

**Parkville Planning & Zoning Commission
Tuesday, November 13, 2012, 5:30 p.m.
City Hall Boardroom**

Minutes

ITEM 1. CALL TO ORDER

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

ITEM 2. ROLL CALL

Members present:

Dean Katerndahl, Chairman
Judy McRuer
Walt Lane

Keith Cary, Vice Chairman
Lonnie Scott
Bryant Lamer

Absent with prior notice:

Pam Scott

Bob Lock, Secretary

Also present:

Sean Ackerson, Assistant City Administrator-Community Development Director
Tracy Sisney, Assistant City Clerk-Department Assistant
Andrea Bough, City Attorney

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 published.

Commissioner McRuer moved to approve the agenda as published. Commissioner Scott seconded. Motion passed 6-0.

Item 3(B) Approval of Minutes from the October 09, 2012 Planning and Zoning Commission Meeting.

Chairman Katerndahl asked for a motion to approve the minutes from the October 09, 2012 meeting.

Commissioner Scott moved to approve the minutes as presented. Commissioner McRuer seconded. Motion passed 6-0.

Director Ackerson announced that Kelly Fricker, with regret, had resigned her position on the Planning & Zoning Commission citing that her current obligations would make it difficult to continue to serve effectively.

ITEM 4. PUBLIC HEARING

Director Ackerson addressed a housekeeping issue, stating that the City had previously advertised a public hearing regarding a conditional use permit to allow dwelling units / living quarters as an accessory use at 6205 Kelly Drive, 6309 Kelly Drive and 9300 NW 63rd Street in an Industrial District. Ackerson stated that after the notice was sent, it was determined that the request did not meet the definition for a dwelling under our code and therefore no hearing was needed. He asked that the record reflect that the hearing was canceled.

Item 4(A) Amendments to Parkville Municipal Code, Title IV, Chapters 400: *General Provisions*, 410: *"R-1" Single-Family District Regulations*, 415: *"R-2" Single-Family Residential District Regulations*, 420: *"R-3" Single-Family District Regulations*, 425: *"R-4" Multiple-Family Residential District Regulations*, 426: *"R-5" Planned Multi-Family Residential District Regulations*, 427: *"TND" Traditional Neighborhood Design District*, 428: *"P-EC" Planned Educational Campus District*, 430: *"B-1" Neighborhood Business District Regulations*, 435: *"B-2" General Business District Regulations*, 440: *"B-4" Planned Business District Regulations*, 442: *"OTD" Old Town District*, 443: *"B-P" Business Park District Regulations*, 445: *"I-1" Light Industrial District Regulations*, 450: *"I-2" Light Industrial District Regulations*, 455: *"I-3" Heavy Industrial District Regulations*, 457: *"U-I-1" Underground Light Industrial District Regulations*, 460: *Vehicle Parking*, 463: *Sign Code*, and 470: *Supplementary Use Regulations -- Conditional Uses*; and to consider a new Chapter 472: *Regulations Governing Adult Businesses*. Said amendments are proposed to define adult business uses, identify in which zoning districts adult businesses are permitted, prohibited and conditionally permitted, and to identify parking, signage and other regulations applying to adult businesses.

Chairman Katerndahl opened the public hearing and deferred to staff.

Director Ackerson stated that the subject amendment is proposed to define adult business uses, identify in which zoning districts adult businesses are permitted, prohibited and conditionally permitted, and to identify parking, signage and other regulations applying to adult businesses. He summarized work completed by the Board of Aldermen on a adult business licensing ordinance adopted November 6, 2012.

Ackerson introduced City Attorney, Andrea Bough, who helped write the Ordinance to explain further and to answer any questions the Commission may have. Ms. Bough stated that adult businesses or certain aspects of adult businesses were protected by the first amendment free speech clause and added that cities are limited in their capacity to regulate them. She summarized the City's right to regulate adult businesses to protect the public health, safety and welfare from secondary impacts associated with adult businesses. She referenced and summarized several studies identified the proposed text amendment and their conclusions about secondary impacts of adult businesses.

Commissioner Lane questioned whether the percentage of merchandise recommended was an absolute minimum. City Attorney, Andrea Bough stated they were based on best practices and consultation with national experts. She explained that there were no national thresholds, but that the numbers were based on those percentages generally upheld by the courts. She also clarified that the amendments were in accordance with state legislation adopted in 2012.

Lane questioned how the regulations would apply to any existing businesses. Director Ackerson stated that it was not appropriate to discuss application to any specific business as advised by legal counsel.

Director Ackerson referenced the recently adopted adult business licensing ordinance. He stated that much of the zoning regulation proposed was taken from the licensing ordinance and needed to be repeated in the zoning code. He called attention to sections he had highlighted in the licensing ordinance and summarized how they would apply in the zoning code if adopted. He explained that generally, the amendment would prohibit adult businesses in all districts except the general business, planned business and light industrial district, where they could be permitted by a conditional use permit. He summarized changes to address parking, signage and other conditions to be met.

Chairman Katerndahl asked if there was an advantage to adult businesses only being allowed to be the primary use. Director Ackerson explained that adult businesses fell into three primary categories: retail, entertainment, and service. Each has different secondary impacts and disallowing adult businesses as accessory uses would help the City better regulate those secondary impacts. Discussion ensued.

Ackerson explained the intent of the 1,000 foot minimum separation between two adult businesses. He referenced the secondary impact studies and a conclusion that concentrations of adult businesses had greater secondary impacts, thus the requirement for the separation.

Commissioner Cary asked if someone had applied for an adult business license. Director Ackerson stated that the City has had inquiries over the years. He stated that in recent review of our ordinances the City discovered their adult business regulations had not been updated since 1994 and were not compliant with recent legislative updates. He stated the City had never adopted zoning regulations that addressed adult businesses.

Chairman Katerndahl referenced proposed Section 472.030, and asked if the language intended to only require a 1,000 foot setback from uses inside the City limits? Ackerson stated that he read the language to only apply to separation from residential uses. Ms. Bough stated it was not intended to apply to only uses in Parkville. Katerndahl suggested clarifying the intent and changing the language if appropriate.

Katerndahl questioned whether "obscene or indecent" as used in the proposed Section 472.040 needed to be defined. He recommended defining the terms if advised by legal counsel. Discussion ensued.

Commissioner Lamer suggested approving subject to analysis as recommended or defined by Legal Counsel, if advised.

Commission Cary moved to approve Item 4A subject to analysis as recommended or defined by Legal Counsel, if advised. Commission McRuer seconded. Motion passed 6-0.

Item 4(B) Amendments to Parkville Municipal Code, Title IV, Chapters 410: "R-1" Single-Family District Regulations, 415: "R-2" Single-Family Residential District Regulations, 420: "R-3" Single-Family District Regulations, 425: "R-4" Multiple-Family Residential District Regulations, 426: "R-5" Planned Multi-Family Residential District Regulations and 470: Supplementary Use Regulations -- Conditional Uses to identify permitted, prohibited and conditionally permitted uses in residential districts.

Director Ackerson asked that this item be postponed. He added that most of the language was from 1963 and needed to be reviewed and rewritten.

Commissioner Lamer moved to postpone this item. Commissioner Scott seconded. Motion passed 6-0.

ITEM 5. REGULAR BUSINESS

None

ITEM 6. UNFINISHED BUSINESS

None

ITEM 7. OTHER BUSINESS

Director Ackerson provided updates on various projects throughout the City.

Chairman Katerndahl announced the dates for future meetings.

ITEM 8. ADJOURNMENT

Commissioner McRuer moved to adjourn. Commissioner Scott seconded. Motion to adjourn passed 6-0.

Meeting adjourned at 6:18 p.m.

Submitted by: _____
Tracy Sisney, Department Assistant

11/14/12
Date

Information on these items is maintained at Parkville City Hall and is available for viewing during normal office hours. Planning and Zoning Commission decisions are recommendations forwarded to the Parkville Board of Aldermen meeting unless otherwise noted. 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.