

# SMITHVILLE PLANNING COMMISSION

## REGULAR SESSION

July 12, 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 7:00 p.m.

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

Staff present: Jack Hendrix and Brandi Schuerger.

### **2. MINUTES**

The June 14, 2022, Regular Session Meeting Minutes were moved for approval by MAYOR BOLEY, Seconded by MUESSIG.

Ayes 6, Noes 0. Motion carried.

### **3. STAFF REPORT**

HENDRIX reported:

Informed that we are still at 53 single family residential building permits since January 1, 2022. No new commercial building permits have been issued.

We did receive a tenant finish permit application for a portion of the old Price Chopper building. They will be starting interior demolition soon. The contractor also states they will be coming forward for site plan approval for façade improvements including putting 7 units on the east side of the building facing 169 Hwy. We have not seen these plans yet and don't know who any of the tenants will be for sure.

Diamond Creek subdivision at 6<sup>th</sup> and Manzanola is 98% done. They do still have some work to complete. They are preparing to finalize the maintenance and performance bonds. Houses in this subdivision should start construction soon.

The medical marijuana facility is still under construction. They were hoping to be completed by July 31<sup>st</sup>, but we don't think that will even be a possibility.

The new Shamrock gas station now has their full certificate of occupancy. It has been sold and are waiting for a few closing items so the new owner can stock it and open it.

The indoor storage facility for Attic Storage on the south end of town is under construction.

**4. CONDITIONAL USE PERMIT---TELECOMMUNICATIONS TOWER AT 904 NE 180<sup>TH</sup> ST—CONTINUED FROM 6-14-22 FOR THE PURPOSE OF VOTING ON THE INDIVIDUAL FINDINGS OF FACTS**

CHAIRMAN WILSON asked the City's attorney John Reddoch to speak about this process.

Mr. Reddoch informed it was his understanding that at the last meeting there was a recusal and we ended up with a 3-3 vote. Because of this it doesn't go to the Board of Alderman with specific recommendations. Within our ordinances there are requirements of specific findings. We are asking that you vote on each specific finding so we can have a complete record to present to the Board of Alderman.

HENDRIX stated that Mr. Beggs whose property this proposed tower will be located on is at the meeting tonight, but the applicants are not present.

ALDERMAN CHEVALIER recused himself and will be abstaining from all votes regarding this topic.

MUESSIG motioned to discuss the findings of facts. Seconded by MAYOR BOLEY.

1. The proposed special use complies with all applicable provisions of the zoning regulation including intensity of use regulations, yard regulations and use regulations.

**DISCUSSION:** NONE

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

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

2. It is found that the proposed special use at the specified location will contribute to and promote the welfare and convenience of the public in that it will be consistent with the nature of the neighborhood and will provide a service enhancement to spotty cellular service.

**DISCUSSION:** NONE

**THE VOTE:** DOTSON-AYE, KATHCART-AYE, MAYOR BOLEY-AYE, WILSON - NO, MUESSIG-NO.

**AYES-3, NOES-2.**

3. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located. The monopole has limited visual impact to any adjacent property.

**DISCUSSION:**

MAYOR BOLEY mentioned the visual appearance of the pole. We may want to add something in here that they make it look more like a tree instead of a metal pole. A lot of the cell companies have started doing this.

DOTSON stated that she would feel better about this if we amended this finding so that it would not be such a visual eyesore for the neighbors. It might set a trend going forward with other communication towers as well.

DOTSON motioned to amend item #3 in the findings of facts to include that the pole must look like a tree. Seconded by MAYOR BOLEY.

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

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

WILSON stated that the finding will now read: *The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located. The monopole has limited visual impact to any adjacent property and will look like a tree.*

**DISCUSSION:** NONE

**THE VOTE:** MUESSIG-AYE, DOTSON-AYE, WILSON-NO, MAYOR BOLEY-AYE, KATHCART-AYE.

**AYES-4, NOES-1.**

4. The location and size of the conditional use will not dominate the immediate neighborhood to prevent development. The existing mature trees surrounding the property, as well as the distance from any property boundary limit any impact on the adjacent property.

**THE VOTE:** KATHCART-AYE, MAYOR BOLEY-AYE, WILSON-NO, DOTSON-AYE, MUESSIG-AYE.

**AYES-4, NOES-1.**

5. There is sufficient parking for the anticipated maintenance vehicles

**DISCUSSION:**

MUESSIG asked Mr. Hendrix what the setback is?

HENDRIX stated that the site is fenced 50' x 50' but the tower is 198' from the closest property line.

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

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

6. No utility, drainage or other such facilities are needed as a result of the application.

**DISCUSSION:**

MUESSIG asked what the power requirements are for this tower?

HENDRIX stated that he doesn't think the application specifically calls for it but our other ordinances require them to install it and it has to be under ground.

DOTSON asked if this would affect the shared driveway?

HENDRIX stated that it theoretically could.

MUESSIG stated that there are also existing transformers on the hill and they probably have enough on the primary service to tap off of that. He doesn't see them trenching along that driveway. He sees them using one of the local transformers there.

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

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

7. Adequate access roads and entrances are provided.

**DISCUSSION:**

DOTSON stated that she thinks they bear some responsibility towards the maintenance of the shared driveway since they are going to be using it for commercial purposes.

KATHCART there will be a lot of impact on the driveway during the construction of this tree (tower). After that they said they will only be out there monthly.

MUESSIG stated that the entrance of the driveway will get messed up as well. It's only 11 feet wide and during construction they are going to be pulling in trailers and cranes.

DOTSON stated they need to be responsible for anything and everything regarding the shared driveway during the construction phase. The residents shouldn't have to bear any aggravation from that at all.

MAYOR BOLEY stated that he noticed that the entrance of the driveway is not concrete. If an entrance was installed today the requirement would be concrete. If we had them improve the approach to replace that culvert and pour a concrete apron that would get it up to current specifications.

HENDRIX stated yes. That would get the approach up to current specifications. We have not specifications on the driveway itself.

MAYOR BOLEY stated that we could also have them replace the gravel on the driveway as well.

MUESSIG asked if they would be required to mow the setback area?

HENDRIX stated no, he believes this would be the owner of the property's responsibility.

MUESSIG stated that he would like to see a motion brought forward for amendment to include that approach be improved to current city standards up to the right of way line.

WILSON stated that she would like to add to the amendment that the driveway be restored after construction is complete.

HENDRIX stated that the discussion so far with the commission has be to install a driveway approach to city standards and restore the rest of the driveway to current conditions.

Several members of the confirmed this.

HENDRIX also suggested that the driveway approach and restoration happen after construction is complete so that it is not torn up during construction.

WILSON motioned to amend item #7 in the findings of facts that the telecommunication company or their contractor will install a new entrance to

the driveway to meet current city standards and also restore the driveway itself to preconstruction condition. Seconded by DOTSON.

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

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

WILSON stated that we will now vote on item #7 of the finding of facts as amended.

**DISCUSSION:** NONE

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

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

8. The applicant has certified the capacity of the tower to accommodate two additional providers and a letter of intent to lease space so an additional 50 feet in height (maximum 150') may be added to accommodate co-location.

**DISCUSSION:** NONE

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

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

9. That in rendering this Finding of Fact, testimony at the public hearing on June 14, 2022, has been taken into consideration.

**DISCUSSION:** NONE

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

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

**5. PUBLIC HEARING: REZONING 551 S. COMMERCIAL---EAGLE RIDGE B-1P PARCEL TO B-3**

**Public Hearing opened**

HENDRIX informed that in 2018 this parcel was rezoned from agricultural to B-1P as a part of the overall plan for the Eagle Ridge subdivision. The overall plan included B-1, R-2 and R-1 zonings all on one tract of land. At the time they wanted it zoned business but didn't know what they were going to use it for. They have now come forward and requested to put in an office building with the storage of equipment for a development or construction company. I have informed them that that use would not comply with the standard B-1 zoning and they would have to rezone this to B-3 and that is what they are requesting to do tonight.

**Eric Craig---Applicant---1220 Bainbridge Rd---**Stated that he and his partner have a development company here in Smithville. We approached Mr. Hendrix that we would like to put in an office and have a place to store materials. We are trying to accumulate as many materials as we can and keep them on hand. There will be some construction related equipment stored on the property.

**Public Hearing closed**

**6. REZONING 551 S. COMMERCIAL (EAGLE RIDGE B-1P PARCEL) TO B-3**

ALDERMAN CHEVALIER motioned to approve rezoning 551 S. Commercial (Eagle Ridge B-1P Parcel) to B-3. Seconded by KATHCART.

**DISCUSSION:** NONE

**THE VOTE:** MAYOR BOLEY-AYE, KATHCART-AYE, DOTSON-AYE, MUESSIG - AYE, WILSON-AYE, ALDERMAN CHEVALIER-AYE.

**AYES-6, NOES-0. MOTION PASSED**

## **7. PUBLIC HEARING: OUTDOOR STORAGE REGULATIONS**

### **Public Hearing opened**

None

### **Public Hearing closed**

## **8. DISCUSSION OF OUTDOOR STORAGE REGULATIONS**

MAYOR BOLEY motioned to discuss the outdoor storage regulations.  
Seconded by MUESSIG.

### **DISCUSSION:**

HENDRIX informed that a staff report memorandum was provided to each commissioner addressing the issue the city is having. In 2010 the Planning Commission revised the zoning code. They took out outdoor storage in most of the zoning and required it to be inside buildings. At that time the Planning Commission wanted to tighten up outdoor storage and made that recommendation. The old provision had outdoor storage as permitted if it is screened from the public view with a 6 foot tall fence that is 80% sight obscured. This has become a very burdensome scenario for our current businesses to maintain this. Especially with the price of building a building. We have 10 businesses in town that we are currently working on this matter with so before we start taking these things to court with code violation scenarios he wanted to give this commission an opportunity to discuss it and decide if we want to continue with the current code or adjust it.

All commission members engaged in a lengthy discussion on this topic. Various questions were asked, and several scenarios proposed. City Attorney John Reddoch spoke to the commission about use variances. Ultimately the consensus was to change the code and go back to only requiring screening of outdoor storage in all commercial zonings. Hendrix stated that he will get this drafted and it will be brought back to this commission again in August. Click the attached link to listen to the entire discussion:

[https://youtu.be/uhk\\_ck9BphY](https://youtu.be/uhk_ck9BphY)

**9. ADJOURNMENT TO EXECUTIVE SESSION PURSUANT TO SECTION 610.021(1)RSMo**

MAYOR BOLEY made a motion to adjourn to Executive Session Pursuant to Section 610.021(1)RSMo. MUESSIG seconded the motion.

**THE VOTE:** MUESSIG-AYE, MAYOR BOLEY-AYE, DOTSON-AYE, WILSON - AYE, ALDERMAN CHEVALIER-AYE, KATHCART-AYE.

**AYES-6, NOES-0. MOTION PASSED**

WILSON declared the session adjourned at 8:11 p.m.