

CITY PLANNING COMMISSION

WAYNE GILLEY AUDITORIUM

October 10, 2024

Minutes of the City Planning Commission meeting held October 10, 2024, in the Wayne Gilley 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 1:30 p.m. by David Denham.

ROLL CALL

MEMBERS PRESENT

David Denham
Melissa Busse
Ron Jarvis
Deborah Jones*
Allan Smith
Darren Medders
Michael Logan
Neil Springborn

MEMBERS ABSENT:

Joan Jester (excused)

ALSO PRESENT:

Christina Ryans-Huffer, Recording Secretary
Christine James, Planning Director
John Ratliff, City Manager
Kameron Good, Senior Planner
Robert Burns, Planner I
Kim McConnell, Lawton Constitution

*arrived at 1:34 pm

The meeting has established a quorum and was posted according to the Oklahoma Open Meeting Act, 25 O.S. 301-314.

OLD BUSINESS

None

NEW BUSINESS

1. **Consider approving the minutes from the regular scheduled meeting from September 26, 2024.**

Motion by Springborn, Second by Logan to approve the minutes from the regular scheduled meeting from September 26, 2024 as written **Aye:** Denham, Busse, Jarvis, Smith, Medders, Logan, Springborn **Nay:** None **Motion Passed 7-0**

2. **Consider holding a public hearing and recommending approval of an ordinance modifying Section 18-1-1-110, by declaring that temporary zoning classifications established prior to January 1, 2007 will be grandfathered as permanent zoning classifications as of December 1, 2024 and establish that any new annexed property will receive a zoning recommendation from the City Planning Commission as part of the annexation process and allowing for floor amendments if necessary.**

During the current fiscal year, the Planning Department planned to identify all of the properties with temporary zoning classifications and then request, as part of the FY26 budget process, funds to cover the cost of the notices. Temporary zoning classifications have been found to go back to at least the early 1990s, so there are potentially several properties with temporary zoning classifications. Upon review of state statute, staff felt that the properties with temporary zoning classifications could be administratively converted to permanent zoning classifications with a simple code change since the underlying zoning classification would not change. This would prevent the need to identify each specific property and then mail and post notices. This has the potential to save the city several hundred dollars. The Legal Department agreed with this assessment and therefore the attached ordinance is proposed.

Any future annexations will require the City Planning Commission to recommend a zoning classification as part of the annexation process.

The Notice of Public Hearing was published in the Lawton Constitution on September 22, 2024.

James stated as you are probably aware, when a piece of property gets annexed into the City historically it has been the practice to tag it with a temporary zoning. Current Code says you have a year for the Planning Commission to evaluate the property and bring it back and establish a permanent zoning district. Those haven't been done in a long, long time, and some of them go back to the 80s and early 90s and where we can never find a

Resolution or Ordinance updating the temporary zonings to permanent zonings the underlying zoning does not change. If it was temp A-1, all the A-1 rules have been enforced since the temporary zoning district was established. After talking with the attorney's office, we thought it would be just a simple approach and it would be a lot simpler to just do a Code change, grandfathering all the temporary zoning districts to permanent. I picked the date of January 1st, 2007, because that's pretty much when the last bulk of annexations happened. The only two annexations we've done since then were the property down at the landfill and the property out at Southwest Bishop Road. So those were the only two. Those were kind of in the works right now that are rezoned and pick that date as of December 1st of 2024, which would give the Ordinance 30 days after hopefully getting blessed by Council and to go into effect and that would just be a good drop dead date to grandfather everyone in clean all that up and that would save the City tons and tons of money without doing notices and stuff like that. But really the zoning districts aren't changing. It's just really a cleanup. So that's what we've decided to do. And the Attorney's office has blessed off on it and so we have the proposed Ordinance. I'm happy to answer any questions.

Denham asked how many properties do you think this entails?

James stated hundreds.

Denham asked any further questions of Christine? Hearing none, I'll go ahead and declare the Public hearing open. Anybody wanting to speak for or against this ordinance modification, please approach. Seeing no one approach, we will go ahead and close the Public hearing. Members of the Commission, what's your preference?

Jones asked the purpose stated in the Agenda Item Commentary is to save the City money, is that correct on the City's part?

James responded it's definitely a benefit, but not the not the reason.

Jones stated when we annex, I've seen us annex up to 120, a 160 acres, we might have 40 owners in that area. And you want from what I'm reading, you want to make a recommendation about 40 pieces of property to the Council as to what the permanent zoning should be, is that correct?

James responded no. Well, it's a two-part ordinance, part of it is cleaning up all the old Temp zonings and turning them to Permanent dropping that Temp tag and any annexations going forward we would do a rezoning and annexation combined together so that would force the just have to follow the rules for the rezoning have to come through CPC and to get a recommendation and go forward. So, at that time, if there was multiple pieces of property, we could break those up and do them individually with the annexation.

Jones asked does the owner fill out an application consenting to that rezoning?

James asked at the time annexation?

Jones asked at the time that you recommend zoning, have they filled out an application?

James responded we annex a new pieces of property that will be part of that, that whole process, whether it's a request from the property owners or if it's a forced annexation on the City. So, if you can annex two different ways and then we'll cross that bridge and say, you know, evaluated at CPC and go through that as far as tagging your permit zoning with it, with the annexation.

Denham stated can I just interject something first. Now we're annexing the property. We're not rezoning anything. We will be zoning something because it isn't ours anyway. It doesn't have an existing zone.

Jones responded well, that's the question I'm raising.

James stated that's correct.

Denham responded so it's just basically we're annexing and assigning a zoning label on to that.

Jones stated that's the Temp zone.

Denham responded we're getting rid of Temp. We're getting rid of Temp.

James stated yes, we're getting the ideas to get rid of Temp so the Code says Temp R-1 and so most of the Temp zonings out there are not R-1. So, someone has evaluated that and said it needs to be A-1 or I-4 or something, so there's an evaluation happening before the annexation of some kind, because it wasn't R-1 per the Code. And so instead of the annexation rules for State Statute doesn't include zoning. So, we're going to add it to our City Code that says if you're going to annex, we're going to evaluate it at that time, run it through the zoning process and get a permanent zoning on it at that same time then they don't have to touch it again until someone else wants to re-zone.

Jones responded Christy, if you have a Land Use Plan which the Statute requires that you evaluate your Land Use Plan prior to putting on zoning of any, no matter who the applicant is and it's out of date. Now we have Staff come along and evaluate and come to some conclusion recommend to the Planning Commission, with or without the property owners consent and that recommendation eventually goes to Council, it can result in either an owner consented rezoning or Administrative rezoning. No notice is given?

James stated notice will be given if we establish zoning.

Jones asked to adjacent properties?

James responded yes because that's what happened with annexation. Annexation doesn't require the notice requirements that rezoning does.

Jones stated I know. Yeah, correct. So, I'm trying to separate the wheat from the sack. The reason you put Temp zoning on it is you don't know what the owner wants and unless the City owns it. You don't know what the surrounding property will develop as, particularly if you don't have current long range planning. So it's like there's a potential here for an Administrative rezoning that's in conflict with the property owner's wishes or the surrounding property owner's wishes.

James responded and I think that's where we would make sure we do the notices, there's a Public hearing and they have their right to come speak just like they would with any other rezoning.

Jones asked you don't think that the owner, if that were the case, would not think that was some kind of taking of their land?

James responded we haven't done any annexations since 07 since just this last two.

Jones stated I know. I understand, I understand when we need to annex for facilities, water plants and you know all of that kind of thing. And then you have parks and I understand how you want to change zoning on public land because parks are no longer needed and you want to put it on the market. But I think we're in really serious trouble if we're even contemplating doing an Administrative zoning without the owner's consent. I understand why you want to clean up what you got but I think moving forward, knowing what we know right now about long range plans and multiple ownerships and annexations that we should continue to put the Temp R-1 on and then as the property evolves and the property owners get involved as to what they think their property you know should be, then you put Permanent zoning on it, you go right through the same process. It doesn't save the City any money. I mean, the applicant pays for the application and the notice and the mailing.

James responded yes. So, I think we're just asking that we've done at the beginning and not a year or so down the line.

Jones stated I'm sorry I, ladies and gentlemen, I think property owners have vested property rights in the land they own and I don't think that the City needs to be administratively rezoning anything that they don't own or that isn't, let me just clarify that, for a public purpose.

James responded we can include, you know that the property owner be involved in that process. I assume that they would be involved in that process.

Jones stated I want them to consent to the process.

Denham asked can you annex other than an eminent domain annex property without the owner's consent?

Jones stated oh, we had it all the time.

James stated there's, there's two ways, there's a forced annexation and then that has its own set of rules and steps, and then there's requested annexation, and that has a different set of rules and process.

Jones stated we can draw a fence, David, and we have many times for industrial purposes. We draw fence and then the property surrounded by this imaginary fence and then we take it in. Then we just put, we used to put Temporary A-1, but now we're putting Temporary R-1 so that the property owners that are encompassed in that annexation. They keep all their rights, they come in for the rezoning when they want and I can't imagine doing this without certain.

Denham asked well, are we the ones that set the zoning or is it the applicant or the landowner?

James responded normally it's the applicant and I think there have been situation in the past where they have some Administrative zonings that have been done. I think those are pretty far and few between going back and looking at the database. We can always look at future plans for new annexations. We just don't do annexation very often. We haven't done strip annexations in almost 20 years.

Denham responded we're probably looking at more on the West Central properties that will eventually be annexed. I'm sure as they've come in, but they're more requesting that.

James stated yes. And potentially, you know, maybe on East side too, because we're just doing that nine mile sewer line. And so, I could see potential of that growing also. I mean you know Lawton is always going to grow one way or another.

Denham responded not north.

Jones stated the reason you haven't done annexations in 20 years is the State Law changed and when you draw a fence and you take it in, you have to provide infrastructure. And so, Lawton has said, well, we don't want to, you know, put out sewer or water when we don't need to. It's not imminent.

Medders asked so correct me if I'm wrong, where they've already have a Temp zoning and all we're doing is taking off the Temp. We're not changing zoning, so I think we're talking two different things here.

Denham responded it's a 2 part proposal. I mean it's, it's cleaning up the Temporary from the past right and then we're also doing the future.

Medders stated but before it's still being changed to another zoning, it's got to come through us anyways, so we're not talking.

Denham stated we're not rezoning anything.

Jones responded but it doesn't necessarily have to have the consent of the owner.

Smith stated but it's, but it's already zoned.

Jones responded when the city annexes in the Ordinance, there are two provisions in the Ordinance that it describes the area that's being annexed and the next paragraph says and the Temporary R-1 zone shall be placed upon this property. It doesn't take away any of the rights because it's Temporary. It doesn't run with the land. You don't run with the land until.

Denham stated but we are removing, with the part of this proposal is to remove that part of the Ordinance.

Jones responded yes I understand what she wants to clean up. The ones that were here when I was here. I don't have any problem with that. You can work with the owner on that. But in the future, if they if you annex and you end up with, I don't know, I've been involved in some where there were probably 100 owners. And some of them are really enacted grazing and they want to keep it, you know, A-1, some want to develop housing some want to you know, grow marijuana. I mean it. It just it's a myriad of wishes and each of those have property rights. So, I think they have to consent to it in the application, but as far as cleaning up, I'm all for cleaning up.

James stated yes and there's, you know, anything new would have a Public hearing. So all those property owners, adjacent property owners would have a two chances to come speak and put their opinion out there then it would be, you know, recommendation from CPC then it will go to Council. So, I think they would have an ample opportunity to be involved in that.

Jones asked and what if they disagree?

James responded just like anything else, that's up to the to the Board to decide what recommendation they want to

Jones asked no what about if we recommend no and the Council recommends yes. So, we do an Administrative rezoning, the Council?

James responded The Council, I think, has more power than CPC.

Jones asked it has more power than the property owner?

James stated that's a Legal opinion.

Jones responded you're right on the edge of the taking.

Smith asked so are we never supposed to annex anything in?

Jones stated oh no, we'll annex.

Smith asked but what if someone doesn't want you to? Is what you're saying.

Jones responded no, that's not what I'm saying. I'm talking about rezoning annexation is normally an action by a City and it does not require consent of the property owner. It just says you're now on the City Limits. It doesn't take away any of your activities if you're out there and you're a pig farmer, but let's say that at that point we get to this Ordinance and the Staff says, well, we think this whole thing should be residential. And the pig farmer comes up here and says, wait a minute, I've been pig farming for generations on this, and I don't agree with that. Why are you doing this to me? And let's say it goes to Council. Let's say we don't even recommend it, and it goes to Council and they do it anyway. You've now put the pig farmer out of business. Then he's going to take some action.

Denham asked what about where there's automatically going to R1 just.

Jones responded it's temporary R-1. It is not permanent zoning.

James stated very few of the annexations we found have actually been Temp R-1. A lot of them have been Temp A-1 which goes against the Code currently and so I mean that's the lowest zoning district that there is.

Denham responded every one of these properties goes against the Code because they weren't changed to permanent zoning after a years' time. So therefore, who is going to be the keeper of the clock or the calendar to show when we grant this Temporary R-1 or whatever Temporary we decide.

Jones stated I don't have any objection to going back to the old ones and changing them. You know the step.

Denham responded no, no, no, I understand that. But the bottom line is that would that's even pre me.

Jones stated the Code use to say A-1.

Denham responded but the point is, is it didn't get done and with that turnover this way, we won't have Temporary zoning going forward is what it sounds like me.

Jones stated you may not have Temporary zoning, but you may not have property owners in agreement with the Permanent zoning that you're recommending.

Denham responded but we have to recommend something.

Jones stated no we can leave it Temp.

Denham stated whether it's temporary or not, it's still a recommendation.

Jones responded amend the Code to take the one year out and just have it Temp R-1 until things develop and until you get a Land Use Plan that's current.

Denham responded because you won't have a, none of this will be on Land Use either because we don't do land use on Non-City property.

Jones stated no. Everything in the City limits on the Land Use Plan

Denham responded yes, City limits, not the annex property.

Jones responded no. Yes, yes.

Denham stated yes, once it's annexed. But we're talking about new property coming in that is not on our Land Use Plan.

Jones responded well, we don't know what's going to come in.

Medders stated how about I make a? Motion all right. I move to approve.

Motion by Medders, Second by Logan to recommend to the City Council approval of an ordinance modifying Section 18-1-1-110, by declaring that temporary zoning classifications established prior to January 1, 2007 will be grandfathered as permanent zoning classifications as of December 1, 2024 and establish that any new annexed property will receive a zoning recommendation from the City Planning Commission as part of the annexation process **Aye:** Jarvis, Smith, Medders, Logan, Springborn, Denham, Busse **Nay:** Jones **Motion Passed 7-1**

3. **Consider holding a public hearing and recommending approval of an ordinance modifying Section 18-1-1-114, by establishing notice requirements for medical and nonmedical detoxification facilities in accordance with Oklahoma State Statute which are more stringent than the existing notice requirements in Lawton City Code for other rezoning requests and allowing for floor amendments if necessary.**

The Planning Director recently found an Oklahoma State Statute that requires more stringent notice requirements for medical and nonmedical detoxification facilities than what is currently listed in our City Code. Currently, rezoning requests require that the property owners within a three hundred foot (300') radius of the exterior boundary of the request area be notified of the public hearing, but state statute states that for rezonings involving the use of treatment facilities, multiple family facilities, transitional living facilities, halfway house and any housing or facility that may be used for medical or nonmedical detoxification as these terms are defined pursuant to Section 3-403 of Title 43A of the Oklahoma Statutes, notice shall be given to the property owners within one quarter (¼) mile of the exterior boundary of the request area. The state statute also states that instead of the normal 20-day mailed notice to the property owners, that at least a 30-day notice is required for rezoning requests involving medical or nonmedical detoxification facilities. The 15-day newspaper notice is still required for all rezoning requests. This ordinance would bring City Code into compliance with Oklahoma State Statute.

The Notice of Public Hearing was published in the Lawton Constitution on September 22, 2024.

James stated that State Statute has a more stringent notice requirement as far as the number of calendar days and as for as distances from any facility that is proposed for a medical and non-medical detox facility. Those definitions are listed in the State Statute. I didn't write those, I just referenced those out of State Statute. So, instead of a 300 ft notice State Statute would require a ¼ mile for these facilities and instead of a 20 day mailing notice it would be a 30 day mailing notice. I think the intent is to protect the surrounding property owners and neighbors. This will let a wider area know that this type of facility is being proposed. So, this is just housekeeping to update our City Code to match State Statute.

Denham asked is all our other 300 feet requirements within State Statue and this is just carved out separately?

James responded that's what it looks like, yes.

Denham asked any questions of Christine? Is there any other questions? So, at this time, we'll go ahead and declare the Public hearing open anybody would like to speak for or against this change to the Ordinance please approach the microphone, meaning no one approach. I'll close the Public hearing. All right. I will entertain a motion.

Motion by Smith. Second by Medders to recommend to the City Council approval of an ordinance modifying Section 18-1-1-114, by establishing notice requirements for medical and nonmedical detoxification facilities in accordance with Oklahoma State Statue which are more stringent than the existing notice requirements in Lawton City Code for other rezoning requests **Aye:** Jones, Smith, Medders, Logan, Springborn, Denham, Busse, Jarvis **Nay:** None **Motion Passed 8-0**

Commissioner's Reports or Comments

None

Secretary's Report

James stated just to give everyone an update, the rezoning request for Pershing up there in Liberty Heights, Council denied that on Tuesday, so we did an action letter today that will go out to the property owners, letting you know that it had been denied and that if they want to re request a rezoning, they have to wait at least six months or they can seek legal counsel on possible next steps, so that letter will go out today. Acord Transportation that was the sewer line improvement that did get approved on Tuesday and then the rezoning and the amendment to the Land Use Plan for the property at 10925 SW Bishop Road right there at the corner of 112th and Bishop did get approved at Council on Tuesday.

Denham stated sure good that we gave the Council a good recommendation on Pershing by God so they could take action, so thank them.

Jones asked we used to get a list about once a month of Building Permits and then it ceased. Could we get that again?

James stated yes the Building Department send out the email and we will get this group added. We'll send out a weekly report.

Jones responded thank you.

Denham stated that would be good. Great. Mr. Ratliff, thank you for coming. Kim thank you for coming.

Audience Participation

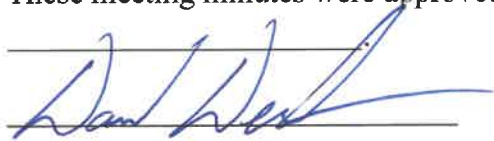
None

Adjournment

Motion by Medders. Second by Logan to adjourn the meeting all in favor **Aye:** Jones, Smith, Medders, Logan Springborn, Denham, Busse, Jarvis **Nay:** None **Motion Passed 8-0**

With no further business meeting was adjourned at 1:59 pm.

These meeting minutes were approved by the CPC members at their meeting on



David Denham

Chairman

City Planning Commission