

**PLANNING COMMISSION /
BOARD OF ZONING APPEALS
APRIL 18, 2023 MEETING MINUTES**

Commissioners Present: Cowman, Dees, DeGrande, McLean, Maurer, Parks
Commissioners Absent: Upshaw
Others Present: Jessica Newton, Randi Shannon, Leigh House, LeAnne Shields -
City of Paola
118 S Silver: Rob George - Legacy Properties & Development,
Terry Herron - Herron Outdoors
Blake Harris, Taylor H., Melinda Myles - The Haven
Others: Gordon Geldhof, Terry Courtney, Walt Bishop, Justin
Elliott, Pete Bell, Mike Welter, Stuart Connell, Alan Hire, Dennis
Lawson, Ramona Jones, Mark Fuchs, Kerry Myles, Brigitte
McIntire

Item 1: Pledge of Allegiance.

Item 2: Consideration of minutes from the March 21, 2023 meeting.

Commissioner Cowman called the meeting to order. The next order of business was the consideration and approval of the minutes from the March 21, 2023 meeting.

Commissioner McLean made a motion to approve the March 21, 2023 meeting minutes. The motion was seconded by Commissioner DeGrande and all voted aye.

Item 3: Continued from March 21, 2023 Meeting - Consideration and vote to recommend approval of a Zoning Map Amendment, 302 N Oak, Brady Brothers, LLC, applicant.

Planner Newton presented background information on the property at 302 N Oak as it is currently zoned, which is Neighborhood Conservation - Residential (NC-R1). This zoning district allows for primarily single family detached homes. Some nonresidential uses are allowed via a conditional use permit such as an event space which is considered "Services" via Table 03.110A General Use. A CUP requires a public hearing. The desired zoning district desired by the applicant is Thoroughfare Access (TA) which provides for high quality, moderate density development with a full range of residential and nonresidential uses. The design requirements provide a Thoroughfare Access character while encouraging pedestrian and automobile access. In established areas where there is in-fill development, the zoning shall not displace residential uses. Commercial development would be limited due to contributing factors such as lot setbacks, open space and landscaping requirements, parking requirements, and lot coverage maximums. Consistent development questions over the years have been to

use the space for multi-family (senior housing or apartments), daycares or preschools, and event spaces.

Planner Newton stated the following zoning related information for Thoroughfare Access district:

SECTION 02.212 THOROUGHFARE ACCESS (TA) DISTRICT

- A. This district provides for high quality, moderate density development with a full range of residential and nonresidential uses.
- B. The design requirements provide a Thoroughfare Access character while encouraging pedestrian and automobile access.
- C. This district's intensity accommodates most community commercial and business activities. These nonresidential uses shall be limited to parcels having access to arterial or collector streets. Interior areas are intended to be residential.
- D. This district is not intended to promote strip development along all arterials and collectors. In newly developing areas, the minimum parcel depth along an arterial or collector shall be six hundred (600) feet. The minimum area shall be twenty (20) acres. In the older built-up areas where there is in-fill development, this zoning shall not displace residential uses in areas where at least one block of residential exists. New zoning shall have depths and areas equal to or greater than similar uses for four hundred (400) feet on either side. This district shall be used in areas designated Thoroughfare Access in the Comprehensive Plan. Access standards and site plan review shall be used to ensure that adequate access and visibility are retained on regionally important land near interchanges to prevent premature development from foreclosing future development options.

Planner Newton stated the following zoning related information for zoning map amendments:

Section 21.211 STANDARDS FOR ZONING MAP AMENDMENT

In evaluating a request for a Zoning Map Amendment, the following standards shall be considered:

- A. The proposed change is consistent with the City's Comprehensive Plan and the purposes of this Ordinance. In areas of new development, consistency with the Comprehensive Plan shall be considered to meet the standards in B., C., and D. below, unless the proposed amendment would threaten public health, safety, and welfare if so designated as planned in the Comprehensive Plan.
- B. The proposed change is consistent with the character of the neighborhood.
- C. The extent to which the property is consistent with the zoning and use of nearby properties.
- D. The suitability of the property for the uses to which it has been proposed or restricted.
- E. The extent to which the proposed use would substantially harm the value of nearby property.
- F. The length of time a property has remained vacant as zoned, where the zoning is different from nearby developed properties.
- G. The gain, if any, to the public health, safety and welfare due to denial of the proposed

amendment as compared to the hardship imposed upon the landowner, if any, as a result of denial of the proposed amendment.

H. Recommendations of permanent or professional Staff.

Commissioner Cowman stated this property started out as going to be multi-family and now they have heard it could be an event center but the vote tonight would affect it from here on so they should all be thinking long term. Cowman stated when the property was first zoned for a school no one thought down the road to when it would no longer be a school.

Commissioner DeGrande asked if any site plan from the event space had been submitted to know parking. Planner Newton stated that would have to be addressed during site plan review along with landscaping and lighting.

Commissioner Parks asked under 21.211, F. The length of time a property has remained vacant as zoned. How long has this been vacant? Planner Newton stated the Brady Brothers have had the property since 2016. There is currently no water due to an extreme leak. Commissioner Parks stated to him vacant means not in use. Planner Newton stated the entire time the Brady Brothers have owned the property it has been used as storage.

Commissioner DeGrande asked if the property was used for anything after Cottonwood opened. Planner Newton stated the Head Start Program was there until the Brady Brothers purchased the property.

Commissioner Parks asked if how many students were part of the Head Start Program since traffic was a concern by local residents. Commissioner Cowman answered that he was unsure how many students were part of the program but when it was North School it was an active school with regular activity people coming and going along with buses dropping off and picking up.

Commissioner DeGrande asked to clarify it was changed to TA, not just anyone can come in and do what they want with the property, it would still have to go through the Planning Commission. City Manager Randi Shannon stated a change of footprint or use would require a site plan review.

Planner Newton read LDO Section 21.214. It is the intent of these regulations that an approved rezoning will generally result in a change in use of the subject property. As a means of ongoing monitoring of the results of an approved rezoning, staff will review the use of property on the second anniversary of an approved rezoning and report on the status of the use or development to the Planning Commission.

Commissioner Dees asked about the number of cars related to the event space. Planner Newton stated a parking lot size would dictate their number of vehicles and off street parking

could be an option as long as the street wasn't marked for no parking.

Commissioner McLean stated that in his opinion of TA, properties should be located on arterial or collector streets and the current owner purchased the property knowing the zoning district. Planner Newton stated that the current owner did at one time try for a CUP for an event space but pulled out due to financial reasons. Planner Newton also stated that in the definition it states residential uses are permitted in interior areas.

Commissioner Parks asked if the funding The Haven event space applied for has been secured. City Manager Shannon stated while there is a viable option to purchase the property we should focus on what the future of the property could be.

Commissioner Cowman stated that by changing the zoning it makes the property more flexible for the uses that make sense with the piece of property.

Commissioner Dees asked if an event space could still move forward with a Conditional Use Permit. City Manager Shannon stated there was a legal route for them to take if the zoning was not changed.

Commissioner McLean stated changing the zoning to TA was a long term deal. Planner Newton stated there is a two year review in the LDO. Commissioner McLean stated this property would be better with a CUP. Planner Newton stated while the event space could apply for CUP multi-family is not allowed even by a CUP in this district. Commissioner McLean asked if the school building was demolished could there be houses built. City Manager Shannon stated that is an option in either zoning district.

Commissioner Cowman made a motion to recommend approval of a Zoning Map Amendment for 302 N Oak, from Neighborhood Conservation - R1 to Thoroughfare Access, Brady Brothers, LLC applicant. The motion was seconded by Commissioner DeGrande. Commissioners Cowman, DeGrande, Parks, and Maurer voted aye while Commissioners McLean and Dees voted nay. The motion carried 4-2.

Item 4: PUBLIC HEARING - Consideration and vote to recommend approval of a Conditional Use Permit for "Light Industry" at 118 S Silver, Legacy Properties & Development, LLC, applicant.

Commissioner McLean made a motion to open the Public Hearing. The motion was seconded by Commissioner Parks with all Commissioners voting aye.

Planner Newton presented background information on the application for a Conditional Use Permit for Herron Outdoors to operate a deer feed supplement business at 118 S Silver owned by Legacy Properties & Development. The business has outgrown its existing space and is

looking to grow its capacity and employment by moving to the new location. The products made by Herron Outdoors are shipped to distributors and fulfillment centers and have no retail sales at the local location. The property is located in the Downtown zoning district which requires businesses classified as “light industry” to obtain a Conditional Use Permit (CUP).

Planner Newton stated it was staff recommendation to approve the CUP with the following conditions:

1. Limit business usage to the ground floor only.
2. Limit Loading and Truck Access:
 - a. Silver Street cannot be blocked at any time. Miami and Gold can be partially blocked for maneuvering to the alley (between Wea and Miami). Any time in which a street is to be partially blocked, the business owner must provide traffic control.
 - b. Prohibit delivery vehicles from projecting into the street or blocking site triangles at intersections.
 - c. Limit times of delivery to the established hours of operation.
3. Control rodents by using an integrated pest management approach that includes environmental sanitation, proper product storage, rodent-proofing, trapping, and poisoning.
4. No exterior storage allowed.
5. At any time, the City may institute revocation of the conditional use permit for violations of the conditions of approval, expiration, or the reasons specified in Section 21.225 of the Land Development Ordinance. The City shall provide notice to the landowner and public in the same manner as was provided for the establishment of the Conditional Use Permit.

No Public Comment.

Commissioner DeGrande made a motion to close the Public Hearing. The motion was seconded by Commissioner McLean with all Commissioners voting aye.

Commissioner Cowman asked if the business was going to use the basement of the building. Rob George, Legacy Properties & Development, stated it would be the first floor only due to it being a concrete floor to set the equipment on. Commissioner Cowman also asked about deliveries. George stated they would utilize the parking spaces in front of the building. Terry Herron stated deliveries would be on a weekly or biweekly basis and would come via box truck that could fit down the alley.

Commissioner Parks asked where the business was currently located. Herron stated it currently operates out of his home. Planner Newton stated there has not been any complaints received surrounding deliveries.

Commissioner Parks asked if there was any leftover product or residue after the manufacturing process was completed. Herron stated anything leftover is able to go to recycling and he has a current Kansas Department of Agriculture license and is inspected by the State of Kansas.

Commissioner Parks made a motion to recommend approval of a Conditional Use Permit for "Light Industry" at 118 S Silver, Legacy Properties & Development, applicant. The motion was seconded by Commissioner McLean with all Commissioners voting aye. The motion carried 6 to 0.

Item 5: Public Hearing - Consideration and vote to recommend approval of a Zoning Text Amendment, Tiny Home Clusters, City of Paola, applicant.

Commissioner McLean made a motion to open the Public Hearing. The motion was seconded by Commissioner DeGrande with all Commissioners voting aye.

Planner Newton presented background information for the update to the zoning text to allow for tiny home clusters. At the February 21, 2023 Planning Commission meeting, Commissioners finalized suggested text amendments regarding tiny home cluster developments to update the Land Development Ordinance (LDO). Current building codes prompted the need to create zoning regulations for such communities.

The following was presented related to tiny home regulations:

Section 03.313 SINGLE FAMILY RESIDENTIAL

D. Tiny home single family cluster developments may be considered for a Conditional Use Permit (CUP) if the following standards are met:

1. The cluster development must be retained under common ownership including the common open spaces, building, and structures.
2. A site plan is submitted and approved by the Planning Commission and the City Council.
3. Tiny home development shall only be permitted with a minimum spacing of 1,000 feet between tiny home developments.
4. The minimum site area in any district is four (4) acres with a maximum of fifteen (15) acres.
5. All tiny home cluster developments must provide an on-site storm shelter.
6. All tiny home cluster developments must comply with lot setbacks set in Article 4. Flexible setbacks are permitted from lot boundaries to enable functional site design

during site plan review by the Planning Commission. All tiny homes shall maintain a minimum separation of ten (10) feet from other tiny homes within the development.

7. Each tiny home within a development shall meet the off-street parking requirements in Table 3.110A.
8. Off-street parking spaces for tiny homes must be of an acceptable all-weather surface such as asphalt, concrete, chip seal, graded and compacted gravel, or other stabilized system.
9. All tiny homes must be connected to all available public utilities. Composting toilets are not permitted.
10. Tiny homes on wheels are not permitted.
11. Tiny homes may be used as a Guest House (Section 03.314) as allowed by Table 3.110A, General Use.
 - a. Tiny home as a guest house is defined as a small detached accessory dwelling unit located on the same lot as a primary single-family detached dwelling unit that is intended to provide living quarters for non paying personal guests of the owner(s) of the principal residence. The primary dwelling unit must be owner occupied. The tiny home guest house shall not have separate utility meters.
 - b. The area where the tiny home guest house is located shall not be divided off into a new lot of record.
 - c. Tiny homes used as a guest house shall be on a site with an owner-occupied single-family residence.
 - d. The architectural design, roofing material, exterior materials and colors, roof pitch and style, type of windows, and trim details of the unit shall be substantially the same as and visually compatible with the primary dwelling
 - e. Tiny homes used as a guest house may not be on wheels and shall be placed on a permanent foundation
 - f. No more than one tiny home guest house per property.
 - g. The combined square footage of the principal structure, guest house, detached garage, and storage/utility shed shall not exceed the maximum building coverage in Table 04.110A Use and Lot Standards. Where no maximum building coverage is provided, the combined structures shall not cover more than 70% of the lot area.
12. Landscaping requirements (See Section 06.120):
 - a. One (1) landscaping plant unit per tiny home.
 - b. Four (4) landscaping plant units per acre of open space.
 - c. The number of plant units required may be altered by the Planning Commission during site plan review.

- d. The requirement of an opaque fence around the perimeter of the lot will be at the discretion of the Zoning Administrator during the site plan review process.
- 13. Each tiny home that is moved in or built on site must be inspected by the City of Paola Building Inspector to obtain a Certificate of Occupancy.
- 14. Utility easements, as required by a service provider and drainage easements as necessary to cover any drainage improvements, shall be shown on the site plan with easement dimensions and recording information provided.
- 15. Structural Requirements
 - A. All requirements of the 2018 International Building Code, Appendix Q shall be met:
 - a. AQ103 Ceiling Height
 - b. AQ104 Lofts
 - c. AQ105 Emergency Escape and Rescue Openings
 - B. Minimum square footage shall not account for the required cooking facilities, toilet facility areas, or lofts, which are required in addition to the minimum clear floor area of 120 square feet for a single occupant, 220 square feet for two occupants, and 320 square feet for three occupants.

3. Defining Tiny Home

Tiny Home. "Tiny home" means a detached and self-contained dwelling unit permanently constructed on a foundation, frame or chassis and designed for use as permanent living quarter that:

- A. Is equipt for the basic functional areas that support normal daily routines such as cooking, sleeping, and sanitation.
- B. Must be only one story (excluding lofts)
- C. "Tiny home" does not include a trailer, semitrailer, camp trailer, recreational vehicle or manufactured housing.

Public Comment:

Alan Hire, Lakeshore Dr., is concerned about enforcing occupant numbers for tiny homes.

Pete Bell, N. Castle St., asked if this could go where North School due to zoning changes proposed.

Mark Fuchs, Tower St., is concerned about the density of proposed regulations.

Commissioner McLean made a motion to ~~open~~ *close* the Public Hearing. The motion was seconded by Commissioner DeGrande with all Commissioners voting aye.

Commissioner Cowman asked how acreage affects density. Planner Newton stated that lot sizes for tiny homes would be 3,500 square feet and that would be divided out over the total acreage.

Commissioner Dees asked if this would require a Conditional Use Permit regardless of the zoning district. Planner Newton stated that is correct and an approved site plan.

City Manager Shannon reiterated that a tiny home may not be built on an empty vacant lot in town.

Commissioner Parks asked if there was an ordinance that stated what properties tiny homes could be on. Planner Newton stated that it would be located on Table 03.110 A General Use.

Commissioner McLean asked if prior to building a tiny home as a guest house would neighboring properties be notified. Planner Newton stated any time there is a Conditional Use Permit applied for it requires a Public Hearing.

Commissioner Parks would like to allow for pre-manufactured tiny homes. Commissioner DeGrande agreed that if the pre-manufactured tiny home is built to current building codes it should be allowed.

Commissioner McLean made a motion to ~~defer-table~~ the vote until the May 16, 2023 meeting. The motion was seconded by Commissioner DeGrande with all Commissioners voting aye.

Item 6: Community / Economic Development Director Report

City Planner Newton presented the following:

1. 110 permits year to date
2. Building Inspection
 - a. Casey's - Final inspections passed
 - b. Rausch Coleman - Applied for 3 new home permits
3. May Planning Commission
 - a. Public Hearing for amendment to a CUP
4. April City Council
 - a. American Legion Agreement was approved for the Mayor to sign

- b. Wallace Park guidelines for renting the athletic facilities and update on ADA parking and food trucks in lieu of concession stand
- c. Traffic light has been updated at Baptiste Dr and Hedge Ln

Item 6: Adjournment

Commissioner DeGrande made a motion to adjourn. The motion was seconded by Commissioner McLean and all voted aye. The motion passed 6 to 0.