

SMITHVILLE PLANNING COMMISSION

REGULAR SESSION

August 9, 2022

7:00 P.M.

City Hall Council Chambers and Via Videoconference

1. CALL TO ORDER

Chairman Melissa Wilson called the meeting to order at 7:03 p.m.

A quorum of the Commission was present: Melissa Wilson, Rob Scarborough, Mayor Damien Boley, Dennis Kathcart and Deb Dotson. Alderman John Chevalier & Billy Muessig were absent.

Staff present: Jack Hendrix and Brandi Schuenger.

2. MINUTES

The July 12, 2022, Regular Session Meeting Minutes were moved for approval by KATHCART, Seconded by MAYOR BOLEY.

Ayes 5, Noes 0. Motion carried.

3. STAFF REPORT

HENDRIX reported:

Informed that we are still at 52 single family residential building permits since January 1, 2022. This equals 13.54 million dollars in construction costs. For Commercial projects there is still a lot of it under construction, but no new building permits have been issued since January 1, 2022. We issued 9 new commercial building permits in 2021 which equaled 32.65 million dollars in construction costs.

A request has been received from a citizen about changing our fencing requirements. Mr. Hendrix directed the citizen to speak with their Alderman member. At the last Board of Alderman meeting in July this Alderman member requested that the Planning and Zoning Commission have a

discussion about this and see if they felt that any changes should be made to the current fence requirements. The current fence code can be viewed by clicking this link: <https://ecode360.com/28674922> . The specific matter to be discussed is fencing in front yards. This particular citizen is looking to see if vinyl coated chain link fences could be allowed in the front yards of residential districts. It is important to note that a "front yard" is defined as any yard area adjacent to a public street, and on corner lots, there are two "front yards". Currently in front yards and corner lots the fence requirements are 4 foot tall, 50% open and decorative or ornamental. The specific issue being brought forward is the definition of "decorative or ornamental", which the code specifically states that "Chain-link fences, fence wires, wire mesh fences, snow fences or fences constructed in any part with such materials shall not be considered decorative or ornamental". Hendrix asked for a general consensus from the commission members on whether they felt changes should be made. Click the attached link to listen to the entire discussion: <https://youtu.be/yPwu4MeITP8>.

MAYOR BOLEY stated that he felt no changes should be made.

KATHCART stated that he felt no changes should be made.

CHAIRMAN WILSON stated that she was ok with the current code. She questioned if we should expand upon what is considered decorative or ornamental. Should we state in the code what is acceptable?

HENDRIX stated that our code states specifically what we don't allow so there is no reason to be more specific since the interpretation is clear.

CHAIRMAN WILSON stated she understood and doesn't want any additional work from staff to better define these definitions. It sounds like we have a consensus.

HENDRIX stated that it sounds like the consensus from this commission is to not make any change the current fence code.

4. PUBLIC HEARING:

- **SINGLE PHASE FINAL PLAT – HILDEBRAND ESTATES – CREATING 1 LOT AT 16391 LOWMAN RD.**

Public Hearing Opened

HENDRIX stated that the developer has acquired 43 acres of land. 11 acres is on the north side of a very deep valley which has access to Lowman Rd. The developer has a buyer that would like to buy this 11 acres. We got our attorney involved as far as what needed to happen for the public roadway dedication that is located on the far left of the plat. Our attorney has confirmed that it complies with all of the ordinance requirements for having public road frontage and all of the other requirements. The land is currently zoned agricultural and since the minimum size requirement for agricultural is 10 acres no rezoning will be required.

Dan Hartman---408 E Meadow St--- Stated that he is here on behalf of the applicants. Show Me Real Estate is representing Robin and Matt Hildebrand and Mr. Hartman is representing through Show Me Real Estate Clayton and Lindsey Cox. He stated that he is here for any question the commission may have.

Public Hearing closed

5. SINGLE PHASE FINAL PLAT – HILDEBRAND ESTATES 1 LOT AT 16391 LOWMAN RD.

MAYOR BOLEY motioned to approve the Single Phase Final Plat for Hildebrand Estates 1 lot at 16391 Lowman Rd. Seconded by KATHCART.

HENDRIX informed that the staff report included in the packet indicates from Development and Public Works that all of our issues were taken care of. Our Engineers have confirmed that it meets our code.

DISCUSSION: NONE

THE VOTE: MAYOR BOLEY-AYE, KATHCART-AYE, DOTSON-AYE, SCARBOROUGH-AYE, WILSON-AYE.

AYES-5, NOES-0. MOTION PASSED

6. ZONING CODE AMENDMENT – OUTDOOR STORAGE REGULATIONS

MAYOR BOLEY motioned to approve the Zoning Code Amendment for Outdoor Storage. Seconded by DOTSON.

DISCUSSION:

HENDRIX provided the commission members with a copy of the staff report which explains the following:

Staff completed a much more significant dive into the research of the history of City ordinances on the subject since last meeting. Some of that research is helpful to inform you as to how we got here, which may have impacts upon your thoughts on the matters discussed. Staff left the meeting with the consensus to restore the code provisions to what existed prior to the code overhaul in 2013. We were able to find previously unknown ordinances that address storage over time. The following is a timeline, as best as can be determined (some incomplete/confusing minutes from the early 1990's) of outdoor storage regulations in Smithville.

It appears as though the general provisions in all business districts was as follows:

"All business, servicing, storage and display of goods (except of off-street parking and loading) shall be conducted within completely enclosed structures." This language was apparently in ALL commercial and industrial districts. In 1994, Ordinance 1563 was presented to the Board of Aldermen that would change the outdoor storage rules, for what was then the B-2 district. That ordinance changed the rule for "outdoor storage associated with permitted uses as described in appendix A shall only be permitted as a conditional use". The difficulty with this ordinance is that it assumes that the outdoor storage could be different in the same district depending upon whether or not it was considered under the permitted uses of the old Table of Uses provisions of our code. That is simply a misunderstanding of how the code was organized and how code interpretations work in a court of law. As said, this version was adopted in 1994 at the August Board meeting. There does not appear to be any specific listing of the discussions that occurred after this original approval by the Board other than it was referred to the P & Z for further discussion. In addition, none of the minutes of the P & Z between the August approval and the Board meeting that occurred on

May 5, 2022, reveal any discussions on outdoor storage. In the Board meeting, they approved Ordinance 1615 concerning outdoor storage. While the ordinance lists several findings of the Planning Commission in the Whereas provisions, again, no minutes or agendas show such discussion. Ordinance 1615 changed the outdoor storage regulations by adding definitions (which have not changed to today) for Display of Merchandise for Sale to the Public, Outdoor Storage and Storage Screening. It also identified changes to the Use Limitations sections in the B-2, B-4, I-1 and I-2 districts. (The B-3 district contained a provision referencing the standards in the B-2 district). Following that ordinance, the commercial and Industrial districts contained the following provisions related to Outdoor Storage:

B-1: "All business, servicing, storage and display of goods (except of off-street parking and loading) shall be conducted within completely enclosed structures."

B-2, B-3, I-1 and I-2: "No outdoor storage shall be permitted except for the display of merchandise for sale to the public or outdoor storage completely enclosed in proper storage screening.

B-4: "No outdoor storage, except the display of merchandise for sale to the public, shall be permitted."

Following Ordinance 1615 above, there were several additional minor tweaks to the Industrial and B-4 districts, and other changes to the nuisance codes. The nuisance code had a provision barring unlicensed vehicles (except car dealers) from being in the public view. That provision applied to ALL districts and required the vehicles to be "*confined within a structure or fence that shields the vehicle or portion thereof from view from adjacent property or public rights of way*". This ultimately resulted in much confusion that we are now attempting to resolve.

With the original consensus to restore the pre-2013 provisions, staff wants to show clearly what that might mean and offer a couple of tweaks based upon the actual district. First, there would be three different levels of outdoor storage requirements, as discussed above:

The B-1 district would require ALL storage to be inside a building, and it would prohibit any outside display of merchandise to be sold.

The B-4 district would require storage to be inside a building except the display of merchandise to be sold.

All other districts (commercial and industrial) would be allowed to display merchandise for sale and store outside if behind proper storage screening (6 ft. fence, etc.)

The impact on the B-1 district would be that the types of businesses (e.g. clothing stores, hardware stores, antique stores) allowed would not be able

to display any wares outside (except in limited drive-up businesses or gas stations) if such business is approved with a conditional use permit.

The B-4 district would only be allowed to display merchandise for sale to the public with no other outdoor storage ability.

All other districts would be able to have display for sale items as well as outdoor storage behind proper storage screening.

The B-1 and B-4 districts generally have the highest likelihood of impacting a residential use, but the other districts certainly can impact residential.

With a complete restoration, here are a couple of probable issues:

The B-4 district allows residential uses, but the old provision would not differentiate between the use. So, one likely unintended consequence would be that a single-family home in the B-4 district would not be able to have outdoor storage at all. Depending upon how strictly the provision would be construed, it arguably could have an impact on the lumberyard to the extent it has outdoor storage (in standard lean-tos) that are nothing more than basically a roof. While the entire perimeter of that facility has sufficient "storage screening" by either a building wall or sight obscuring fencing, the previous version of the B-4 could prohibit it altogether. Staff seeks guidance on whether the B-4 district should address the residential impact by excluding residential uses located in the B-4 district altogether, and whether allowing outdoor storage that is properly screened would be appropriate as well.

Lastly, since B-1 districts are likely located at busy intersections in residential areas, should the total ban stay, or would an allowance for display of merchandise "during normal operating hours" be more appropriate?

HENDRIX asked the commission to have a discussion on what we should require on B-1 and B-4 zonings for outdoor storage.

DOTSON asked Mr. Hendrix what his recommendation would be.

HENDRIX stated that B-1 has an impact on the residential properties. He recommends that B-1 needs to be inside a building. They don't need to have it outside. However, during business hours allow them to have outdoor storage of the merchandise for sale. He thinks this would be very reasonable.

KATHCART asked if it would stay out or have to be put away.

HENDRIX stated that in B-1 he recommends that after the business closes for the day it would have to be brought back inside.

MAYOR BOLEY asked if for the B-1 that we do have, for example the lot by the Harborview Townhomes, if someone built a non-gas station convenience store they can't sell ice or propane?

HENDRIX stated that if the ice and propane were inside the dispensing bins he felt they could. But they couldn't have firewood or cases of water stacked up outside for sale.

SCARBOROUGH asked Hendrix what he meant by "hours of operation" because some businesses are open 24-7 like QuikTrip.

HENDRIX stated that it would depend on the use of the property. B-1 would allow it but the lighting restriction as far as how close they are to single family residential makes it less. The other thing is B-1 cannot have gasoline unless there is a conditional use permit. I fully anticipate that if they wanted to have a conditional use permit to have gasoline sold their hours of operation would be one of those issues discussed at the time of approval for that.

WILSON stated that she thinks that B-1 should be the most restrictive.

SCARBOROUGH asked how a lawn and tractor facility would be handled or how it is handled now?

HENDRIX stated that it's considered display of merchandise for sale. Like a car lot.

MAYOR BOLEY stated those types of businesses are only allowed in B-2 or B-3.

HENDRIX explained what type of businesses are allowed in the B-1 district. He stated that if it's an office type of scenario then he doesn't believe there would be any type of outdoor storage needed. But a retail businesses would be affected.

KATHCART stated that he agrees with making them put it away after business hours. Because if you don't it will grow and grow but if they have to put it away every night they won't put as much stuff outside.

HENDRIX stated that he believes he understands what the commission wants as far as B-1. We discussed B-2 and B-3 districts at our last meeting and is also clear on what the commission wants. Now let's discuss the B-4 district. This district will have more pedestrians. The district is a lot bigger than just the downtown area so keep that in mind. The significant area of the businesses portion are the ones that have their buildings built on the front property line and their side yards are the wall to the building next to them. So generally, they only have area in the rear that is usable for potential outdoor storage. If they are going to do outdoor storage in this scenario should it be screened like the B-3 areas?

DOTSON asked for some examples of existing businesses in the B-4 zonings.

MAYOR BOLEY stated Callahan's Auto Body Shop, the bike shop. Outdoor storage must be kept within their property lines. We have had some downtown businesses use the alleyways to store stuff which is not their property to so.

HENDRIX stated that the question is if it should be allowed to be outside if you have a fence to obscure it from the public or should it always be stored inside a building?

MAYOR BOLEY stated that this is really what brought up this discussion in the first place. Putting it in a building is too burdensome is what the argument has been.

KATHCART stated that if they have extra stock especially. If a business has a showroom like the bike shop but has a lot of sales and maybe has 50 extra bikes needing stored.

HENDRIX stated that the same thing would apply at the car repair place which is a grandfathered use, and he is able to continue it. If he is repairing the cars that are there and getting them out of there that is great but it's the biggest eyesore in town.

MAYOR BOLEY stated that they are also parking the cars needing repaired in the park which is public land.

HENDRIX stated that Courtyard Park is our showcase, and it has some ugliness near it. Storage screening by its definition is designed to make it look less ugly.

MAYOR BOLEY stated that there are a few businesses in downtown that have proper screening which are The Kissinger's, Mr. Electric and the fence installation company. His recommendation is at a minimum the B-4 district should have sight obscuring fencing.

DOTSON stated that she agrees with this recommendation. We need to make Smithville look nice.

HENDRIX stated that based off the comments tonight he will have an ordinance drafted and brought back for the September Planning and Zoning meeting.

7. ADJOURN

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

VOICE VOTE: UNANIMOUS

CHAIRMAN WILSON declared the session adjourned at 7:39 p.m.