mr. Hoambrecker responded absolutely.

Commissioner Tognascioli asked if there were bumper blocks. Mr. Hoambrecker responded that he did not know what a bumper block was. Chairman Katerndahl said there were none. Commissioner Pam Scott asked if the vehicles pulled up until the wheels hit the curb. Mr. Hoambrecker responded that was correct.

Commissioner Pam Scott asked Mr. Hoambrecker if a car overhanging into the 3 ½ foot sidewalk area leaves adequate space for someone to pass by. Mr. Hoambrecker responded absolutely. Scott asked do you think then that 2 feet is enough. Mr. Hoambrecker responded “that he was a pretty big guy and it is enough for me”. He added that “if somebody pulled up that far, I still would kind of question the 2 foot overhang, personally”. Scott replied she was only assuming 18 inches, giving him the benefit of the doubt, but that would still only leave 24” or so for patrons to pass by. Mr. Hoambrecker stated that “he was not here to argue the point, but when I went back to Paul and I said to Paul, how wide does that fence need to be, because I wasn’t just going to go build a fence and not have some kind of scope of where we were. He

said realistically, I think his number was 34 inches". Director Ackerson inserted that was for separation from the front of the building. Chairman Katerndahl said that was for inside from the building, to the where the fence starts. Hoambrecker stated "that would be correct and we ended up going with what 40 inches, cause it ended up being 33 ½".

Commissioner Pam Scott stated that the applicant had gone to a great deal of effort to make this a nice convenience store, by convenience store standards, and added that the fence was actually beautiful, but what she does not understand, is why you would go to such great trouble to design something, that works fairly well in that realm of facility type and then put a 34" passageway for somebody to eek by to get back to what really could be kind of a nice patio and then leave what will really amount to about a 2 foot sidewalk when the cars are pulled in. She continued to ask why Mr. Hoambrecker at the tail end of the project, compromised your standards for the quality of this building and do what you wanted to do without our approval.

Mr. Hoambrecker answered "when the subject came up, first of all I had no desire first of all, to put in an entrance from inside the building, again shame on me, but it was necessary, again I used Nick & Jakes as my example and the comment was made that you have to come in from the inside of Nick & Jakes to get to the outside, again, I understand what you are saying and we even toyed with the idea of taking out 2 parking spots, okay, we really talked about taking out the 2 parking spots so people could get by. I don't know how any clearer I can say but other than the fact, that I really think if you came out and looked at it you'd see, would I have loved to have gone ahead and put brick all the way down there, but that's going to take even more space away than the fence would be, but I would challenge anybody to come out and take a look at it and see that it really, I know in your opinion, it kind of maybe, potentially junked it up, but I'm telling you right now that I walk by it everyday and I think I mentioned this to you guys from the very beginning, my main customer base is going to be friends and neighbors and I can assure you it won't be anything where I'm gonna come back and people are gonna come up and ask me what the heck I was thinking".

Commissioner Pam Scott stated that it could have been done right and gave a few examples of how that could have been accomplished, including removing 3 parking spaces. Mr. Hoambrecker answered that then he would not have met the parking space requirement. Mr. Ackerson added that Mr. Hoambrecker took away 3 parking spaces earlier, which could have been re-added.

Mr. Hoambrecker responded "as God as my witness, I hear what you are saying, but that I will not even say that I disagree completely, but I assure you, it was not something that was not thought out, it was thought out completely".

Commissioner Pam Scott answered that doesn't help. Chairman Katerndahl asked Director Ackerson what needed to be done at this point. Ackerson answered that Mr. Hoambrecker has requested that the Commission approve the application as it is being presented.

Commissioner Tognascioli asked if the east end of the building was strictly dedicated to pizza. Hoambrecker stated it was pizza, subs and salads as kind of a tie in with Stone Canyon Pizza. Commissioner Tognascioli asked where patrons were going to eat other than out on the patio. Mr. Hoambrecker answered "again if you would come and see the store, there is seating inside". Commissioner Tognascioli stated that he was simply asking because there was nothing shown on the drawings. Hoambrecker answered there is seating inside.

Chairman Katerndahl stated that everything got changed because of the liquor; there would have been no fence additions or any of these other changes with the door from the inside to the

outside, without the individual liquor sales. Mr. Hoambrecker added that when that came up, he sought whatever he thought was the best avenue to get it done.

Commissioner Tognascioli thought if the applicant added wheel stops that were 2' back from the curb, then there should be plenty of space for traffic to flow behind and people to be able to walk in front of this space. Mr. Hoambrecker said again, that he didn't see the problem with it. He felt that there was enough space like it was. Commissioner Tognascioli added that would be one solution to the problem. He added that he was not sure if there was an appropriate amount of space behind the cars for traffic, but it looked to him as if there was. Mr. Hoambrecker said if they did back it up two feet, there would be more than enough space to back a vehicle out of there without interrupting the flow of traffic for the gas pumps, etc.

Chairman Katerndahl stated that there were really 3 choices to make; approve this as is, approve it subject to certain restrictions or requirements being met or we can turn it down.

Commissioner Lock stated that he agreed with everything that Commissioner Pam Scott said. He wholly endorsed that position. He believes it to be a terrific facility, but would like to add one caveat; he would like it known that this is not the Commission's problem, this Commission approved something different than what is before them this evening and that is where he has some sensitivity to the plan. The plan was approved to the original specificity and now that the plan differs in what was approved, he felt it was up to the applicant to comply with what was originally intended and approved. Having said that, Commissioner Lock stated that as one possible solution, is that portion of sidewalk a necessary use. Could planters be poised there so that the sidewalk is not used at all? He added that in his opinion, it is an unusable sidewalk. He finished with the fact that this issue was not the Commissioners concern as this was not approved prior to the fact and because of that, someone else needed to propose a solution.

Chairman Katerndahl stated that the Commissioners could approve this, subject to the City and the developer agreeing to whatever resolution they could come up with as it was not the Commissioner's job to sit here this evening and design the solution.

Commissioner McRuer asked Director Ackerson what the process was this evening. She inquired as to if these required changes were not made, then the applicant could not receive a license for occupancy.

Ackerson responded that ultimately an approved site plan would be required and the development would have to achieve construction in accordance with that plan.

Commissioner Pam Scott asked if there was a provisional certificate of occupancy. Ackerson answered that the only provision of receiving temporary occupancy is based off of the inability to install landscaping. Final inspections, construction according to your approved site plan and building permits in addition to ancillary items such as fire department, health department and sewer district approvals.

Chairman Katerndahl asked if any of the changes presented a problem with the other codes or is it strictly a site plan approval. Ackerson answered that he does not know the answer to that. Ackerson added that there were some other changes that had not yet been discussed tonight, that were being reviewed by other entities such as the fire department and building officials and that he had not yet received the review comments back. He said that typically these were received 4 weeks in advance and instead we received them a couple of days before.

Commissioner Cary stated that Sean's memo to the Commission, dated last Friday, concluded by saying that at this time, we have not completed the review of the application. So, without

having time for the staff to complete its review and to provide its comments to the Commission, the process has been short circuited in a way that we should probably not let the process be short circuited. If staff has not had time to review the changes that have been made and to provide us with that information, than what is the point of having this procedure set up to operate the way it is supposed to operate.

Mr. Hoambrecker stated "I guess I'll go back and say again, if there are some changes, if this whole issue has to do with the fence, which I, again, I'm just being honest, I think its absurd, there is no doubt that changes could be made, what they are, I'm not saying I have an answer, I just need to get something done because right now we're bleeding something fierce. I don't have a good answer for it. Still to this day, when I sit here, think I built a nice building and I'm sorry to say this, but including the fence. I'm not saying it's the perfect thing, I'm not saying its what you would have done, but there are times when you are sitting there and you have to make a decision and that's what you gotta do and I can assure that when I did it, it wasn't something I did haphazardly".

Commissioner Cary inquired as to when the staff review would be completed. Ackerson replied that they were awaiting comments back from the fire department and our building department and that is primarily what we need to complete it.

Mr. Hoambrecker replied that he "had talked with both Dean and Paul and I've gotten their list from them and to my knowledge there has been nothing that's come up that would be hindranced by this".

Director Ackerson stated that he was not trying to be argumentative, but had spoken with both Dean and Paul this afternoon and they did not have a list and were reviewing things as simple as removal of the three man doors from the carwash and the ingress and egress that has been added, so their respective reviews were not done as of this afternoon.

Mr. Hoambrecker asked what were the ingress and the egress, that he did not understand that. Ackerson replied the ingress and egress to the front of the building. Katerndahl asked if they were just reviewing for code compliance. Ackerson replied yes, he had spoken with the fire marshal today and he said that some of the changes he just found out about today.

Mr. Hoambrecker said "that the subject came up and he wanted to address it, right here, right this minute, because it has been brought to my attention, it has been addressed and I will throw it out to you guys. Have you ever been to a carwash and you've seen a door to get out of the car wash. A man door, where you leave the carwash, because that's what they are talking about and the whole intent of this is, if the electricity went off, how do you get out of the building. It has been addressed, there is a handle on the door, with an emergency sign, saying that somebody can get out, all you gotta do is lift the door up to get out of the building".

Chairman Katerndahl stated that the Commission's expertise does not lie in code interpretation regarding safety. He believed that was an issue that if the applicant would like to go before the Board of Aldermen and say that they need to change these safety restrictions, that is what they are elected for.

Chairman Katerndahl asked the Director if there are issues in which building enforcement and the fire department are deciding, that affect the Commission's ability to make a decision on the site plan. Ackerson replied that he does not know the answer to that. He added that as an option, it could be approved with conditions subject to that.

Katerndahl added that on one hand it is a nice facility but on the other hand, it's a crappy process and maybe Mr. Hoambrecker is right, maybe the City of Parkville just screwed it all up, but it is his guess that is incorrect, but he would like to see this go ahead, but wonders is there any way to go forward.

Ackerson answered with the fence being the key issue, the other areas to be resolved are an easy fix.

Commissioner Tognascioli asked where the air conditioning units and the electrical transformers were located. The applicant replied that the air conditioning was on top of the facility and the transformer was located behind the facility by the dumpster.

Commissioner Lock said he would like to revisit Commissioner Cary's concern about the Commission receiving the information first and making an opinion based off factual evidence. He would like to know when the information will be available, as soon as it is available, is there a way at that point in time, since the Commission has discussed their concerns, they could somehow convene so that we can move forward. Commissioner Lonnie Scott asked if he was specific to the fire and safety issues.

The applicant asked if the Commission could make it contingent upon Dean (fire marshal) and Paul's (building codes) approval.

Director Ackerson stated that the only limitation on meeting would require 24 hour notice to hold a special meeting.

The applicant asked if the Commission could approved based on Dean and Paul approval, theoretically could it be done, as they are coming out on Thursday.

Chairman Katerndahl stated that there was concern that would not resolve everything. Commissioner Lock then stated we would then need to care that we have a specific resolution to the remaining issues with a proposal of the expectations still needed to be met up front.

The applicant then asked "when we sit here and say this about the fence, and I know it's a touchy subject, I got it, but can it or is it a Dean and Paul issue too"?

Commissioner Pam Scott stated she would like to speak with Paul because she believes 34 inches, because 2 people cannot pass, by code in 34 inches. She stated that she believed 44 inches is the minimum for a two way passageway and she has issue with that.

Mr. Hoambrecker responded "well again, I'm not trying to be mean, but I didn't just throw the number out". Commissioner Scott stated that she understood somebody told him that. Mr. Hoambrecker replied "not somebody, Paul told me, cause I point blank said do we have enough room, point blank, like I said, it wasn't like I threw a dart at the wall, made up some number and let's go ahead and do this".

Chairman Katerndahl stated his concern, as the Planning Commission, to approve this from a site plan, not really a safety point, as we have staff and codes, for that, so our role is to approve this plan or not based on aesthetics and things like lighting and all of those things that go into a site plan. Ackerson agreed. Katerndahl then asked if it was possible to do this tonight or do we need more information, from either the Director or other staff to make this decision. He added that the Commission could make it subject to those other approvals. It might not meet those standards and may come back to this Commission depending on the findings.

Commissioner Lock stated that he was unsure if this was circumventing the Commissioner's process, but he felt that since they were still waiting for processes to be completed anyway, he felt that the Commission should wait for Mr. Hoambrecker to provide some kind of a resolution on a few site issues.

Mr. Hoambrecker stated that "he was not some big corporation, that it was just he and his wife, so as far as making a comment, he could make it at anytime, anywhere. Quote, unquote, the issue is the fence and I'm gonna go back to my original statement, and I know everybody and their dog comes and sees you guys and promises the world, but keeping in mind that so far, I put 43K in escrow, for a turn lane, I've got a deferment for the sidewalk, I've got a deferment for the passage into the back. I've tried to do everything in my power to make this whole thing come out and my feeling is, we are sitting here arguing about a fence. Maybe I'm wrong, but bottom line is we are sitting here arguing about a fence".

Chairman Katerndahl agreed stating we are arguing about a fence, a fence that had been put in at the last minute, which is the problem.

Mr. Hoambrecker added that the fence had been up for a month. Commissioner Pam Scott, then asked why then is this the first we are hearing about it. Mr. Hoambrecker responded "that nobody asked him to present to you guys". Director Ackerson stated that he had been given a note on several occasions. Commissioner McRuer said the fence is just one thing. Commissioner Pam Scott stated that the applicant had made changes to the site plan before and had to come before this Commission and knew that was the process and that the applicant was too intelligent, to make the Commission believe that the applicant did not feel this was a change to the site plan.

Mr. Hoambrecker stated "how about you guys just reconvene and come out and see the store, how hard would that be? The thing, the thing is that it seems like I'm trying to put pressure on you, I'm not, I'm just telling you, we have to get open, I'm telling you we are bleeding red, like you read about and I just can't believe that this fence is that big of an issue, I just can't".

Commissioner Scott stated that as she understood it, there is a process in which you go through to get your site plan approved and get whatever is necessary in front of the necessary people to get a certificate of occupancy and that all did not happen in order for you to get open on Monday. Chairman Katerndahl added that there were other things also pending that did not include a decision by the Planning Commission.

The applicant asked what other issues were the hold up. Director Ackerson stated a final inspection was required; a certificate from the Fire Department, approval from the Sewer District and site improvements would have to be made.

Mr. Hoambrecker stated that "I have tried to address every one of these things. Just so you guys have a picture, the striping could be done across the whole building but the concrete has to cure for 30 days, so what I agreed to, is I would stripe the front of the store because it probably has sat there for 30 days, so every issue that you guys, or that he (points to Ackerson) that he's gonna have, I've got an answer for, okay"?

Ackerson stated that the answer to Chairman Katerndahl's question of will the Planning Commission be the only entity holding this up, the answer is there are other things that have not been completed, so at the point, the answer is no.

Commissioner Cary asked for clarification from the applicant as to his position on the fencing. The applicant answered that he was perfectly satisfied with the fence and if it becomes an issue

and he needed to put it in writing, it would be fixed. Commissioner Cary asked if at this point the applicant had a fix to propose. Hoambrecker responded "if its blocks or whatever it ends up being, I don't really care what it is, I mean, if you guys want to come out and look at it, we can always shut the patio off and undo the fence for now. It's just that again, I can't be anymore emphatic, I really don't see a problem with the fence, if I did I would have done something about it a long time ago. I just can't believe that this is the issue. I guess I just can't see what I did wrong".

Chairman Katerndahl stated that he could go either way, but against his better judgment, he moved to approve the site plans subject to the City staff and whoever the appropriate entities were to agreeing to acceptable alternatives to what is proposed in the plan, in other words, not just the fence, it's the landscaping by the carwash and some other issues, subject to all of those being satisfied or resolved.

Commissioner Cary asked if the options were to approve the proposal outright, approve the proposal conditionally, table the proposal and make no approval this evening or to reject it. He asked if there were any other possibilities. Chairman Katerndahl stated if it were tabled, could it be on an expedited basis and the Commission agree to meet next week, when presumably the Commission would have more information and resolve it at that time.

Commissioner Lonnie Scott seconded the motion. Commissioner Cary added that would be dependent upon when staff could provide the necessary information, Katerndahl agreed. If we get it in a week, we could do it in a week, if it takes longer, then it would take longer. He added that would also include being able to form a quorum. Commissioner Cary asked if in order to take a vote, would the Commissioner's presence be required here at City Hall or could we agree that for this specific vote that it be done by email, for example.

Director Ackerson informed the Commission that a vote by email would not be acceptable. Voting must be done in person; there is no equivalent of proxy voting. A time would have to be announced as well as a location. In addition, it would have to be open to the public and a minimum of 24 hours notice would be required. Commissioner Cary asked for example, if they could meet next Monday, would the staff have its work completed. Ackerson replied that yes, if the Commission would like to set a date for next Monday or Tuesday, staff could get the information. He added he was unsure as if new drawings could be completed by then. Commissioner Cary said he was less concerned about new drawings as much as the completed report stating all was or was not completed.

Commissioner Pam Scott asked subject to what exactly.

The applicant asked if the Commission could convene anywhere, why they don't convene at the convenience store. Chairman Katerndahl said they could do that, but that it was not the where could they meet, but more importantly the when they could meet. Commissioner Cary added that he was not opposed to go and see the store, but was not sure that would solve the problem.

Director Ackerson inserted that the Commission could meet at the site and reiterated that 24 hour notice of the date, time and location would be required. Commissioner Cary asked if notice was given on Friday, could they then have a meeting on Monday. Ackerson responded yes, with proper notice and a quorum the Commission could review it and hold an action meeting on a separately notified date.

Chairman Katerndahl suggested as a process to follow up, that a motion had already been made by him with a second by Commissioner Lonnie Scott to approve this proposal subject to

staff's acceptance, plus approval from other entities. He wanted to make this clear so that if the Commission does not vote for that, then the next suggested vote would be, to pick a date, get staff information and reconvene to vote as the next option. Commissioner McRuer asked if the second option meant tabling the proposal tonight. Chairman Katerndahl answered yes, the second option would mean tabling the application but picking a date in the future to reconvene.

To clarify, the first vote is to approve the proposal as presented subject to staff and outside entity approvals working out to their satisfaction all of the issues that remain.

Commissioner Lock said the only problem with that was that there was not a list of what those finite items were, at this point in time, so he was unsure as to what the Commission was conditioning for. Katerndahl added that is was putting it on the staff to determine.

Commissioner Cary added that taking it one step further, which has to some extent of delegating part of the Commission's responsibility to the staff and if the staff identifies an item that is a deal breaker or simply unacceptable, where would the approval stand at that point. Director Ackerson and Chairman Katerndahl confirmed at that point, it would have to come back to the Planning Commission. Commissioner Cary asked if that were to be the case, then the possibility exists for this proposal being held up for a possibly longer period.

Ackerson stated that although unconventional, could the Commission add that all conditions be met by Friday or the Commission would have to then pick a date to meet.

Chairman Katerndahl stated he would be willing to modify his prior motion to include if the remaining conditions of the project cannot be satisfied then Director Ackerson can reconvene the Commission. Commissioner Cary suggested that in consideration of the applicant, if we do not approve this evening, then the Commission should reconvene on Monday, June 14th, so that the applicant can get the store open as quickly as possible.

Chairman Katerndahl amended his motion to approve the plans as proposed subject to all issues that have been identified by staff being satisfactorily completed and if that cannot be done by Friday, June 11th, that a meeting of the Planning Commission will be called for Monday, June 14th at 5:30 p.m. at the convenience store location for reconsideration.

Commissioner Lonnie Scott seconded the amended motion.

A voice vote followed: Commissioner Lock – aye, Commissioner Lonnie Scott – aye, Chairman Katerndahl – aye, Commissioner McRuer – nay, Commissioner Pam Scott – nay, Commissioner Tognascioli – nay, Commissioner Cary – aye. Motion passed 4-3.

Commissioner Pam Scott asked Chairman Katerndahl who determines if the staff agrees that all has been worked out or completed satisfactorily. Katerndahl answered that it would be the Community Development Director, staff and any consultation with the City Administrator. He added that this was more intense due to the short time frame. It is not unlike in the past when this Commission has approved items in the past that have required staff approval. He added the only reason the list now is a little vague, is due to the fact that the proposal and its changes were difficult to follow. Ackerson added to that extent, if the applicant does not agree with our conditions, he can appeal back to the Planning Commission.

Mr. Hoambrecker said that he was unclear so asked "if all of these things are done and staff approved them, as well as, the fire marshal, by Friday, we're done"? Both Ackerson and Katerndahl agreed.

Commissioner Pam Scott asked if there was anything formal that could go into the record with regard to not following the standard procedure that has been set up for future purposes. Chairman Katerndahl asked if there was anything the Planning Commission or the City of Parkville can do that would help to avoid this.

Ackerson responded by stating that we do a lot of handholding now and document that. He added the only thing we did not do on this one, is put a stop to it and start writing citations when the violations were made. He said that we try to work with people in the spirit of cooperation; we want business and would like to see something happen on the west side. Our protocol is to contact the applicant and let them know what is going on or meet with the applicant, provide check lists and make sure it is being followed. It is not very popular, but that is our standard protocol.

Commissioner Tognascioli asked the Director if that protocol was followed in this case. Director Ackerson affirmed that it did. Commissioner Tognascioli then added that he felt the Commission had made a complete error, because he was here under a hardship, created by him and this group fell for it.

Ackerson added that a lot of things have been said about this development but he would like to be clear from staff's standpoint. Nobody is trying to criminalize anybody, no one is trying to make a development out to be bad or unattractive and those things have not been said. Unfortunately, what has happened in this case is that we haven't followed a process and so before you last minute tonight, we're trying to patch something that could have easily been fixed if we had resolved it back in the beginning. Discussion ensued.

Chairman Katerndahl asked if would be possible to cc Planning and Zoning when notices are sent out so that we are included in the due process. Ackerson answered yes, that would be a possibility. Commissioner Scott added that in the past with this particular application each time the applicant came before this Commission, every time it felt hurried, especially this one, with 6 days before opening, the applicant is looking for approval of a site plan for which things have already been completed before the Commission was actually made aware of the changes. The logical choice really should have been to table it. Ackerson said that Community Development would take part of the blame, because we allowed it to come before you in the first place knowing the applicant had not met the deadlines that are set out in advance, but due to the economy such that it is, we are trying to get businesses open, we think this will be a good business and so have tried to push this.

ITEM 6. UNFINISHED BUSINESS

None

ITEM 7. OTHER BUSINESS

Chairman Katerndahl reminded all of the work session immediately following tonight's meeting as well as upcoming meeting dates were listed in the agenda, but none were discussed. No other items were discussed.

ITEM 8. ADJOURNMENT

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

Meeting adjourned at 8:03 p.m.

Submitted by: _____ Date 6-09-10
Tracy Sisney
Department Assistant

Unless otherwise stated herein, Planning Commission actions are recommendations forwarded to the Parkville Board of Aldermen for their consideration and final action. Inquiries on items contained herein can be made by visiting Parkville City Hall at 8880 Clark Avenue, Parkville, or by calling the Community Development Department at (816) 741-7676. Regular business hours are 8:00 am to 5:00 pm Monday through Friday (except for recognized holidays).