

MINUTES
CITY PLANNING COMMISSION

Minutes of the City Planning Commission meeting held November 12, 2020 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 1:30 p.m. by Chairman David Denham.

MEMBERS PRESENT: David Denham
 Ron Jarvis
 Paula Bowen
 Neil Springborn
 Deborah Jones
 Dave Davison
 Darren Medders
 John Jones

MEMBERS ABSENT: None

ALSO PRESENT: Cindy Augustine, Planning and Subdivision Administrator
 Greg Gibson, Assistant City Attorney
 Richard Rogalski, Secretary
 Tammy Anderson, Recording Secretary
 John Mackey, Legal Counsel
 Michael Cleghorn, City Manager

CONSIDER APPROVING THE MINUTES OF THE OCTOBER 15, 2020, MEETING.

MOTION by Springborn, SECOND by Medders, to approve the minutes of the October 15, 2020 meeting. AYES: Jarvis, D. Jones, Davison, Denham, Bowen, Springborn, Medders, J. Jones. NAYS: None. MOTION CARRIED 8 - 0.

HOLD A PUBLIC HEARING AND CONSIDER A CHANGE OF ZONING FROM THE C-1 LOCAL COMMERCIAL DISTRICT TO THE C-5 GENERAL COMMERCIAL DISTRICT ON PROPERTY LOCATED AT 1902-1930 NW FERRIS AVENUE.

1. This request is for Lots 1-9, Block 1, Morford Addition and measures 575 feet by 140 feet. The proposed uses are all C-5 permitted used. The property owner, Jeff Sadler, has signed the application.
2. The zoning of the surrounding area is:
North - R-1

- South - R-1
 - East - R-1 and P-O
 - West - R-1
3. The land use of the surrounding area is:
 - North - single-family residential
 - South - single-family residential
 - East - single-family residential
 - West - single-family residential
 4. As shown on the site plan submitted with the application, the applicant proposes not to build any additional buildings, but to maintain the two that are existing on the site.
 5. Notice of public hearing was mailed to 63 owners of property within 300 feet of the requested area on October 21, 2020, and proper notice was published in *The Lawton Constitution* on October 27, 2020. No calls for or against have been received.
 6. Staff has reviewed the request, and the analysis is attached.
 7. Staff recommends approval with the following conditions:
 - a. Provide the required screening fence on the south side of the property; and
 - b. Delete the uses of: adult entertainment businesses, bus terminal, carnival, circus, printing shop/plant; mixed beverage licensees or a beer and wine licensee selling alcoholic beverages for consumption on the premises and dance hall.

The following is an analysis of the request to change the zoning from the C-1 Local Commercial District to the C-5 General Commercial District zoning classification on property located at 1902-1930 NW Ferris Avenue. The applicant is Jeff Sadler. The purpose of the application is to allow all C-5 permitted uses at this location. 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.* This portion of NW Ferris Avenue is a four-lane major collector. The binding site plan shows no changes to the existing curb openings on site. The most recent traffic count shows between 7,300 and 8,300 vehicles travel this section of road on a daily basis which is below the nominal capacity (15,000 vehicles per day) of the roadway.
2. *To secure from fire, panic, and other dangers.* This property is not within the floodplain.
3. *To promote health and the general welfare.* All construction will be required to meet City Code requirements.
4. *To provide adequate light and air.* The existing site has a large parking lot between the two existing buildings and there is no plan to construct any additional buildings.

5. *To prevent the overcrowding of land.* There is no plan to construct additional buildings at this time. Any additional buildings would be required to go through the Amendment to the Binding Site Plan process.
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.* This property is adjacent to a 4-lane major collector street. Adequate water infrastructure serves this property. Adequate sanitary sewer infrastructure serves this property. This property is located on the Orange bus routes for the Lawton Area Transportation System and there is a bus stop adjacent to the parking lot at this location. There is a bicycle route that is a few blocks to the west that continues to Greer Park on NW 38th Street.
9. *To conserve the character of the district and buildings and encourage the most appropriate land uses.* The 2030 Land Use Plan shows this property as commercial with the other lots along NW Ferris Avenue to be Professional Office. The property to the south is a stable single-family residential neighborhood. The existing buildings on this site do not meet the rear yard setback of 20 feet, however there is a platted alley of 20 feet wide.
10. The following uses are permitted uses specifically in C-5:
 - a. Adult entertainment business as licensed by the city; **
 - b. Any use permitted in a C-1, C-2, C-3 or C-4 Commercial District;
 - c. Automobile sales and service, new and used;
 - d. Machinery sales and service, new and used;
 - e. Garages, public, provided no gasoline is stored above ground and machinery repairing if conducted in conjunction with a retail agency and wholly within a completely enclosed building, but not including automobile or machinery wrecking establishments or junkyards;
 - f. Bait shop;
 - g. Bakery;
 - h. Boathouse;
 - i. Bus terminal; **
 - j. Carnival; **
 - k. Circus; **
 - l. Cleaning plant, commercial laundry or dry cleaning;
 - m. Clothing or apparel store;
 - n. Commercial school or hall;
 - o. Department store;
 - p. Electric transmission station;
 - q. Feed and fuel store;
 - r. Frozen food locker;
 - s. Furniture repair and upholstery;

- t. Funeral parlor or mortuary;
 - u. Heating, ventilating or plumbing supplies, sales and service;
 - v. Interior decorating store;
 - w. Ice storage locker plant or storage house for food;
 - x. Key shop;
 - y. Kennel;
 - z. Laboratories, testing and experimental;
 - aa. Laundry;
 - bb. Leather goods shop;
 - cc. Medical marijuana research facility;
 - dd. Music, radio or television shop;
 - ee. Novelty shop;
 - ff. Pawnshop;
 - gg. Printing shop/plant; **
 - hh. Research laboratories;
 - ii. Sign painting shop;
 - jj. Small animal veterinary clinic;
 - kk. Stock and bond broker;
 - ll. Toy store;
 - mm. Wholesale distributing center;
 - nn. Buildings, structures and uses accessory and customarily incidental to any of the above uses; but there shall be no manufacture, processing or compounding of products other than such as are customarily incidental and essential to retail establishments;
 - oo. Any other store or shop for retail trade or for rendering personal, professional or business service not listed elsewhere which does not produce more noise, odor, dust, vibration, blast or traffic than those enumerated
 - pp. Mixed beverage licensee or a beer and wine licensee selling alcoholic beverages for consumption on the premises; and **
 - qq. Dance hall. **
- ** more intense uses

11. Staff recommends approval with the following conditions:

- a. Provide the required screening fence of 6 to 8 feet on the south side of the property adjacent to the R-1 district
- b. Delete the uses that are marked ** in the list above, these uses are more intense than the uses that should be found in this area

All requirements of the Lawton City Code will be in full force and effect.

Chairman Denham said the other movie theaters in Lawton sell alcoholic beverages. He asked if there's a reason why this would not be allowed at the Vaska Theater.

Rogalski said he believes the term "mixed beverage licensee" is referring to a bar where alcohol sales are the primary use. Rogalski said staff can clarify this matter.

Mackey asked if alcohol is currently sold at the Vaska.

Justin Hackney, owner of the Vaska Theater, said not at this time.

Chairman Denham asked Mr. Hackney if the Vaska would be interested in selling alcohol.

Mr. Hackney said he has considered transitioning the Vaska into a dinner theater.

Chairman Denham suggested that staff consider permitting the Vaska to sell alcohol.

Rogalski said the Vaska would be able to sell alcohol because it would be considered an accessory use and not a primary use. This is permitted within C-1 zoning districts.

Rogalski said if a commercial property is adjacent to a residential property, a fence on the residential side can act as a screening. However, residential properties are not required to have a fence. Rogalski said if the residential property owner removes their fence, the adjacent commercial property owner would be responsible for constructing a screening fence.

Denham asked if the screening requirement is applicable in C-1 zoning districts.

Rogalski said yes.

Chairman Denham declared the public hearing open.

Jeff Sadler, property owner for 1902-1930 NW Ferris Avenue, said this item came about because one of his tenants wanted to open a piercing studio. He said Kevin Adams previously had piercing studio in one of his buildings, and it wasn't a problem at the time. Mr. Sadler said they have no intention of opening a bar or nightclub. Mr. Sadler asked for clarification on the printshop guidelines. He said at one point he had a tenant who did screen printing on t-shirts and it didn't seem to bother anyone. Mr. Sadler said his main concern is the fence screening requirement. He said he's spent more money maintaining the alleyway than the City has. Mr. Sadler said if they place a fence along their property line it would kill 20% of their parking.

Rogalski said a screening fence doesn't have to be placed between the commercial property and the alleyway, but it does have to be placed between the alleyway and the adjacent residential properties.

Mr. Sadler said all the adjacent residential properties have a 6-foot wooden fence except for one chain-link fence.

Rogalski said the chain-link fence is a problem, as it does not meet the screening requirement.

Mr. Sadler said surely he wouldn't be expected to go over to the houses on Euclid on the southside of the alley and build a fence on the residential properties.

Rogalski said in this type of situation where the alley is used as an egress, the City requires people to get a screening easement from the adjacent property owners. Rogalski said when this code was written, the City was unaware there wasn't solid screening everywhere. Rogalski said if the chain-link fence was in place when the screening code was written, it wouldn't be a legal nonconformity. Rogalski said staff will have to do research to determine if this portion of fence is a legal nonconformity. However, if the fence goes down, a new fence that fulfills the code requirements would have to be constructed.

Mr. Sadler said he doesn't want to build a fence on his side because it would interfere with traffic and parking, and he thinks it would be inappropriate to request a fence be built on the adjacent residential properties.

Rogalski said regardless of the rezoning request, the screening fence is a standard requirement for all commercial properties. Rogalski said in this case it's likely that the current fencing has been there long enough that it precedes the screening code. However, Rogalski reiterated that if the fence comes down, a new fence that fulfills the current screening requirements must be built.

Mr. Sadler said he understands.

With regards to the Vaska Theater, Rogalski said a drive-in movie theater would only be allowed with a Use Permitted on Review in C-5 zoning districts.

Mr. Hackney said City staff has mentioned that drive-in movies at the Vaska Theater are taking a toll on traffic. Mr. Hackney said he views this as progression. He said many of the houses across the street from the Vaska are extremely run-down or nuisance properties. Mr. Hackney said rezoning the property to C-5 zoning would allow for even more progression. He doesn't see any reason why restrictions should be placed on what type of businesses can be placed on the property. Mr. Hackney said neither he nor Mr. Sadler are interested in having a bar or nightclub on their property.

Chairman Denham said restrictions are placed with future property owners in mind.

Mr. Hackney said he understands. However, he is of the opinion that the whole area needs to be developed.

Chairman Denham declared the public hearing closed.

Commissioner D. Jones said normally she's used to C-5 zoning being on an arterial because they have medians or a fifth lane. She said if the southside of Ferris is rezoned C-5 then the northside will likely follow. Commissioner D. Jones said there's a market for professional offices because there are three new office buildings that have been built to

the east of the property. She said P-O, professional and office zoning district, would be a good transition zone to the property on the southside of Ferris. Commissioner D. Jones said the homes in the Morford Addition are in good shape. She said many of them are brick veneer and have been remodeled. Commissioner D. Jones said perhaps a solution in this situation would be to amend City Code to allow piercing facilities in C-1 zoning districts.

Rogalski agreed.

Commissioner J. Jones said he also agrees with Commissioner D. Jones. He said he would have trouble supporting rezoning the property to C-5 because it's such an intense zoning.

Denham inquired about the process of amending code.

Rogalski said if staff makes a change to permitted uses, it would be a change to Chapter 18 of City Code. Changes to Chapter 18 require two public hearings – one with the Planning Commission and one with the City Council. Rogalski said if a change needs to be made to Chapter 7 of City Code, this change would go directly to City Council.

Commissioner J. Jones asked if piercing is done in beauty shops.

Rogalski said some beauty shops may do piercings as an accessory use.

Mr. Sadler asked if the code change would go to the next City Council meeting.

Rogalski said he recommends the Commission take action on this item as it's written so it may still be brought before the next City Council meeting.

Mr. Sadler said he would like for the code change item to go before City Council on November 24th.

MOTION by D. Jones, SECOND by Medders, to recommend disapproval of the change of zoning from C-1 to C-5 on the property located at 1902-1930 NW Ferris Ave and amend the appropriate City Code sections to allow piercing in a C-1 district. AYES: Jarvis, D. Jones, Davison, Bowen, Medders, Springborn, Denham, J. Jones. NAYS: None.
MOTION CARRIED 8 – 0.

Mr. Hackney said he wants outdoor exhibitions included in permitted uses for the Vaska.

Rogalski asked Mr. Hackney what he means by outdoor exhibitions.

Hackney said he is referring to the drive-in theater and he said it's not their primary source of income. Mr. Hackney said he doesn't want to have to give specific dates of

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drive-in showings months in advance when he has no idea what the weather will be like. He said the City has an outdated idea of what a drive-in is.

Rogalski said it's an outdoor event and no outdoor events are allowed in a C-1 District.

Hackney said people go and park to watch a movie. He said there's no sound cast – it's through the radio and has no effect on anyone around the theater. Mr. Hackney said it actually has less of an effect because the exterior lights of the theater are turned off during a drive-in movie. He said the Vaska has been showing outdoor movies for four years and this is just now an issue with the City. No one has contested their drive-in movies.

Jeff Sadler said the Vaska received a ticket for showing a drive-in movie and they're trying to avoid that happening in the future.

Chairman Denham asked if drive-in's are permitted in C-5 districts.

Rogalski said it's a UPOR in C-5, but it's not a UPOR in C-1 zoning districts.

Hackney asked why drive-in theaters can't be added as a permitted use in C-1. He said he doesn't care about changing the surrounding property to C-5 necessarily.

Rogalski said permitting this use in C-1 would require a code change to Chapter 18 of City Code, which would require two public hearings – one with CPC and one with Council.

Chairman Denham asked Rogalski if the Commission can direct staff to amend Chapter 18.

Rogalski said yes.

Chairman Denham said he would like to instruct staff to work on amending Chapter 18 to allow a UPOR for a "modern drive-in". He said drive-ins are different in nature than they used to be.

Commissioner D. Jones said the parameters of "drive-in" will need to be defined.

Rogalski said a drive-in movie theater is defined in Chapter 18. He said staff can modify the definition of "drive-in" to account for "quiet drive-in" theaters. Rogalski said staff can create a term such as "light drive-in movie theater".

Sadler said he would like at least the piercing item to go to the November 24th City Council meeting.

Rogalski said it will.

Chairman Denham said the outdoor theater item will be addressed separately.

Rogalski noted that he has not received any complaints regarding the operation of a drive-in movie showing at the Vaska.

HOLD A PUBLIC HEARING AND CONSIDER AN AMENDMENT TO CHAPTER 18, LAWTON CITY CODE, 2015, THAT AMENDS SECTIONS 18-2-1-205 AND 18-12-1-1218, BY MODIFYING THE APPEAL PROCESS FOR THE DOWNTOWN LAWTON OVERLAY DISTRICT SUCH THAT THEY WOULD BE HEARD BY THE CITY PLANNING COMMISSION RATHER THAN THE BOARD OF ADJUSTMENTS AND ESTABLISHING THE PROCESS FOR SAID APPEALS.

At the City Planning Commission meeting held on October 15, 2020, the Commissioners directed staff to bring forward a code amendment that will move the appeal process for the Downtown Lawton Architectural Review Committee (DLARC) to the City Planning Commission. Under the current code, appeals of decisions of the DLARC when in regard to property located within the Downtown Lawton Overlay District are heard in front of the Board of Adjustments. This revision of the code will require appeals to be filed within 10 calendar days. The appeal will be placed on the City Planning Commission agenda within 30 days of the date of the decision. Notice will be sent to the interested parties.

Notice of public hearing was published in *The Lawton Constitution* on October 27, 2020.

Rogalski said if an applicant wants to appeal a decision made by the Planning Commission, the appeal would come before City Council.

Chairman Denham declared the public hearing open.

Chairman Denham declared the public hearing closed.

MOTION by Jarvis, SECOND by Davison, to recommend to the City Council approval of an amendment to Chapter 18, Lawton City Code, 2015, by modifying the appeal process for the Downtown Lawton Overlay District such that they would be heard by the City Planning Commission rather than the Board of Adjustments and establishing the process for said appeals. AYES: Jarvis, D. Jones, Davison, Bowen, Medders, Springborn, Denham, J. Jones. NAYS: None. MOTION CARRIED 8 – 0.

HOLD A PUBLIC HEARING AND CONSIDER AN AMENDMENT TO CHAPTER 18, LAWTON CITY CODE, 2015, THAT AMENDS SECTION 18-4-1-404.1, BY ALLOWING FENCES LOCATED WITHIN THE FRONT YARD SETBACK ON PROPERTY IN THE P-F DISTRICT AND ALL INDUSTRIAL DISTRICTS OR ASSOCIATED WITH A PUBLIC FACILITY, TO BE TALLER THAN FOUR FEET.

Current code requires fences in the front yard setback to be only four feet in height. Fences taller than four feet within the front yard setback require a Use Permitted on Review. Lawton Public Schools recently discussed a need for greater security on school property, this includes some occasions which would require a six feet fence in the front yard setback. The proposed ordinance allows for a non-opaque fence to be located within the front yard setback up to six feet tall. The fence has to be constructed of a decorative, open wrought iron fence, aluminum fence or similar material; and shall be a minimum of 100% non-opaque. Brick columns or other similar posts would be permitted. With this amendment, a Use Permitted on Review for a fence taller than four feet when located within the P-F Public Facilities District and all of the Industrial zoning districts, would not be required.

Notice of public hearing was published in *The Lawton Constitution* on October 27, 2020.

Commissioner D. Jones said she is concerned about mass evacuations. She doesn't want the fence to be an impediment.

Rogalski said this has been taken into consideration. There will be a push bar on the inside of the fence that can be used to open the fence in the event of an emergency.

Chairman Denham asked if kids would be able to access playground equipment after hours.

Rogalski said the intent is to keep the fence secure during school hours. To his knowledge, they will not be locked after hours.

Chairman Denham declared the public hearing open.

Chairman Denham declared the public hearing closed.

MOTION by J. Jones, SECOND by Jarvis, to recommend to the City Council approval of an amendment to Chapter 18, Lawton City Code, 2015, that amends Section 18-4-1-404.1, by allowing fences located within the front yard setback on property in the P-F District and all industrial districts or associated with a public facility, to be taller than four feet. AYES: Jarvis, D. Jones, Davison, Bowen, Medders, Springborn, Denham, J. Jones. NAYS: None.
MOTION CARRIED 8 – 0.

CONSIDER APPROVING THE 2021 MEETING SCHEDULE FOR LAWTON CITY PLANNING COMMISSION.

State law requires filing of the Notice of Meeting schedule for regular meetings of public bodies no later than December 15th of each year. The City Planning Commission By-Laws state that the regular meetings of the Commission shall be held on the Thursday following each regularly scheduled meeting of the Lawton City Council at 1:30 p.m. in the Lawton City Hall Auditorium.

The attached schedule shows the meeting dates to be the Thursday following the City Council meetings with the exceptions of only one meeting in November and one meeting in December. The Thursday after the second Council meeting in November is Thanksgiving Day, and historically, the CPC has chosen to only meet once during the month of December.

MOTION by Davison, SECOND by Medders, to approve the 2020 meeting schedule. AYES: Jarvis, D. Jones, Davison, Bowen, Medders, Springborn, Denham, J. Jones. NAYS: None.
MOTION CARRIED 8 – 0.

COMMISSIONERS' REPORTS OR COMMENTS

None.

SECRETARY'S REPORT

None.

AUDIENCE PARTICIPATION

Gibson said all meetings in the auditorium are being recorded. He asked that everyone speak clearly and speak into the microphone.

Cleghorn said the City went with a system called Granicus to stream meetings. He said the goal is to have all City meetings streamed through this program so they can be accessed online. Staff is working to make this happen.

Cleghorn said he has contacted a local vendor regarding constructing partitions to place in the Council chambers in the event that legislature no longer allows public meetings to be held virtually. He said staff will also work diligently to sanitize the room after each meeting.

Meeting adjourned at 2:39 p.m.

David Denham, Chairman
City Planning Commission