

CITY OF DE SOTO
PLANNING COMMISSION
City Hall, 32905 W. 84th Street
June 28, 2005 – 7:00 P.M.

MINUTES

1. The meeting was called to order by Chairman Kevin Honomichl at 7:00 p.m.

2. Roll Call:	Friday	Present	Hemphill	Absent
	Honomichl	Present	Kroeger	Present
	Krudwig	Present	Moberly	Absent
	Templin	Present		

3. **General Business:**

A. Approve Planning Commission agenda.

Roll Call:	Friday	Yes	Hemphill	Absent
	Honomichl	Yes	Kroeger	Yes
	Krudwig	Yes	Moberly	Absent
	Templin	Yes		

Motion by Commissioner Kroeger to approve the Agenda; second by Krudwig.
All Commissioners approved by “ayes”.

B. Approve minutes from the May 24, 2005 Planning Commission meeting.

Vice-chairman Friday asked that the “chairman” reference in the Minutes be changed to vice-chairman. He asked that a typo be made on Item 6. a., in the last paragraph, last sentence: ...staff review “it” for approval.

Motion by Commissioner Friday to approve the Minutes as amended; second by Kroeger.

Commissioners approved by “ayes”, with Chairman Honomichl abstaining from the vote.

C. Election of Officers for 2005-06 Planning Commission. Discussion by Chairman Honomichl on nominating Lana McPherson as the secretary for the Commission.

Chairman Friday nominated Kevin Honomichl for the chairman position. No other nominations were presented. Discussion by Commissioners. Chairman Honomichl called for a vote.

Commissioners approved the nominations by “ayes”.

Nomination of Bob Friday as Vice-chairman. No other nominations were presented.

Commissioners approved by “ayes”.

Nomination of Lana McPherson as secretary of the meeting; no other nominations were presented.

All Commissioners approved by “ayes”.

4. **Call to Public:**

Members of the public who wish to address the Planning Commission regarding items not on the agenda may do so at this time. Any presentation is for information purposes only. No action will be taken. There is a four-minute time limit.

No one appeared.

5. **Public Hearing:**

- A. Consider special use permit for a home day care center located at 33785 Hillcrest Street in the Parker Heights subdivision, generally located just south of Lexington Avenue and east of Commerce Drive.

Planning Coordinator Gordanier reviewed the staff report provided to the Commissioners. The applicant, Dianne Miller, was present for the hearing. Planning Coordinator Gordanier outlined the Conformance to the Zoning Regulations and stated the applicant should be required by the special use permit to follow the home occupation guidelines.

The character of the neighborhood was discussed. The subject property is a single-family home situated in a mixed-use area zoned R-1. The staff finding on the compatibility of the neighborhood is positive. The nature and intensity of the proposed use and its compatibility with the zoning and uses of nearby properties is a positive finding.

The availability of required public utilities was discussed by City Engineer Mike Brungardt. Staff has reviewed the increased activities within the home and has found that the proposed use of the utilities is positive.

The adequacy of ingress, egress and parking is positive due to the traffic flow and the proximity of Lexington Avenue. The subject site is accessible from Hillcrest Street, and it is not anticipated that off-street parking will be necessary for any extended length of time. The staff found this positive. The finding relative to the environmental impact is positive.

The economic impact proposed is a staff finding of neutral on this use.

Planning Coordinator Gordanier discussed the extent to which the proposed use may detrimentally affect nearby property. The applicant must be licensed through Johnson County to provide daycare services. There is a limited number of children that are allowed; however, if the applicant is licensed to care for up to 10 children, this would affect the possible traffic volumes. Therefore, staff finds this area as a negative.

The finding of gain to the public health, safety and welfare from a denial of the application does not outweigh the hardship that would be imposed on the applicant from such denial; and, if therefore, found as a positive.

Staff found the proposed use is in conformance with the Comprehensive Plan. The

conclusion was discussed by Planning Coordinator Gordanier and the conditions that would be necessary as a part of an ordinance that must be approved by the City Council in granting the Special Use Permit.

Discussion by Commissioner Templin and Gordanier regarding the special use permit regulations and requirements discussed in the Zoning Regulations for a daycare center. Discussion by Commissioner Templin on whether or not this particular applicant should be required to obtain a special use permit as there are only five (5) children, including two of the applicant's own children, that will be cared for in this daycare home.

Discussion by Commissioner Friday and Commissioner Templin regarding the specific uses that are permitted. Commissioner Friday stated he feels this business should be appropriate. Commissioner Templin stated he feels this type of business is an oversight in the appendix and is inconsistent in some ways. He feels that if there are less than six (6) children in the daycare "home", a special use permit shouldn't be required. No other permitted home occupation, as described in Article 5, is required to pull a special use permit, including in-home dance studios of five or fewer students. Commissioner Kroeger stated a daycare home is "six (6) children or fewer". If there are over six (6) children, then it would become a daycare center, and not a daycare home.

Discussion by City Engineer Brungardt that most zoning regulations don't include a listing of SIC ratings. Commissioner Krudwig asked what are the costs associated with the filing of this request. Discussion by Commissioner Templin that our regulations are not infallible, and he doesn't feel that the applicant should have to pay \$400 for the process if it isn't required. Discussion by Commissioner Kroeger regarding the process being a means for the neighborhood to be informed and allowed an opportunity to voice their opinions. Discussion by Commissioner Krudwig, Commissioners, and staff regarding the fee.

Chairman Honomichl asked for other comments. Chairman Honomichl discussed the term of the special use permit. He stated the number is regulated by Johnson County and is dependent upon age and a point system, along with square footage of the home. He would like to see this restricted to the county's regulations on the number of children allowed in the daycare home. He also discussed the traffic situation for this particular application. City Engineer Brungardt stated this location is one of the better streets for a daycare situation, due to its close proximity to Lexington Avenue. He doesn't feel there should be a restriction imposed on the number of clients in the home.

Chairman Honomichl asked the applicant to speak. Dianne Miller stated she did not want to have too many children in her home. She stated the Commissioners have seen her letter. Mrs. Miller stated she also has to meet the state's regulations.

Chairman Honomichl opened the public hearing.

Mrs. Ann Cowan, 33745 Hillcrest, stated she has nothing against the neighbors or against children. But, she doesn't think it is fair to put a business in the residential neighborhood. Once it is started, others will want to do the same thing and it will result in a lot of traffic and more people coming and going. Mrs. Cowan stated the children need to be kept inside a fenced yard, with the toys kept inside the fenced

area. She said other businesses of this type have become an eyesore. She said if one business comes in the neighborhood, then others will want to start a business. She would like to preserve the quietness of the neighborhood.

No one else appeared and Chairman Honomichl closed the public hearing.

Chairman Honomichl stated there are certain businesses that can be operated in certain residential zones. Code violations can be addressed with a complaint process. Commissioner Friday stated traffic flow was a concern of his, but the traffic will funnel out onto Lexington and this will help mitigate the traffic concern. Commissioner Kroeger asked who enforces the special use permits. Discussion by Mr. Brungardt that this is left to codes enforcement on a complaint basis, generally. Commissioner Kroeger asked if there was a barrier between Hillcrest and Lexington. Commissioner Krudwig stated he supports the number restriction as stated by the county regulations. Commissioner Kroeger discussed the traffic concern and the number of caregivers that would be required. Commissioner Templin stated he has no problem with the county's regulations, but the applicant has applied for a daycare home with no more than six (6) children. She did not apply for a daycare center with more than six (6) children. Commissioner Kroeger stated there is someone in his neighborhood that operates a daycare and there are more than six (6) children at this home. Discussion by Commissioners regarding the state's inspection of daycare homes. Discussion on the regulations for the special use permit.

Motion by Commissioner Templin that the Special Use Permit be recommended to the City Council for approval with the following conditions for regulating the use: incorporate all the items under bullets 1, 2, and amend bullet 3 to "the daycare use is restricted to six or fewer unrelated children", and strike the remainder, and adopt the last bullet of the report; second by Kroeger.

Roll Call:	Friday	Yes	Hemphill	Absent
	Honomichl	Yes	Kroeger	Yes
	Krudwig	Yes	Moberly	Absent
	Templin	Yes		

Motion carried.

B. Consider rezoning from 'C-2' General Business to 'M-1' Light Industrial for property generally located on the west side of Lexington Road south of 95th Street. (Parcel number AF32800000-0001).

Commissioner Krudwig indicated a conflict of interest and recused himself from the meeting for this item.

Planning Coordinator Gordanier introduced the applicant, Joe Rawie, and outlined the contents of the staff report to Commissioners dated June 23, 2005. The twelve (12) golden criteria factors were outlined by Gordanier.

Single family residential uses are found to the north and south of the site, though they are 420 feet away, and the Prospectors Point apartments are 460 feet away from the subject site. There are sizeable distances between the subject property. The finding relating to whether the use is compatible with the existing neighborhood is positive, in favor of granting the application.

The finding relating to the compatibility of the proposed district with nearby properties is positive, in favor of granting the application. The findings relating to the suitability of the uses to which the property is restricted under its existing zoning is neutral, as is the finding relating to the length of time the property has remained vacant as zoned. The finding relating to the need for the proposed uses is neutral, as well.

City Engineer Brungardt stated the availability and adequacy of required utilities and services to the serve the subject site is positive, in favor of granting the application.

The capacity or safety of the road network was reviewed and the found to be positive, in favor of granting the application. The finding relating to environmental impacts is positive, and in favor of granting the application. Staff made no analysis relating to the economic impact of the development and therefore makes no finding relating to this issue.

The finding related to the extent to which the zoning amendment may detrimentally affect nearby property is positive; as is the relative gain to the public health, safety and welfare.

Planning Coordinator Gordanier discussed the subject site in relation to the consistency of the Comprehensive Plan. Staff found this to be positive. She stated the overall recommendation of the staff is positive, in favor of granting the application.

Discussion by City Engineer Brungardt that this application was reviewed by the Johnson County Planning Department as the subject site is located in the K-10 overlay regulation area.

Discussion by Commissioner Templin regarding the lack of input from staff concerning the economic impact of the rezoning. Staff, and perhaps rightly so, has avoided making any comment on the economic impact of rezoning requests, and therefore the issue falls to the Commission to consider without their assistance. City Administrator Greg Johnson stated an economic impact study was conducted on this proposal. He stated this subject site's net benefit to the City over ten (10) years is \$120,000 in property, sales, franchise fees and other revenue.

Discussion by Commissioners regarding the economic impact of the rezoning in removing commercially zoned property from the City in favor of light industrial, particularly in view to this application's proximity to Lexington Avenue and the Sunflower Ammunition Plant. Consensus was reached that the loss of commercial zoning in this corridor is unlikely to have any significant impact unless and until development occurs at Sunflower; and, therefore, the economic impact of the rezoning is negligible.

Discussion by the Commissioners and Mr. Johnson regarding the infrastructure and utilities in this area. Further discussion on the zoning of commercial property along this corridor, and the prospect of commercial businesses in the future, and the future development of Sunflower and the availability of sewers.

Chairman Honomichl opened the public hearing for comment. No one appeared and the hearing was closed.

Commissioner Kroeger stated bringing businesses to town to increase the tax base is a good approach. Commissioner discussion.

Motion by Commissioner Friday to recommend to the City Council to approve the requested rezoning from C-1 to M-1 of the subject property; second by Kroeger.

Roll Call:	Friday	Yes	Hemphill	Absent
	Honomichl	Yes	Kroeger	Yes
	Krudwig	Recused	Moberly	Absent
	Templin	Yes		

Motion carried.

Chairman Honomichl called a five-minute recess at 8:25 p.m. The meeting resumed at 8:29 p.m.

- C. Consider special use permit for a contractor office/storage business generally located on the west side of Lexington Road south of 95th Street. (Parcel number AF32800000-0001).

Planning Coordinator Gordanier outlined the staff report to Commissioners dated June 22, 2005. The Site Plan Review Committee met with the applicant and staff on June 14th, 2005. The Committee recommendations were discussed. Ms. Gordanier discussed the standards for issuance of special use permits and discussed the Application Submittal Requirements that need to be addressed or revised.

The height, bulk and area of the site are found to be in conformance with the Zoning Regulations. The building elevations and building materials were discussed and staff found the building to be compatible in scale, form and proportion to the adjacent structure to the north. The staff feels that the 120-foot facade length will meet the architectural elements with the use of brick veneer, contrasting colors, wainscots, and landscaping of the building.

The pedestrian access was discussed and the Site Plan Review Committee agreed with the applicant that the applicant will participate in the funding for a future sidewalk when conditions warrant. This will be included in the Special Use Permit.

Discussion by City Engineer Brungardt regarding the vehicular access and parking. Staff is recommending that an access easement be provided at this time to allow for the potential future shared access arrangement between the properties. In addition to the additional right-of-way, a 10-foot utility easement should also be dedicated and should be required prior to the issuance of building permits.

Brungardt also discussed the stormwater management, erosion control and public utilities for this site. The proposed stormwater management plan is acceptable at this time. This property is within the newer study phases of the wastewater and sewer plans.

Staff reviewed the landscaping and buffering plans and discussed the stand of trees and vegetation on the proposed site. Ms. Gordanier stated the landscape plan is found to be in conformance with the Zoning Regulations. She stated that the future sidewalk will need to be connected to the interior sidewalk and also be landscaped.

Brungardt stated the buffering of the materials, equipment and items stored in the lot were a point of concern by the Site Plan Review Committee. The County's review of the application was similar for this storage lot. Mr. Brungardt referred to the grading plan and stated the height of the fence will aid in the buffering of the storage items. Mr. Palos of Johnson County Planning provided his comments in a letter that was attached as Exhibit D to the staff report. Mr. Brungardt discussed those comments.

The City's review of the K-10 Overlay Regulations were similar to that of Johnson County's and the comments have been addressed. The matters to be considered were similar to the golden factors as addressed in the re-zoning applications, and were deemed to be positive in favor of the granting of the Special Use Permit.

City Engineer Brungardt reviewed the Special Use Permit Stipulations to be included with the approval of the Special Use Permit application, and he also reviewed the Site Plan Conditions. Based upon these stipulations and conditions, staff recommends approval of the Special Use Permit for Blacktop Paving.

Chairman Honomichl asked for questions on the staff report. Commissioner Templin discussed the length of term of the special use permit. Discussion by staff and Commissioners regarding the term and the property right of the special use permit. A discussion ensued regarding the length of term on a special use permit, in view of the uncertainty of growth and commercial demands along the Lexington corridor in the future.

Commissioner Kroeger discussed the compliance review regarding landscaping and buffering issues. Discussion with City Engineer Brungardt and Commissioner Kroeger regarding the issues that may need to be remedied in the future. Kroeger stated the visibility of vehicles is a concern and the architectural elements facing Lexington Avenue. He feels these have been addressed now by the applicant. Discussion by City Administrator Johnson and Mr. Brungardt on the creation of a benefit district for sidewalk construction. Both said this would be cost-prohibitive on its own merit. Discussion on the elements of the building façade and landscaping.

Joe Rawie, 8468 Timber Trails Drive, stated the sidewalk issue will be taken care of. He will pay his way when the time comes and is in agreement to doing so. Mr. Rawie said he will be required to tie in to the sewer, plus pay again for the benefit district to fund the sewer. Discussion by Mr. Brungardt on the sewer development tap fees. Mr. Rawie discussed the number of employees for his business. Mr. Rawie discussed the hours of his business operation and moving equipment periodically. The hours will be extended from 6:00 a.m. to 9:00 p.m. He discussed the access as depicted on sheet 10. Mr. Rawie discussed the wooden fence that is recommended and stated he would prefer to use chain link with inserts as it is easier to maintain. He said the trees will also provide a buffer to the adjoining property. Discussion by Chairman Honomichl on the 20-year term of the special use permit. Mr. Rawie stated he has no problem with that. Discussion by Mr. Walker on the number of parking spaces for the employees being increased to 8 instead of 5 spaces.

Discussion by Commissioners on the fencing issue. Chairman Honomichl stated he supports the wooden fence. Commissioners agreed to use the wood fence.

Chairman Honomichl opened the public hearing. No one appeared.

The public hearing was closed.

Discussion by Commissioner Kroeger with City Engineer Brungardt on the proposed driveway access.

Motion by Commissioner Templin to recommend approval to the City Council of the Special Use Permit with the stipulations, and with the following modifications: Item 2, the permit shall be granted with a 20-year term limitation; Item 3, add the following, but will not have the authority to revoke the special use permit in its entirety; Item 4 shall be stricken; the limitation in Item 7 will be increased to 8 from 5; the hours of operation in Item 8 shall be increased to 6:00 a.m. and 9:00 p.m..

Comments from Chairman Honomichl and Commissioner Kroeger, asking Commissioner Templin to amend his motion to include allocation of responsibility described in Item 3 to the Planning Staff, and to require the applicant to consent to landscaping provisions in association with the sidewalk. Commissioner Templin declined their invitation to amend and stated he disagreed with imposing more restrictions upon the applicant than as stated in his motion.

Motion dies for lack of a second.

Motion by Commissioner Friday to recommend to the City Council approval of the Special Use Permit, and to include the items of the previous motion, plus a change in Item 3 to change "Planning Commission" to "staff"; and in Item 5, to include landscape provisions for the sidewalk; second by Kroeger.

Roll Call:	Friday	Yes	Hemphill	Absent
	Honomichl	Yes	Kroeger	Yes
	Krudwig	Recused	Moberly	Absent
	Templin	Yes		

Motion carried.

Chairman Honomichl thanked Mr. Rawie for his participation in the process and submitting plans and materials which met City requirements.

Commissioner Krudwig was recalled to the Planning Commission meeting.

Discussion by Chairman Honomichl and Commissioners on the reasons for recusing oneself from a meeting and a conflict of interest.

D. Consider amendments to the City of De Soto Procedures Manual Articles 9 through 16.

Discussion by Planning Coordinator Gordanier regarding the shaded changes that have been suggested for amendments. Chairman Honomichl discussed the changes to be made on page 28. He also discussed the language regarding the Site Plan Review Committee on page 32.

Chairman Honomichl opened the public hearing. No one appeared. Chairman Honomichl closed the public hearing.

Motion by Commissioner Kroeger to recommend approval to the City Council of the Amendments, and note that on page 28 and page 30, strike "registered" and use "licensed" and strike in the third paragraph on page 32, "for adherence to the Subdivision Regulations", particularly", second by Templin.

All Commissioners approved by "ayes".

Planning Coordinator Gordanier said there will be a site plan review committee meeting on Tuesday, July 14th, at 7:00 p.m. Commissioners Krudwig and Kroeger will attend.

Discussion by Commissioner Templin and Planning Coordinator Gordanier regarding reviewing the appendix. Staff will review the appendix.

Chairman Honomichl said Kim and Mike did a great job on the reports and covered all the items very well. Commissioners agreed.

6. Calendar:

- A. June 30, 2005 - Comprehensive Plan update workshop (6:00p)
- B. July 7, 2005 - City Council
- C. July 21, 2005 - City Council
- D. July 26, 2005 - Planning Commission

Motion by Commissioner Templin to adjourn at 10:10 p.m.; second by Kroeger.

All Commissioners approved by "ayes".

Respectfully submitted:

Lana R. McPherson, CMC
City Clerk