

**MINUTES
(NOT YET APPROVED)
CITY OF GARNETT, KANSAS
PLANNING COMMISSION MEETING**

MAY 16, 2022

The May, 16, 2022, meeting of the Garnett Planning Commission was called to order at 6:00 PM by Chair Beth Mersman. Other Commissioners present were Landis, Norman, and Peterson. Also present were Zoning Administrator Mills, Economic Development Director Turnipseed, Dr. Amanda Allison, and Paula and Todd George.

Chair Mersman asked if all members had the opportunity to review the minutes of the March meeting. Commr. Norman moved to approve the minutes of the March meeting as written. Commr Landis offered the second. The motion carried, 4-0.

Chair Mersman opened the public hearing on the request for rezoning of lots 1-12, inclusive, of Block 7 of the Bronston Heights addition. Mills explained that the Drs. Allison are expanding their business, and plan to build a new clinic at the location listed, which is immediately adjacent to the current facility. The rezoning is the last administrative step required for the project to move forward. Mills further explained that the recently vacated a street easement along a portion of the south part of the subject property. Vice-Chair Peterson asked why the City vacated the easement. Mills explained that the easement was not necessary, because utilities for the area are contained within an easement north of the subject property. Additionally, keeping the easement would be an impediment to the construction of the building.

Dr. Allison stated that, while their original intention was to maintain both buildings, the decision had been made to construct the new small animal clinic and demolish the old building afterward.

Vice-Chair Peterson asked if the statutory notifications had been made. Mills responded that they had. Commr. Landis asked if the City received any responses, to which Mills replied in the affirmative. He further stated that he received two responses. The first was from a resident who didn't provide her name, that wanted to ensure that the rezoning would not impair her ability to keep her horses in the area. The second was from Dr. David Henderson, who was just looking for additional clarification as to what the public hearing was about. When Mills explained to Dr. Henderson the nature of the rezoning, he was satisfied.

Mills explained that the notification area was expanded to ensure that everyone within 400' of the property within the City limits, and within 1000' in the county was notified. Commr. Norman moved, and Commr. Landis seconded, to forward their recommendation to the Governing Body, to approve the petition as requested. The motion carried 4-0.

Comms. Scott and Thomas arrived at 6:05

Chair Mersman then opened the public hearing for the other petition, request for a Conditional Use Permit for a childcare facility at 205 S Oak, First United Methodist Church of Garnett, Parkwood Day School-Applicant. Commr. Landis announced to the Commission that, based on his membership on the Finance Committee for the Church, he must abstain from voting in this matter, citing a conflict of interest.

Mills explained that Parkwood Day School has entered into an agreement with the Methodist Church to reestablish a day care center at the Church. Commr. Landis explained that a day care center had been in the church for over 30 years, and was only shut down to lack of participation.

Mills explained their plan, and how it would impact the City's infrastructure. He stated it would not have any great adverse effect on the City's services.

Commr. Landis gave a brief background on Mrs. George and the history of her Day School. He explained that the Day School in Garnett would be her 3rd, and the church is happy to provide the space, and to have the service available.

Mrs. George provided a more detailed background on the school, as well as her process, how she selects personnel, and funding.

Vice-Chair Peterson stated that he knows, based on his experience, that his employer has lost several employees because childcare is more than his company can pay the employees.

Chair Mersman asked Commr. Landis about the condition of the space, and whether it was suitable for the use. Landis stated that while it is generally suitable for the use as it stands, there is some playground equipment that needs upgraded, and some that needs removed. Turnipseed explained that she is looking into grants and other funding to help assist with the cost of doing so.

Vice-Chair Peterson began to move to forward a recommendation of approval. Mills interrupted, and stated that, as this is a conditional use permit, now would be the time to discuss any conditions the feel should be attached to the permit. Peterson stated that he believed the state requirements were stringent enough as-is, and he didn't see any reason to attach any further conditions. The rest of the board agreed. Mrs. George interjected that she has a similar permit at her Leawood facility, and the one condition attached was that she make available 12 spaces for the knitting group on Mondays.

Peterson moved to forward a recommendation of approval for the Conditional Use Permit as requested.

Commr. Thomas provided the second. Chair Mersman asked about statutory notifications. Mills advised that notifications were made, and no responses received. Motion carried, 5-0-1.

There was some discussion amongst the members regarding parking at Orscheln's as well as at a new retailer coming to town, and problems or potential problems, and how best to resolve them.

Mills introduced the old business, the subject of short-term rentals, commonly referred to as "Air BnBs". Peterson make his position known that he is not pleased that these short-term rentals do not pay Transient Guest tax. Mills

clarified that the TGT is collected by the company on behalf of the host, submitted to the State, and then disbursed to the respective cities. Landis stated that he has heard about these rentals being used for large parties, at which many times, the result is damage to the property, or disturbing the neighbors.

Peterson stated again he has an issue with the way short-term rentals are regulated, in that he manages a rooming house in town, and had to appear before the Planning Commission for rezoning into a commercial district, and that those operating these rentals are in residential districts and are not paying the same tax rate, which puts his business, and others like it, at a distinct disadvantage. He called it an unfair playing field. He stated he would be fully supportive of the owners of these rentals requesting a zoning change and operating as a commercial establishment, but the way they are regulated now is unacceptable and unfair in his opinion.

Thomas stated that he agreed in part, that a level playing field should be established.

Landis asked the Commission if it should take action to require these rentals to meet all tax requirements, and whether they have the authority.

Peterson explained that there is nothing for the board to do, and it is up to City Staff to enforce the requirements.

Mills stated that after reviewing the zoning regulations, the SIC that most closely describes the short-term rentals is Rooming and Boarding houses, which are permitted in all residential districts, upon the issuance of a special use permit. Peterson asked what the tax rates were on those properties. Mills stated he didn't know, that taxes were outside the scope of his position.

Peterson stated he believed the next step should be to check with the appraiser to determine whether this type of business would more properly be zoned as commercial or residential. And, once that has been determined, then the board could choose to present that information to the Governing Body.

Scott then stated that she would not support such a measure. When asked what she would not support, she stated she would not support any additional regulation on these types of businesses. Peterson stated that he understood, and that she was certainly well within her right to have that opinion. She further stated that she would not support the way Peterson is trying to accomplish his goal.

Thomas asked whether this was something that the board needed to take action on, or if this was discussion for the future.

Mills said the closest town he could find that regulated short-term rentals is the City of Lawrence. He stated that Lawrence regulates both short-term and long-term rentals. The appropriate section of the code is long, and would provide copies to the members for review.

Mersman asked Peterson if the Kirk House was subject to local inspection. Peterson replied that it was not, and that it did not have food preparation facilities and were only inspected as a lodging facility, perhaps every two years, he believed.

Scott asked Peterson if he was asking the board to take action that would benefit his specific business. Peterson stated no, he was not asking the board to do anything, because there is not currently anything before the board on which to take action.

Norman asked if there is something in place at the corporate level for these websites addressing this. Thomas stated he wouldn't think this is the first discussion had on this topic. Peterson brought up that one motel in town nearly went into insolvency previously, and would hate to see that for any business in town.

Peterson stated that he understood Air BnB required compliance with the TGT, and asked if the other websites, VRBO, for example, did as well. Mills stated he was unsure, but would attempt to contact the organizations, and determine their compliance.

Peterson then asked if any City staff had checked into whether or not the short-term rentals in town had paid the TGT. Mills stated again that the corporation collected those funds at the time of payment, and that the hosts were not involved in that part of the process. Mills stated he was unsure if the City had received that money, and would check with the City Clerk. Peterson said that would be good information to have.

Commr. Norman then moved to adjourn. Landis provided the second. The motion carried, 6-0.

There being no other business before this board, the meeting was adjourned at 6:41 PM.