

# SMITHVILLE PLANNING COMMISSION

## REGULAR SESSION

June 8, 2021

7:00 P.M.

Council Chambers

**Due to the COVID-19 pandemic this meeting was held via the Zoom meeting app. City staff were at City Hall for the meeting.**

**Planning and Zoning Commission members attended via the Zoom meeting app. The meeting was streamed live on the city's YouTube page through YouTube Live.**

Those attending the meeting: Deb Dotson, Alderman John Chevalier, Carmen Xavier, Mayor Damien Boley, Chairman Rand Smith, and Development Director Jack Hendrix. Dennis Kathcart and Connor Samenus were absent.

### **1. CALL TO ORDER**

Chairman Rand Smith called the meeting to order at 7:11 p.m.

### **2. MINUTES**

The May 11, 2021, Meeting Minutes were moved for approval by DOTSON, Seconded by ALDERMAN CHEVALIER.

Ayes 5, Noes 0. Motion carried.

### **3. STAFF REPORT**

HENDRIX reported:

Items 8, 9, 10 & 11 on the agenda were pulled by the applicant this afternoon. There was no specific date or time as to when they will be put back on a future agenda.

We just received notice that the building code enforcement group that surveyed us to see how well we enforced our building codes for purpose of

the ISO rating for insurance has completed their audit and notified us of our new ratings. Our previous ratings were a 5 for both residential and commercial. Our new ratings are a building code rating of 5 for residential and now a 4 on the commercial side. A 1 is as good as it gets and goes up to an 8. There is also a rating of 99 which basically means you are unrated. Hendrix stated that when he started working for the city in 2007 we were still unrated. After the first evaluation in 2007 or 2008 we went to a 7.

We have issued 28 single family homes since January 1, 2021.

- 4. PUBLIC HEARING (FOUR SEPARATE PUBLIC HEARINGS):**
- **SINGLE PHASE FINAL PLAT – MITCHELL’S GREENHOUSE & NURSERY PLAT 2, A REPLAT OF LOT 1 TO CREATE 2 NEW LOTS (3 TOTAL)**

**Public Hearing:** None

**Public Hearing closed**

- 5. MITCHELL’S GREENHOUSE & NURSERY 2<sup>ND</sup> PLAT – 13500 N 169 HWY**

HENDRIX stated that this is a request to divide the Mitchell’s Greenhouse subdivision that was created 2 years ago with 2 lots and a conceptual plan overlay on it so that they would be able to have a commercial subdivision with lots on it without all of them having direct front access to a public street. They have one access that comes in and a cross access agreement with Fill Features. On lot one you have BesaMe Wellness which is the medical marijuana dispensary. Now they want to start the work on the Attic Storage buildings, and they need to separate the lot from the medical marijuana facility. There will also be a third lot for future development.

XAVIER motioned to approve the Mitchell’s Greenhouse & Nursey 2<sup>nd</sup> Plat. Seconded by Dotson.

**DISCUSSION:** None

**THE VOTE:** DOTSON-AYE, MAYOR BOLEY-AYE, ALDERMAN CHEVALIER-AYE, XAVIER-AYE, SMITH-AYE.

**AYES-5, NOES-0. MOTION PASSED**

**6. PUBLIC HEARING:**

- **SINGLE PHASE FINAL PLAT: KYLEE ACRES FINAL PLAT TO CREATE AN ADDITIONAL LOT (2 LOTS)**

HENDRIX stated that the applicant wants to split 10 acres off the front of his property. Unfortunately, the applicant did not fulfill our request for additional information that needed taken care of before this meeting and he intended to pull this from the agenda but didn't. He suggested that we go ahead and open the public hearing to see if we have any public comment. We won't move forward with the actual motion or vote until they comply with our request.

**Public Hearing:** None

**Public Hearing closed**

**7. KYLEE ACRES FINAL PLAT – 2000 NE 132ND**

As previously explained by Mr. Hendrix, this item has been pulled from this agenda until applicant can provide the needed information as requested by city staff.

**8. PUBLIC HEARING:**

- **REZONING 18420 EAGLE PARKWAY FROM R-1P AND R-2P WITH A CONCEPTUAL PLAN TO R-1D SINGLE FAMILY SMALL LOT**

As previously explained by Mr. Hendrix, this item has been pulled from this agenda by the applicant.

**9. REZONING 18420 EAGLE PARKWAY TO R-1D SINGLE FAMILY SMALL LOT**

As previously explained by Mr. Hendrix, this item has been pulled from this agenda by the applicant.

## **10. PUBLIC HEARING:**

- **PRELIMINARY PLAT – LAKESIDE FARMS (FORMERLY EAGLE HEIGHTS) SUBDIVISION TO CREAT 261 SINGLE FAMILY LOTS**

As previously explained by Mr. Hendrix, this item has been pulled from this agenda by the applicant.

## **11. PRELIMINARY PLAT APPROVAL – LAKESIDE FARMS (FORMERLY EAGLE HEIGHTS) TO CREATE 261 SINGLE FAMILY LOTS**

As previously explained by Mr. Hendrix, this item has been pulled from this agenda by the applicant.

## **12. MEDICAL MARIJUANA FACILITY SITE PLAN REVIEW**

HENDRIX stated that each commission member received a staff report on this agenda item. Due to the size of the building, there are two areas in the design standard requirements where the applicants requested a slight variance.

The first variance proposal was that they wanted to reduce the pitch of the roof to a 2/12 pitch instead of a 3/12 pitch. The sheer size of the building makes that height unnecessarily expensive to construct when wind loads are taken into account. Staff recommends that you consider that variance.

The second variance proposal type and amount of buffering around the HVAC units required. Our standards require exterior ground mounted equipment be screened from view with a solid wall. Staff recommends that we consider allowing this buffering to be present along the side of the units that is visible from the street, and not the full length of the building.

In all other aspects, the application meets our engineers concerns on the storm water designs and all of the buffering as it relates to the public infrastructure. Staff's recommendation is that this does meet the standards with the 2 items we recommend you change.

DOTSON had a question about their landscape plan. She asked if it is possible for this commission to request that they not plant invasive species? Missouri Department of Conservation is spending a lot of money mitigating

the damage that the invasives have done. It's out of control right now and don't think that we need to add to it.

HENDRIX stated yes. That is already part of our code, and their landscape plan meets that code.

**Tyler Anderson---Olsson & Associates---**Stated that they are they civil engineer on this project as well as representing the landscape architect. We have supplied a landscape plan with our submittal, and it will be stamped by a licensed landscape architect. We definitely stay away trees that will be harmful to the area and invasive species. In regard to the screening and the HVAC requirement, we made a large attempt to screen from the public view of the street with that landscaping between grading on the site as well as where we spaced the landscaping. The front portion of the building is used for offices so the large HVAC units will not begin until you get to the rear half of the building. To the north you have the storm water detention tract and to the south is the rear portion of that larger lot as well as unplatted area.

ALDERMAN CHEVALIER motioned to approve the medical marijuana site plan with staff's recommendations. Seconded by XAVIER.

**DISCUSSION:** None

**THE VOTE:** MAYOR BOLEY-AYE, DOTSON-AYE, SMITH-AYE, XAVIER-AYE, ALDERMAN CHEVALIER-AYE.

**AYES-5, NOES-0. MOTION PASSED**

### **13. KCI RV STORAGE SITE PLAN AMENDMENT**

HENDRIX stated that this project was previously approved 3 years ago for the KCI RV Center with a total of 6 storage buildings. On the south side of the property two of the buildings are already built and the third building is currently under construction. The north side of the property was approved for 3 more buildings with a site plan recommendation that when they build these 3 buildings they would have to extend Commercial Street to the end of their property and that would become the new entrance. With this site plan amendment, they are requesting to remove one of those buildings off of the front 169 Hwy side and convert that building to a future office

building related to the site. It would have the ability to have a restroom, shower and the offices for the rest of the change which would be a RV camping area. There will be 25 spots on the south side which would be full hookup (water, sewer, electric, etc.). There will be buffering in place with landscaping. The same will be done on the north side in the future with 23 spaces and a 3,000 square foot office building will be put in which will have to meet the same aesthetic look as everything other building there. They understand that if they want to make a change to the look of the building they will have to come back for approval. The other item is an open storage area that is on the back far west side of the lot. This will be a gravel parking area for storing RV's outside. This is already allowed in the zoning district same with the camping so there is no zoning issue, but the only requirement is if you have outdoor storage of these RV's you must have 80% sight obscured buffering around it. Everything they have submitted meets the application standards.

XAVIER motioned to approve the KCI RV Storage site plan amendment. Seconded by DOTSON.

### **DISCUSSION:**

MAYOR BOLEY stated that when we first approved there was a lot of concerns about traffic. Now we are talking about short term RV rentals and pad rentals instead of bringing them in for storage. Does this need to be reevaluated now?

HENDRIX stated that the traffic evaluation that was done by MODOT originally addressed all of those things. I think it would be best to have the owner talk about how he intends to use that area from the standpoint of if it's rental or something different.

Steve Kerwin---Owner---Stated that as of now there will be 25 camping spaces to the south of the driveway. They will be for the public by reservation only.

DOTSON asked if there will be a time limit for these reservations? One week, 2 weeks, month?

MR. KERWIN stated one month and will not have a place where people can live there year round. He wants to make it a nice facility like the one by Worlds of Fun.

Alderman Chevalier asked how he would regulate this to make sure it wouldn't be a long term rental?

MR. KERWIN stated that you don't let them put skirting around a camper. They need to be ready to move out quickly. I won't let anyone homestead there.

SMITH stated that the camping facility by Worlds of Fun has landscaping that is beautiful, will yours be like this?

MR. KERWIN stated absolutely. He wants to have green giants which is a tree that grows really fast so that you won't even be able to see the campers in a few years from the highway.

MAYOR BOLEY stated that his concerns were more about the traffic aspect of this. There were a lot of concerns from the public when we approved this about the traffic off of 169 Hwy going into that single entrance. I would prefer to see this when Commercial St was done.

HENDRIX stated that his recollection from the MODOT approval several years ago anticipated RV traffic going in and coming out of up to 6 buildings with all of the storage we are talking about. Taking out one of these 6 buildings and putting in the camping area I think is within the same realm of what they are talking about.

MAYOR BOLEY asked how many campers does one building hold?

MR. KERWIN stated that there are 70 bays currently with the 2 completed buildings combined. When the third building is complete there will be 101 bays total.

MAYOR BOLEY stated there are roughly 35 bays per building. So, by removing 1 building you are taking out 35 bays and replacing it with 25 camping spots. I see the traffic at the lake on the weekends and it's different than storing them.

XAVIER stated that she thought that she heard something mentioned about Commercial Ave and ask that this be repeated.

HENDRIX stated that when they move forward with any building on the north half of the property they would then have to build Commercial Ave out

all the way across to the back side of their property and put an entrance in off of that side to this area as well. There would then be 2 full entrances.

ALDERMAN CHEVALIER stated that he feels that the rental aspect of this is not clear. He asked Mr. Hendrix if there was a way that we could get more assurance on what those rentals are going to look like for term durations and stuff like that?

HENDRIX stated that it is authorized by right in the B-3 district. There is no zoning issue, but we have a lot more flexibility. This is something we would have to evaluate through a zoning ordinance change at a later date.

DOTSON stated that she has known people who are traveling nurses or traveling professionals and often times they will come in with a motorhome or camper and struggle to find a place where they can stay from either a few days or a month or two while they finish working on a project. Something like this so close to the highway would probably work out very nicely for them. This was one of the reasons why I asked what the length of time would be.

MR. KERWIN stated that this is exactly the market we are going for.

HENDRIX stated that if it became apparent that this has converted into a permanent residence scenario that would allow us to look at it from a slightly different perspective at that point. This would then mean they would have to have a mobile home zoning and would then be in violation. If we notice that people are installing skirting around their campers and "putting down roots" that would warrant a notice of zoning violation related to the wrong zoning district.

ALDERMAN CHEVALIER stated that was essentially what he was getting at. He wanted some sort of enforcement action not only to help the applicant out but also help the city out if we ever ran into something like that.

**THE VOTE:** ALDERMAN CHEVALIER-AYE, XAVIER-AYE, DOTSON-AYE, MAYOR BOLEY-AYE, SMITH-AYE.

**AYES-5, NOES-0. MOTION PASSED**

## 14. HERZOG FOUNDATION SITE PLAN AMENDMENT – CABINS

HENDRIX stated that this project is up off of 188<sup>th</sup> Street and North Main Street. The staff report was provided to the commission. The buildings, materials, buffering and landscaping are all in compliance with our code. The only remaining issue is related to the condition that staff has put on this item. Staff recommends approval conditioned upon the infrastructure improvements of North Main Street, as follows:

Construct a new asphalt street, including appropriate sub-grade improvements and storm sewer as needed along the entire property line. The new asphalt street should be adjusted to the center of the existing right of way as is practicable. The new asphalt street must include both curb/gutters and a 6' sidewalk to match the 188<sup>th</sup> St. Improvements already underway. The minimum standard is 8" of asphalt pavement on treated/stabilized subgrade of 24' width (plus the additional width of the curbs) and any taper into the existing roadway. Public Improvement plans must meet current City standards and approved by the Public Works Director.

ALDERMAN CHEVALIER motioned to approve the Herzog Foundation site plan amendment. Seconded by SMITH.

### **DISCUSSION:**

**Kevin Weininger---Gastinger Walker Architecture---**The main Herzog Foundation building is currently under construction. The foundation is a mission driven non-profit to support Christian K-12 education. The previous submittal which was approved about 10 months ago was for the office building and had included some language that a phase 2 for these cabins would be coming down the line but at the time was not fully understood from a design standpoint what that was going to entail. The cabins will be located on the eastern half of the property. The intent for them is to allow the foundations guests, some of which will be potentially staying for multiple days, a place to stay on the site. This will also provide a great amenity for the foundation to attract some very interesting well known people most likely to come visit, bring some attention to Smithville and northwest Missouri. There will be 4 buildings each with 2 cabins. We will be adding a parking lot specifically for the cabins. This parking lot will have an entrance and exit off onto 188<sup>th</sup> Street. The foundation is already spending around \$400,000 to improve 188<sup>th</sup> Street and upgrade it with a new roadway, sewers, sidewalk and curb. This will actually turn the corner onto North Main

Street for about 30-40 feet. This is already approved and under contract with the current builder on site. A part of the original development plan had list that as long as we were able to make no entrance or exit onto North Main Street with the future improvements with the cabins, which were known at the time by the city, no improvements would be required on North Main Street. We developed the design to follow that language that was already agreed to. We were a bit surprised that the staff report came out with the conditions that it has. The foundation is not going to agree to it. We would like to see some existing master plans available for future growth on North Main Street. What's the long term plan for North Main Street? Or existing ordinances or zoning requirements that state something about street upgrades to help us understand some of the background behind the staff report.

**Trudy LaForce---411 NE 188<sup>th</sup> Street Smithville, MO 64089---** Stated that her property is just east across North Main Street from the Herzog property. She doesn't recall anything being mentioned at the previous meetings about cabins or anyone staying overnight on this property. If this is approved and there is a parking area will this be paved? This neighborhood continues to have the natural foliage that helps filter water run off removed as well as the foliage that serves as wind breaks. If this plan is approved, will North Main Street be moved to the west where it should be? Where will storm sewer water go when it leaves this property? Will the change affect how large farming equipment can use the road as several do? All of the water run off from this property runs eventually down North Main Street on the Herzog property and then under the road on to my property. I do have concerns about this and appreciate any information that can be given.

HENDRIX stated that the original application that they submitted the storm water work on it captured all of the storm water in accordance with city code. We asked them to make sure that this was updated for this. They had over designed it in the original application. They have submitted a report and our engineers have approved that report. It indicates that all of the storm water will be detained on the site in accordance with the minimum current APWA standards. This is already under construction as a part of the original project, so the city isn't concerned about that storm water from the engineering standpoint.

MR. WEININGER stated that Ms. LaForce's question about the landscaping and the trees he could address. There will be very few trees removed. The

intent is to leave it as much as possible exactly as it is now. They will also add additional plantings to help with erosion and absorption. The parking lot will be paved. The lighting is all very dim. The intent is to not even see these buildings from the street.

MS. LAFORCE stated that from the drawing she located these don't even look like cabins. There has already been a lot of brush and trees removed from the very beginning of the work on the property so it's not as dense. Now I understand this is probably to make room for these cabins. If the improvements are made on North Main Street what will happen when it gets to the end of the storm sewer on the Herzog property along North Main Street?

MR. WEININGER stated he thinks they have a lot of the same questions about the purpose behind this North Main Street improvement. We would like to see if there is a master plan that can be viewed so that we are not building a street that creates other unintended issues just to have a new section of street. Our concerns are very much the same as far as how that street is draining under your property. We sympathize very much with Ms. LaForce. We don't have a good idea as to why this being requested or what the larger plan is for North Main Street that would tell us for future utility improvements, future bike paths, future sidewalks. What is the City's plan?

MS. LAFORCE stated that no one has address why they are now wanting a facility for people to stay overnight on that property where originally she didn't see anything about this on the first submittal.

MR. WEININGER stated that this was in the final approval of the documents, and she could probably go back as they are publicly available. The use is allowed by the zoning on the site.

DOTSON stated that she does remember during discussion at the first submittal that the cabins would be brought forward for approval at a future meeting.

HENDRIX stated that the cabins were discussed at the meeting for the site plan approval for the first phase of this project. The original staff position for this project in March, April and May 2020 was that 188<sup>th</sup> Street and North Main Street get the same treatment but because there was no development east of the creek they wouldn't have to do any street improvements on North Main Street with one caveat because we hadn't

even done a traffic study yet. Their intent was 274 feet from 169 Hwy to have the entrance to the foundation. No one knew at the time whether or not there would be a requirement of having a secondary access for something related to fire code. We indicated that if you have to take a secondary access and it goes off then into North Main Street you have to redo main street at that point of time. In September is the first we saw of the cabins. They were shadowed in on plans. We indicated that this would require a secondary site plan application for a second phase because we didn't have enough information to evaluate it from staff's perspective.

MAYOR BOLEY asked if this came in after we approved the initial site plan?

HENDRIX stated that the initial improvements for 188<sup>th</sup> Street we approved in May of 2020. Ordinarily, something of this size and in this area we would require street improvements on North Main Street and 188<sup>th</sup> Street. We had conversations at that time with the applicant related to the North Main Street improvements and obviously we had no idea there were cabins in the future.

MAYOR BOLEY asked Mr. Weininger about his statement about us knowing about this all along but he doesn't see this in the packet from May or anything from the packets prior to the May meeting that show cabins on this site.

MR. WEININGER stated that Mr. Hendrix is not incorrect.

MAYOR BOLEY stated that this was brought in later after we approved it. Staff didn't have all of the information on what this site would look like fully developed and the development agreement was agreed to based off 17,000 square foot building which is what you are building today. Is this correct?

MR. WEININGER stated when we started on the project here we reached out to the city to let them know of our plans and said there is a development agreement that states once the cabin plans were being developed, the development agreement states if there was no entrance or exit off North Main Street no street improvements would be requested. The answer was that is correct and that is how we proceeded. We set our budgets for construction and scheduling based on that understanding. There was maybe some miscommunication, and this just caught us a little by surprise.

MAYOR BOLEY asked if we have any documentation on when that was sent? Email, phone call or text?

MR. WEININGER stated that they can go back and look.

MAYOR BOLEY stated ok. If we led you in the wrong direction that is one thing but if the direction was never given that another thing.

**Dirk Talley---Show Me Real Estate---Representing the owner---** Is there an off chance that the public works department looked at this print and viewed it as though there was going to be an entrance on North Main Street? When in fact there is not.

MAYOR BOLEY asked if Mr. Hendrix if this was just public work or our city engineer as well looking at this?

HENDRIX stated that for this one it was public works. We don't send the site plan design concepts to our engineers. We do these in house they do the storm water and traffic analysis stuff. The first the city saw of any cabin mention was in mid to late August when we got the very first submittal as it related to the foundation building. It showed up inside the traffic study that was conducted. It was in a reference document showing those cabins. The traffic study specifically was related to a 17,000 square foot building only and in that document there was no mention of cabins. Our public works director Chuck Soules and himself started looking at it and at that point in time we had full understanding that it went out onto 188<sup>th</sup> Street but we both understood that was completely different than what we knew was coming as it related to the street improvements. Once we saw the full nature of it, Chuck's position was that this definitely triggers the Main Street side. If we had a full understanding that this development would have occurred this way we wouldn't have taken North Main Street out of the staff recommendation from the original development agreement in May. That would have been a requirement because it's in the code as it relates to development.

MR. WEININGER stated that was one of their questions. Is there something in a development code that does state that or provides some parameters?

HENDRIX stated yes and that it is the subdivision code.

MR. WEININGER stated they will look this up. We just wanted to make sure that the planning commission is aware of the foundations position. They are still not in agreement. Mainly because this is 4 tiny buildings being added to a development it's not going to add any foot traffic, add any pressure onto North Main Street. There is no one staying in these cabins that will travel onto North Main Street. There is just a surprise as to why such a small addition would trigger such a large cost. Speaking for the foundation if the condition remains they are not going to get built.

MR. CHEVALIER asked if for some reason the cabins did happen and the restriction was lifted, is there anything else that is going to happen that we don't know about today?

MR. WEININGER stated not within city limits.

XAVIER stated that she has a sense that there is a need for conflict resolution here before I vote on this. I am picking up some tension. She understands Mr. Weininger's position, and she also understands Mr. Hendrix position. I would feel a little more comfortable if we just tabled this. I would like everyone to be on the same page and have a good feeling about all of this.

DOTSON agreed with Xavier.

MAYOR BOLEY agreed with Xavier's assessment. We either table it or we take a yes/no vote.

ALDERMAN CHEVALIER asked Mr. Hendrix if as far as the negotiation is concerned, is there any potential flexibility on the asphalt, or maybe just a sidewalk requirement and less input on the asphalt? Is this something the city can be flexible with?

HENDRIX stated that the code has certain standards as to what we are supposed to require. If we had known about it up front we would have resolved it then. From a staff's perspective, no we don't really have that authority. The only entity that has the authority to waive its own requirements is the Board of Alderman.

DOTSON stated that she has felt the tension during the discussion tonight. She would like to see an agreement come together to make both side happier.

XAVIER motioned to postpone the Herzog Foundation site plan amendment.

ALDERMAN CHEVALIER suggested that we table this item instead to allow more time for negotiations to happen.

XAVIER withdrew her previous motion.

XAVIER motioned to table the Herzog Foundation site plan amendment.  
Seconded by ALDERMAN CHEVALIER.

**DISCUSSION:**

MAYOR BOLEY asked if there is anything specific that you all want to come back to for the reason that we need to table this?

ALDERMAN CHEVALIER stated that he doesn't know how it would be brought to the Alderman if it doesn't pass this commission to begin with. Is there any possibility that Alderman can look at any changed? Whatever can be looked at I think should be looked at.

MAYOR BOLEY stated that he recalls Mr. Chevalier making a comment in the past about the sidewalk on 180<sup>th</sup> Street and how it's a sidewalk to nowhere. So, do we get into that with this if we build a sidewalk on North Main Street? I don't disagree with storm water improvements. That road will be impacted regardless. When you add more people, they are going to take different routes. It's a road to get there.

**THE VOTE:** MAYOR BOLEY-AYE, DOTSON-AYE, XAVIER-AYE, ALDERMAN CHEVALIER-AYE, SMITH-AYE.

**AYES-5, NOES-0. MOTION PASSED**

**15. ADJOURN**

MAYOR BOLEY made a motion to adjourn. DOTSON seconded the motion.

VOICE VOTE: UNANIMOUS

SMITH declared the session adjourned at 8:34 p.m.