

MINUTES
CITY PLANNING COMMISSION

Minutes of the City Planning Commission meeting held March 28, 2013, in the City Council Auditorium, City Hall, 212 SW 9th Street, Lawton, Oklahoma.

The agenda for the meeting was posted on the bulletin board in City Hall in compliance with the Oklahoma Open Meeting Act.

The meeting was called to order at 1:33 p.m. by Chairman Pat Henry.

MEMBERS PRESENT: Jim Nisbett
 Dave Davison
 David Denham
 Pat Henry
 Neil Springborn

MEMBERS ABSENT: Harold Robinson (excused)
 John Jones (excused)
 John Pereira (excused)
 Charlotte Perkins (excused)

ALSO PRESENT: Richard Rogalski, Secretary
 Steven Greb, Assistant City Attorney
 John C. Mackey, Legal Counsel
 Debbie Dollarhite, Senior Planner
 Jackie Monette, Recording Secretary

MINUTES OF THE MARCH 14, 2013 MEETING

MOTION by Springborn, SECOND by Nisbett, to approve the minutes of the March 14, 2013 meeting as written. AYES: Nisbett, Davison, Denham, Henry, Springborn. NAYS: NONE. MOTION CARRIED 5 – 0.

CONSIDER ADOPTING A RESOLUTION SETTING THE PARKING STANDARD FOR NURSERY AND/OR GARDEN SUPPLY STORE.

A separate item on the agenda is a rezoning request for a nursery and/or garden supply store. In reviewing the site plan, Staff discovered the City Code did not address parking requirement for this type of use. Section 18-8-1-805E of the City Code provides for all uses not listed, the CPC shall establish the parking requirement.

In reviewing the parking requirements of other cities, the standards vary significantly. The following is a matrix summarizing the research. Staff recommends a parking standard of one parking space per 250 square feet of gross floor area of the building plus one space per 500 square feet of greenhouse and outdoor display area.

CITY	USE	PARKING REQUIREMENT
Broken Arrow	horticulture nursery sales	1 per 300 sf
Oklahoma City	retail	1 per 200 sf up to 12,000 sf
1 per 225 sf 12,001 - 48,000 sf greenhouse		1 per 1,000 sf up to 20,000 sf
1 per 5,000 greater than 20,000 sf		
Tulsa	garden supply store	1 per 225 sf + 1 per 600 sf outdoor display
horticulture nursery	None, but no retail sales allowed	
American Planning Association Planning Advisory Service lists the following parking requirement for cities of similar size to Lawton:		
Richardson, TX	nursery garden center	1 per 200 sf plus 1 per 500 sf of outdoor sales area
Costa Mesa, CA	nursery garden center	1 per 250 sf plus 1 per 500 sf of outdoor display area

MOTION by Denham, SECOND by Springborn, to adopt Resolution 13-01, setting the parking standard of one parking space per 250 square feet of gross floor area of the building plus one space per 500 square feet of greenhouse and outdoor display area for nursery and/or garden supply stores. AYES: Davison, Denham, Henry, Springborn, Nisbett. NAYS: NONE. MOTION CARRIED 5 – 0.

BEDROCK NURSERY, INC.

Rezoning from R-1 to C-4
1802 NW 67th Street

1. This request is for a tract which measures 400 feet by 156.36 feet (approximately 1.4 acres). The proposed use is a nursery and greenhouse. The most restrictive zoning classification in which a nursery and/or garden supply store is permitted is C-4.

2. The zoning of the surrounding area is:

North - R-1 (Single-Family Dwelling District) and C-1 (Local Commercial District)

South - R-1

East - R-1

West - C-4

3. The land use of the surrounding area is:

North - vacant

South - single-family residential

East - single-family residential

West - Lawton Academy of Arts and Sciences

4. The 2030 Land Use Plan designates this tract as Commercial. The current land use is a single-family residence.

5. Notice of public hearing was mailed on March 8, 2013 to 40 property owners within 300 feet of the requested area, and proper notice was published in *The Lawton Constitution* on March 12, 2013. No calls or letters either for or against the request have been received.

6. Staff has reviewed this request, and the analysis follows. The 2030 Land Use Plan does designate this tract as Commercial. The application and site plan state the only proposed use is nursery, greenhouse, and garden supply store. The Lawton City Code does not specify a parking requirement for this type of use. A separate item on the agenda is to establish a parking standard. Staff recommends opening the public hearing and then continuing the public hearing to April 11, 2013, to allow the applicant an opportunity to revise the site plan to meet the parking requirement, to accurately show the dimensions of the tract, and to insert a box clearly stating the proposed use.

This analysis is based upon criteria set out in Title 11, Sections 43-102 and 43-103, Oklahoma Statutes.

1. *To lessen congestion in the streets.* Northwest 67th Street is a 5-lane minor arterial which was reconstructed within the last three years.

2. *To secure from fire, panic, and other dangers.* This tract is not located within the 100-year floodplain. All building code and City Code requirements must be met during the construction of all buildings including stormwater storage and drainage system improvements.

3. *To promote health and the general welfare.* All construction will have to meet all City Code and building code requirements.

4. *To provide adequate light and air.* All setback requirements and height restrictions must be met.

5. *To prevent the overcrowding of land.* The maximum lot coverage for buildings in the C-4 district is 60 percent.

6. *To promote historical preservation.* This criterion does not apply.

7. *To avoid undue concentration of population.* This criterion does not apply.

8. *To facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.* Adequate infrastructure is provided to this site: NW 67th Street is a five-lane minor arterial in very good condition, and water and sewer are available to this site.

9. *To conserve the character of the district and buildings and encourage the most appropriate land uses.* The 2030 Land Use Plan designates this tract as Commercial. It is appropriate for commercial businesses to be located along arterials. Some C-4 uses would not be compatible

with the single-family residential to the south and east; however, the only use that would be allowed per the binding site plan is nursery and garden center.

The Lawton City Code does not set out the parking requirement for a nursery and garden center; therefore, in accordance with Section 18-8-1-805E of the City Code, the City Planning Commission shall establish the parking standard. Once the parking standard is established, the site plan may need to be revised to meet the parking requirement.

The site plan indicates the existing house will be used as a retail store and a greenhouse will be added. The does not accurately reflect the dimensions of this tract. During the reconstruction of NW 67th Street, the eastern 17 feet was deeded to the City for additional right-of-way. Also there is a 15-foot permanent easement along the south property line of this tract which is not shown. The site plan needs to be revised with the accurate dimensions and showing all easements. These revisions will affect the layout of the parking spaces.

Based upon these facts, it is recommended that no action be taken until a revised site plan which meets all of the requirements has been submitted.

Rogalski stated that, with the Resolution just passed by the Commission, the required parking for the structure and greenhouse would be twenty-four spaces. He stated that a new site plan was submitted late this morning, but it hasn't been reviewed by Staff yet. He added that the lot of fairly large, and any outdoor display area would require additional parking.

Chairman Henry stated that a request for C-4 zoning creates the same issue that happened when the proposed use of an indoor archery range was submitted for an adjacent lot. She stated that it creates the concern that, in the event that this business closes, other more intense C-4 uses could possibly relocate to the property. She added that there are many C-4 uses that are not compatible with single family residential property.

Rogalski stated that the site plan submitted with the rezoning request is only for the one use of a nursery and greenhouse. He stated that the binding site plan restricts any other use for anyone. He added that recording a certified copy of the ordinance with the binding site plan would insure that it would be found during the course of an abstract done on the property.

Commissioner Nisbett stated the property to the north has already been rezoned to C-1. He stated that a florist is already permitted in the C-1 zoning district as long as there is no greenhouse or outside displays. He asked why a nursery and greenhouse couldn't be added as an allowable use in a C-1 zoning district, because the additional uses aren't that intense.

Rogalski stated that the Code change can be done. He added that he would like to see a nursery and greenhouse be allowed in a C-1 zoning district as a Use Permitted on Review.

Commissioner Denham asked why a nursery was put in a C-4 zoning district.

Dollarhite stated that it was moved from the C-5 zoning district to the C-4 zoning district in 2008.

Rogalski stated that placing it in a C-1 zoning district with a Use Permitted on Review would still allow a little more oversight when the property is adjacent to residential property.

Chairman Henry opened the public hearing and requested anyone desiring to speak on this item to please come forward.

Chairman Henry stated that she had received a call from Cyndy Barnes and was told that there is a petition signed by at least forty of the residents in the general vicinity.

Cyndy Barnes, 6703 NW Westaire Circle, stated that she is there representing fifty-four property owners in the area that are against a rezoning for C-4 zoning. She stated that there is concern that, should Bedrock Nursery sell the property, a future buyer could put a more intense C-4 allowed business at that location. She stated that the property has a fairly significant north to south slope, and she is concerned about potential flooding or loss of water pressure. She stated that she also has some concerns about lighting and noise, because the nursery would be right by her backyard. She stated that she has no problems with the property being changed to a C-1 zoning district, but she does not want to have the property in a C-4 zoning district.

Chairman Henry stated that some of the signers of the petition were on the other side of 67th Street and possibly not in the 300-foot area.

Rogalski stated that Staff would look over the list to confirm the percentage of property owned by the signers of the petition to determine if it would require a super majority vote at City Council.

Ms. Barnes stated that it would be easier for more residents to attend the City Council meeting, as it is held in the evening.

Commissioner Denham asked Ms. Barnes if she would be in favor of a nursery being adjacent to her property if that use would be allowed in a C-1 zoning district. He stated that the lighting shouldn't be an issue, because city Code has been modified to protect residential property owners from light trespass on adjacent commercial properties. He added that flooding from runoff should not be an issue, because all development has to have required detention to see that no increased flooding issues arise. He asked Ms. Barnes if she and her neighbors would support the applicant's request for C-1 zoning if the nursery were allowed in that zoning district with a Use Permitted on Review.

Ms. Barnes stated that they would be in favor of that request.

Dennis Totte, applicant and owner of Bedrock Nursery, stated that Staff recommended that he apply for C-4 zoning with only one use shown on the site plan because C-1 zoning would not allow the display and sale of outdoor goods. He stated that there is a 15' x 400' concrete drainage canal that runs along the south side of the property. He stated that he doesn't think the property owners that are objecting to the C-4 zoning are not taking into consideration that the nursery and greenhouse would be the only use allowed for the property.

Commissioner Denham asked Mr. Totte if he would object to the suggestion that the nursery and greenhouse use be added as a Use Permitted on Review in the C-1 zoning district. He added that Staff had to recommend the C-4 zoning district at the time of his application, because that is the district where this use is allowed.

Mr. Totte stated that he would have no objections if C-1 zoning with a Use Permitted on Review would work for his business.

Commissioner Denham stated that he understands that the residential neighbors are concerned that the possibility of a purchaser of the property twenty or thirty years from now would push for the other uses in the C-4 zoning district.

Mr. Totte stated that he understands the neighbors' concerns and would have the same concerns, but he doesn't think that they understand that the only use for the property would be for a nursery and greenhouse.

Commissioner Nisbett asked Mr. Totte if there would be any possibility that a greenbelt would be constructed between the nursery and the R-1 zoned property to the south of the nursery. He added that some type of evergreen tree barrier between the commercial and residential property would help shield the residential properties from noise and trash.

Mr. Totte stated that he has been made aware that there will have to be some sort of fencing or other barrier separating his property from the residential property.

Rogalski stated that Code requires opaque screening to be installed on the north and south ends of the property. He added that landscaping can be used as a form of opaque screening.

Chairman Henry asked Counsel what would happen to the time frame for the applicant if the CPC recommends C-1 zoning with restrictions.

Rogalski stated that the first step would be for an administrative change to the City Code to allow a nursery and greenhouse in the C-1 zoning district as a Use Permitted on Review. He stated that a code change requires a fifteen-day notice, and Staff can put in a double notice for the code change public hearings for CPC and City Council. He stated that there will also be a required 20-day notice for a public hearing for the rezoning request at City Council. He stated that, with these time frames, the code change and rezoning request would be brought before the City Council on the same date. He added that the public notice for the UPOR would be ten days and could be coordinated to come before the CPC two days after the rezoning goes after the City Council.

Chairman Henry asked Mr. Totte if he understood that this potential solution to his rezoning request would really only delay the process by one meeting date.

Mr. Totte stated that Staff explained to him that he would have to apply for C-4 zoning for his business.

Rogalski stated that Staff's direction was based on what was available to Mr. Totte in City Code as it currently reads. He added that the only delay would be a couple of weeks, as there are still issues with the site plan that would inhibit the CPC from acting on his request until the next regular meeting on April 11th.

Mr. Totte stated that he did have a revised site plan submitted earlier today that had a total of twenty-five parking spaces.

Rogalski stated that it was submitted today, but Staff didn't have time to review it. Rogalski stated that he did notice that there was no outdoor display area shown on the site plan and asked if there would be outdoor display at that location.

Mr. Totte stated that they don't have plans for it at this time.

Rogalski stated that the site plan approved is binding. He added that, if outdoor display was added at a later date, the applicant would have to go through the same process as a rezoning to get the revised site plan approved. He explained to Mr. Totte that the parking requirement would be increased if outdoor display area is added. He added that these potential issues are why it is so important for the site plan to be correct.

Greb asked if the applicant would have to apply for a UPOR if the rezoning is approved as C-4 with only the one use as stated on the site plan, but a subsequent Code change allows the business in a C-1 zoning district with a UPOR.

Rogalski stated that the applicant would not have to apply for a UPOR if the rezoning to C-4 with a binding site plan is approved.

Chairman Henry asked what kind of time delay the applicant would suffer if the process moves forward to begin a Code amendment to allow a nursery and greenhouse in a C-1 zoning district with a UPOR.

Rogalski stated that it would only be about two weeks, more or less. He stated that there are a few critical issues that need to be addressed before the CPC should act on this rezoning. He stated that there are still issues with the binding site plan, as it does not show any outside display area, which would require additional parking. He added that it would be difficult for the CPC to approve the applicant's request when the binding site plan is incomplete.

Mr. Totte stated that they will have the site plan revised.

Chairman Henry asked if the business would have the same kind of beautiful landscaping along the street like their location on Lee Boulevard.

Mr. Totte stated that they were going to do the same type of landscaping along the street.

Chairman Henry told Mr. Totte that his site plan should include that as well.

Commissioner Nisbett stated that Mr. Totte, if he wants to put trees and any outdoor display in the future, should put that area on the site plan so that it can be approved in a complete form.

Kurt Scroggins, 6707 NW Westaire Circle, stated that he had two concerns. His first concern was about the drainage canal. He stated that the concrete canal is not complete and doesn't connect, and there are areas where vegetation has grown over the canal. He stated that, even with light rain, there is still standing water for several days. He asked how the applicant can guarantee that the amount of drainage would not increase.

Rogalski stated that Code requires that an engineer calculate the amount of runoff to ensure drainage does not increase after the new development.

Mr. Scroggins asked about water draining after the business waters their plants.

Rogalski stated that the business owner would probably not want to over-water the plants, as it would increase their water utility bill and be a waste of water.

Mr. Scroggins stated that his second concern is the possibility of loss of water pressure.

Rogalski stated that there are a lot of very large lines that go through that area. He stated that there is a ten-million gallon water tower just around the corner and a couple of water pump stations.

Mr. Scroggins asked if there would be exterior lights.

Rogalski stated that current City Code states that any lights can only have 0.01 ft candles of light trespass on adjacent property. He stated that Staff does have meters to register the amount of light on your property. He added that a typical parking lot gives off 2-5 foot candles of light, so 0.01 foot candles would be extremely dim.

Chairman Henry asked that the property owners put their concerns in writing, as the petition only states that they don't want C-4 zoning.

MOTION by Springborn, SECOND by Nisbett, to continue the public hearing at the April 11, 2013 meeting. AYES: Denham, Henry, Springborn, Nisbett, Davison. NAYS: NONE. MOTION CARRIED 5 – 0.

HOLD A WORKSHOP TO DISCUSS AND CONSIDER THE CONSOLIDATED ONE-YEAR ACTION PLAN FOR FFY 2013, AND DISCUSS INPUT FOR DEVELOPMENT OF THE PLAN.

a. The Citizen Participation Plan requires a public hearing before the City Planning Commission (CPC) and City Council to consider the 2013 Consolidated One-Year Action Plan. The hearing is to obtain input from Lawton citizens and the members of the CPC for development of the final plan. The public hearing will be held at the meeting on April 11, 2013

b. The Consolidated One-Year Action Plan for FFY 2013 allocates funds for the program year beginning July 1, 2013 and ending June 30, 2014. It also describes the projects approved to implement the Consolidated Plan strategy. The proposed changes affect both the Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) programs. The Consolidated One-Year Action Plan Workbook was included in the meeting packets. Included in the Workbook are the agencies and organizations requesting funding for the fiscal year. HCD recommendations for funding are included in the plan as Funding Options.

Tim Libby, Director of Housing and Community Development, gave a presentation to the Commission on the Consolidated One-Year Action Plan for Federal Fiscal Year 2013. He stated that he did publish that a public hearing would be held at today's meeting as well as the next Planning Commission meeting, should the Commission want to hold the public hearing today. He stated that his Division followed the same grading system as last year. He stated that there were some flaws, but, for the most part, this system seems to work best. He stated that funds were divided based on the grading schedule based on top priorities of the community. He stated that the maximum an applicant can request is \$25,000.00.

Libby stated that the amount of funds received for the HOME Program get reduced by any new cities that enter into the request for those funds. He stated that there is \$145,297 allotted to the Housing Rehabilitation, \$100,000 to the Emergency Repair Program, and \$50,000 to the Exterior Housing Improvement Program.

Libby stated that there was \$102,548 available for the charities that submitted applications. The top priority, allotment percentage and dollar figures for the applicants are as follows:

1. Roadback (Drug & Alcohol Management/Recovery) 22.5% \$25,000
2. Marie Detty (New Directions Women's Shelter) 21.0% \$21,147
3. Christian Family Counseling (Counseling Assistance Project) 19.5% \$17,946
4. Teen Court (Delinquency Prevention) 19.0% \$14,100
4. C. Carter Crane Shelter (Homeless Shelter) 19.0% \$14,100
6. Family Promise of Lawton 16.0% \$10,255

Libby stated that there were only six applicants this year, and all received funding. He added that the total amount may increase if the funding to the CDBG program increases.

Libby stated that, under the HOME Funding Requirements, the City of Lawton still has no Match Requirement because of its designation as a community in fiscal distress. He stated that CHDO funds were set aside for Habitat for Humanity last year, but weren't used, so the program lost that \$55,000.00. He stated that he will not set aside funds for them for that purpose in the future. He stated that there are funds in the amount of \$194,235 for Homeowner Rehabilitation and \$45,000 for the First-Time Homebuyer Program. He added that there haven't been any qualified applicants for the First-Time Home Buyer Program in the recent past, but there is one applicant that is currently getting ready to close.

Commissioner Denham asked if the \$55,000 that was lost under the program went back to the Federal Government and, if so, if it would affect the current year's funding.

Libby stated that it did go back to the Federal Government, but that it doesn't affect funding for the current or future years.

Commissioner Denham asked how the top priorities are determined.

Libby stated that a Community Needs Assessment was submitted to the City Council in 2010. He stated that the top 10 needs were determined through that process. He stated that a new survey would be sent out next year to the public service companies in the community to determine a new needs assessment.

Chairman Henry asked if the First Time Home Buyer funds are lost if they are not used.

Libby stated that those funds are carried forward. He stated that the HOME Program requires that the funds are committed within two years and spent within five years. He stated that, if the funds aren't used within five years, they would go back to the Federal Government. He stated that they receive notice within six months of the five year expiration, and they have never lost those funds.

Commissioner Davison stated that he was not familiar with Family Promise of Lawton and asked about their organization.

Libby stated that local churches provide food and shelter for homeless families for a week at a time. He stated that it is not contingent on the families worshipping or belong to the church. He stated that this is a national organization.

Chairman Henry asked if a public hearing could be held when the agenda did not specify a public hearing at this meeting.

Legal Counsel determined that a public hearing could not be held today, because it was not reflected as such on the meeting agenda.

Chairman Henry invited any of the applicants in attendance to speak about their organizations and funding.

Marsha Frazier, Director of Teen Court, stated that they had asked for an increase in funding this year. She stated that Lawton Public School System has changed their policy and will no longer arrest juveniles for possession of marijuana on their person or in their locker. She stated that it is a good thing that the children aren't arrested, but there is also no mandate for education on the subject. She stated that they are sent to SAC (Student Adjustment Center) for forty-five days. She stated that the students sit in a cubicle all day long. She stated that they can do their homework, if their parents choose to get the assignments from the school, but no instruction is given to the students. She stated that she spoke to LPS Administration and then met with each principal of the middle and high schools to request that the parents are referred to Teen Court to educate their children on drug usage and the consequences of drug usage, free of cost. She stated

that all of the principals have agreed to refer the students and their parents, but the parents aren't contacting Teen Court. She stated that she's looked into getting their organization into SAC to educate the students on conflict resolution, anger management and substance abuse. She stated that it will cost their organization \$1,700 per month to educate thirty kids per month. She stated that 70% of the kids involved are from low income families.

Chairman Henry stated that she knows some parents that would be interested in helping with this matter. She stated that she will contact them and have them talk to the school board and the President of the PTA about this matter.

COMMISSIONERS' REPORTS OR COMMENTS

Commissioner Springborn asked if anything will be done about signs for businesses that are no longer in business.

Rogalski stated that it is a zoning violation if the sign isn't removed within a certain amount of time.

Commissioner Springborn stated that there was a steakhouse near Atwoods that closed down over fifteen years ago, but the sign is still there.

Chairman Henry stated that the old Gibson's building has an exemption from removing their sign. She stated that some signs are the only thing keeping people from being able to enter the building.

SECRETARY'S REPORT

Rogalski stated that he would be out of the office next week, so feel free to contact Debbie Dollarhite with any issues.

AUDIENCE PARTICIPATION

None.

Meeting adjourned at 3:04 p.m.

Pat Henry, Chairman
City Planning Commission