

MINUTES  
INDEPENDENCE CITY PLANNING COMMISSION  
June 28, 2022

**MEMBERS PRESENT**

Cindy McClain, Chair  
Virginia Ferguson  
Paul Michell  
Bryce Young  
Butch Nesbitt

**STAFF PRESENT**

Rick Arroyo – Assistant Director  
Stuart Borders – Senior Planner  
Brian Harker – Planner  
Rich Wood – Assistant City Attorney

A meeting of the Independence City Planning Commission was held at 6:00 p.m. on June 28, 2022, in the Independence City Hall Council Chambers, 111 E. Maple Ave. The meeting was called to order.

**CONSENT AGENDA**

**1. Planning Commission Minutes – June 14, 2022**

**Motion**

Commissioner Nesbitt made a motion to approve the Consent Agenda. Commissioner Ferguson seconded the motion. The motion passed with five affirmative votes.

**CASE TO BE CONTINUED**

Staff requested the following cases be continued to the July 12, 2022, Planning Commission meeting:

**Continued Case 22-100-06 – Rezoning – 13001 E. US 40 Highway**

**Motion**

Commissioner Nesbitt made a motion to continue Case 22-100-06 to the July 12, 2022, Planning Commission meeting. Commissioner Ferguson seconded the motion. The motion passed with five affirmative votes.

**PUBLIC HEARINGS**

**Continued Case 22-100-05 – Rezoning – 8712 E. Winner Rd**

**Staff Presentation**

Brian Harker presented the case. Mr. Harker presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses. Mr. Harker reviewed the reasons staff does not recommend approval of this rezoning request, which include:

- 1) The applicant's requested (C-3) zoning would allow a much broader array of uses (particularly intensive commercial and light industrial type uses) than just the requested heavy truck repair use and the Comprehensive Plan envisions Residential Established Neighborhood uses;

2) The applicant anticipates no new building construction and the applicant's intended use cannot be conditioned by the zoning to include restrictions and the needed modifications to the unimproved property. Property modifications such as but not limited to required parking, drive entrances over sidewalk, storm water mitigation, fire protection, and environmental protections required by City Code could only be enforced by a Business License permit, Change of Use permit and any other permit issued by the City.

In response to Commissioner Nesbitt's question, Mr. Harker stated he does not know the zoning of the western portion of the lot that is in Kansas City, Missouri. Mr. Harker stated he spoke with someone in Business Licensing in Kansas City, who stated they were okay with the proposed use on their portion of the lot.

#### **Applicant Comments**

Josph Saitta, 10606 N. Willow Avenue, Kansas City, provided the Planning Commission with a handout. He reviewed the document which included a map showing the surrounding area and what businesses are located in the area. The packet also included pictures of the other properties in Independence he has purchased and rehabbed. Mr. Saitta said the property has been vacant for two years because it is hard to find tenants for that area. He stated he does mobile maintenance on semi-trucks, and just needs a place to bring the trucks while he works on them. Mr. Saitta noted the trucks would not be parked outside in Independence, they would be parked on the Kansas City side of the property or inside the building in Independence. He has owned this property for 15 years and says it has been in automotive use for some of that time.

#### **Public Comments**

No public comments.

#### **Commissioner Comments**

In response to Commissioner Nesbitt's question, Mr. Harker stated the current zoning is C-2 so light auto repair would be allowed. It is the heavy automotive that includes working on semitrucks that would require the C-3 zoning.

Commissioner Nesbitt stated he believes this is a good project and would fit with the surrounding businesses. Commissioner Nesbitt asked if paving the parking lot and other improvements could be tied to the rezoning. Mr. Harker stated those improvements could be tied to the business license approval, but not to the rezoning.

Chairwoman McClain expressed concern that if for some reason Mr. Saitta sells the property, the C-3 zoning in that area could allow uses that would not fit the area or the City's Strategic Plan.

Commissioner Michell stated Kansas City has their portion of this property zoned B-3 which is a combination of business and residential. In response to Commissioner Michell's question, Mr. Harker stated the City's concern is not only with the improvements that need made to the property, but also to the use of the C-3 zoning.

Mr. Arroyo noted the City has several issues with this proposed zoning. He stated this is a major corridor coming into the city and a C-3 use does not fit with the Comprehensive Plan.

Commissioner Young stated he does not believe the Comprehensive Plan lines up with what is realistic for that corridor.

### **Public Comments**

Chairwoman McClain re-opened the public hearing for additional comments from Mr. Saitta.

Mr. Saitta stated he will gladly re-pave the parking lot and add a handicap parking spot. He said with a tenant, he will have rent funds to improve the property.

### **Commissioner Comments**

Assistant City Attorney Rich Wood stated the problem with conditions on a rezoning is that there is no way to enforce those conditions. Mr. Wood said it may be possible to place conditions on the business license, but the City would need additional time to ensure it's possible to enforce.

Mr. Arroyo noted the City is not only concerned about the parking lot and accessible parking. He said the City is also concerned about the fire protection system, the stormwater mitigation and have environmental concerns for items like grease separators that would be required for businesses in a C-3 zoning.

Commissioner Michell asked if conditions were placed on a business license pertaining to this rezoning, would those conditions apply to all businesses that would ever go in this property, or if it would only apply to Mr. Saitta. Mr. Arroyo stated if Mr. Saitta sold the property, those conditions would no longer apply, and any type of C-3 business would be allowed on that site.

Commissioner Michell stated he agrees with Commissioner Young, that the Comprehensive Plan does not account for the type of businesses that are currently there. Mr. Arroyo noted there are C-2 uses allowed in that corridor, which include the light auto repair and does not allow outside storage of vehicles.

Mr. Young noted the Planning Commission typically should not be concerned about what business is slated to go into a property. He said the Planning Commission should be looking at the land use and if it is appropriate for that area, now and in the future.

### **Motion**

Commissioner Nesbitt made a motion to approve Case 22-100-05 with a condition on the business license, that all City codes must be met.

Mr. Wood noted he will have to work with the Community Development Department to see if placing a condition on the business license is enforceable.

Commissioner Michell asked if the City Council would be made aware of new information determined by the Community Development Department and the Assistant City Attorney, or if they would only see that the Planning Commission recommended approval of this rezoning. Mr. Arroyo stated the City Council would see that the Planning Commission recommendation and would not necessarily see new information determined by staff.

Chairwoman McClain suggested the case could be continued to give staff time to see if conditions on a business license would be enforceable. Commissioner Michell stated he agrees that the case should be continued.

Commissioner Nesbitt withdrew his motion to approve Case 22-100-05.

Staff confirmed Mr. Saitta is okay with continuing this case to the July 12, 2022, Planning Commission meeting.

Commissioner Nesbitt made a motion to continue Case 22-100-05 to the July 12, 2022, Planning Commission meeting. Commissioner Michell seconded the motion. The motion passed with five affirmative votes.

### **Case 22-175-01 – UDO Amendment #53 – Mini Storage Special Use Permit**

#### **Staff Presentation**

Rick Arroyo presented the case. Mr. Arroyo stated the current UDO makes no distinction between outdoor and indoor Residential Storage Warehouses. This amendment would update terminology and definitions around self-storage facilities, implement new minimum standards for both indoor and outdoor self-storage facilities, and allow indoor self-storage facilities as a Special Use in C-2, General Commercial, zoning districts. Mr. Arroyo outlined each of the amendments proposed.

In response to Commissioner Nesbitt's question, Mr. Arroyo stated this would not effect the current mini-storage facilities.

In response to Commissioner Michell's question, Mr. Arroyo confirmed indoor storage facilities will be allowed in C-2 zoning districts with a Special Use Permit and both indoor and outdoor storage facilities will be allowed in C-3 zoning districts.

#### **Public Comments**

No public comments.

#### **Commissioner Comments**

Commissioner Michell stated he believes this is a good change and would like to see more indoor storage facilities compared to outdoor facilities.

#### **Motion**

Commissioner Nesbitt made a motion to approve Case 22-175-01 – UDO Amendment #53 – Mini Storage Special Use Permit. Commissioner Michell seconded the motion. The motion passed with five affirmative votes.

### **OTHER BUSINESS**

#### **Case 22-310-02 – Preliminary Plat – Little Blue Estates - Jackson Drive & Necessary Road**

#### **Staff Presentation**

Brian Harker presented the case. Mr. Harker presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses. Mr. Harker outlined the following conditions:

1. Addresses will be assigned at the Final Plat stage;
2. Indicate on the Final Plats the locations of any subdivision entrance signage.
3. Provide dimensioned lines for all lines on the Final Plats;
4. Include the Detention Basin tract as part of Phase 1 of the development;
5. Remove site improvement commentary except for sidewalks from the Final Plat;
6. With Phase 1, Necessary Road shall be improved to a 24-foot-wide pavement with 4 foot shoulders.
7. With Phase 1, Quail Drive shall be extended south into the development after curving around Little Blue Elementary.

8. With Phase 1, include a set of covenants and restrictions to ensure the maintenance of the development's common elements and the integrity of the development.

In response to Commissioner Michell's question, Mr. Harker stated Tract A and Tract B would part of the first phase.

Mr. Arroyo clarified that the intension is that the detention pond and the amenities are part of Phase 1 of the project. He noted that a good portion of the roadway infrastructure would have to be in place.

#### **Applicant Comments**

Kevin Stallings, 5282 NE Ashgrove Court, Lee's Summit, stated this project came to him about a year ago. He stated the school district owns this property and they have an issue recruiting good teachers because of a lack of good housing in Independence. Mr. Stallings said they want to keep the housing as affordable as possible and stated one of the most requested amenities is a swimming pool. He stated while talking to the school district, they determined administrators and teachers that have a second household income will be able to afford these houses. Mr. Stallings stated the detention pond would be in Phase 1 and the swimming pool would be in Phase 2. He stated Blue Ridge Bank & Trust has agreed to finance this project.

Commissioner Young if the district owns this property. Mr. Stalling confirmed they have owned this property for a long time. He said the property was appraised and he is under contract to purchase the land from the school district.

In response to Commissioner Nesbitt's question, Mr. Stallings stated they confirmed with the school district that administrators and those schoolteachers with a second household income will be able to afford these houses. Mr. Stallings also noted with the proposed developments in the Little Blue Valley, he believes that project will also produce a need for more housing in this area.

In response to Commissioner Nesbitt's question, Mr. Stallings discussed his plan for the trees in the area. He stated he plans to keep as many trees as possible and they will continue to line Necessary Road and will remain on the bluff.

Mr. Stallings noted the school district will keep the property to the east with the expectation that a new high school will be needed in the future.

In response to Commissioner Nesbitt's question, Mr. Harker stated there would not be sidewalks on Necessary Road. Mr. Stallings noted there will be sidewalks on Quail so kids will be able to walk to school. Mr. Arroyo stated Necessary Road is needed as a second access point to this development. Mr. Stallings said there will be a Homeowner Association for this development.

#### **Public Comments**

No public comments.

#### **Commissioner Comments**

Chairwoman McClain stated she believes this is a great project for Independence.

Commissioner Michell stated he would like to have an additional condition that states that Tract B, with the pool, will be part of Phase 2.

### **Motion**

Commissioner Michell made a motion to approve Case 22-310-02 – Preliminary Plat – Little Blue Estates - Jackson Drive & Necessary Road, with conditions as outlined by staff and the added condition as discussed. Commissioner Nesbitt seconded the motion. The motion passed with five affirmative votes.

### **Case 22-310-03 – Preliminary Plat – Timber Creek Ranch – 23500 E. Bundschu Road**

### **Staff Presentation**

Stuart Borders presented the case. Mr. Borders presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses. Mr. Borders outlined the following conditions:

1. Addresses will be assigned during the final plat stage for each phase.
2. Half-street improvements are required for Bundschu Road in conjunction with the construction of Phase 3. Improvements will include road widening and installation of sidewalk.
3. A stormwater report for the existing detention basin with all drainage areas will be required with final plat. Existing detention shall meet current engineering criteria and discharge flows or new detention will be required.
4. Show stream buffer on final plat. It is a second order stream with a 105-foot buffer.
5. Connection of Old Mill Road to Regency Heights is required.
6. A set of water main extension plans will need to be submitted to the City Water Department for approval before any water main construction may begin.

### **Applicant Comments**

Todd Polk, CFS Engineers, 1421 E. 104<sup>th</sup> Street, Kansas City, stated Mr. Pollard was not able to attend, but he is available for any questions. Mr. Polk stated since Regency Heights has completed their connections, they are able to move forward with this project at this time.

In response to Commissioner Michell's question, Mr. Polk stated Phase 6 was on their original preliminary plat, but since it is all in the buffer zone, it will not be developed.

Commissioner Michell stated he would like to see an added condition that the preliminary plat removes all references to future development on the east parcels.

### **Public Comments**

No public comments.

### **Motion**

Commissioner Michell made a motion to approve Case 22-310-03 – Preliminary Plat – Timber Creek Ranch – 23500 E. Bundschu Road, with conditions as outlined by staff and the added condition as discussed. Commissioner Nesbitt seconded the motion. The motion passed with five affirmative votes.

### **ROUNDTABLE**

Chairwoman McClain directed staff to investigate the Planning Commission's ability to place conditions on Case 22-100-05.

### **ADJOURNMENT**

*The meeting was adjourned at 8:07 p.m.*