

Garnett Planning Commission Meeting  
Minutes  
November 15, 2016  
Garnett City Hall

The November 15th meeting of the Garnett Planning Commission was called to order by Chairperson Beth Mersman at 6:03 p.m. with the following members present: Beth Mersman, Chairperson; Skip Landis, Burt Peterson and Les Thomas. Absent: Adam Caylor, Matt Jones and Mike Norman. Others in attendance were Andy Frye, Zoning Administrator; Terry J. Solander, City Attorney; Susan Wettstein, Administrative Assistant, and Applicants Dan Clark and Everett Moddie representing CDRJ Enterprises LLC., dba Wise Auto.

**APPROVAL OF MINUTES**

A motion was made by Skip Landis to approve the July 26, 2016 minutes as written. Les Thomas seconded the motion. Those in favor: 4. Opposed: 0. Motion passed unanimously.

**PUBLIC HEARINGS**

The Planning Commission considered an application by CDRJ Enterprises LLC to rezone all of Lot 14 and the East 20 feet of Lot 13 in Block 11, commonly known as 407 West 2nd Avenue in Garnett, Kansas, 66032, from an O-I (office and institutional) zoning district to a B-1 (general business) zoning district.

Chairman Beth Mersman opened the Public Hearing at 6:06 p.m. Mr. Dan Clark and Mr. Everett Moddie representing CDRJ Enterprises LLC were present at the hearing. Zoning Administrator Andy Frye began by thanking Administrative Assistant Susan Wettstein for taking time from her vacation to be present to take minutes. Mr. Frye presented the application and supporting documents including the Notice of Public Hearing, a copy of a map of the area, and a property record sheet for 407 West 2nd Avenue. Also provided was a copy of the June 15, 2015 Notice of Public Hearing in which the Planning Commission had previously recommended an application for zoning change on this property, from a B-1 to O-I zoning district, at the owner's request.

Mr. Frye shared that under current zoning there could be a lighted parking lot at this location, but not a car dealership. The property currently has a vacant house on it. At one time a previous owner had made application and on June 15, 2015 the Planning Commission made recommendation to the City Commission to rezone it from a B-1 to its current zoning of O-I. CDRJ Enterprises LLC, dba Wise Auto, would like to buy this property and extend their car inventory there. Mr. Frye indicated that the owners of Wise Auto were present. Mr. Frye also noted that he did receive contact by email from Dennis and Jennifer Runyan, who are wanting to move into the residence located at 121 South Vine Street and they do not want a dealership in their backyard. They implied that Mr. Frye would not be adequate representation for them and he agreed, and they were to be present tonight to discuss this with the Planning Commission. However, they are not here. Mr. Frye made it clear that whether this application is approved or not approved, applicants will open and operate a car dealership at 120 South Maple Street.

Mr. Frye pointed out that included in the documents provided to the Planning Commission is the Notice of Public Hearing dated June 16, 2015 showing that not too long ago this property had been zoned as B-1. Chairman Beth Mersman stated that at that time the zoning change was to allow the owner the option to either live in it or rent it out. Terry Solander reminded the Board that at one time Leisler Oil, dba Short Stop, had acquired the property for the purpose of expanding their business. During that process they had the opportunity to purchase their present location at 5th Avenue and Maple, which they felt was a more suitable location for their business and abandoned their 2nd and Maple location. The owner then came in and asked about changing it to an R-2 and it was suggested that he can put a residence in an O-I zoning district and yet keep the option open for business use. Burt Peterson remembered making this suggestion.

Mr. Moddie and Mr. Clark were asked to speak. Mr. Clark told the Board that their plan is to tear down the house and renovate the lot. At this point they plan to have a gravel parking area. Mr. Peterson questioned if the City has codes against gravel lots in commercial areas. Mr. Solander does not recall any such ordinance. Mr. Moddie stated that the real estate agent representing them did inquire about if gravel was permissible at the time they purchased 120 S. Maple so that they would know what their costs would be and was told that gravel would be okay.

Mrs. Mersman questioned if any other neighbors had contacted the City in opposition. Mr. Frye responded "No". Skip Landis asked where the neighbor who opposes lives. Mr. Frye answered that the persons in opposition currently live in Olathe but have ownership interest in the property directly east at 121 South Vine Street. Mr. Runyon had expressed to Mr. Frye that he preferred the property remain an O-I zoning district because he does not want the traffic and the glaring lights of a car dealership in his backyard. Beth Mersman stated that can still happen under O-I. Mr. Frye noted that lights can still be placed on the property in an O-I but they cannot glare or shine towards a residential property. Terry Solander explained that the question in changing the zoning is that if you are just parking cars, could you call that part of your inventory and can you take people over there or would you have to move the car over to the corner lot to sell? This is kind of a fine line but the zoning change erases this fine line. Mr. Moddie said that they are here tonight because they want to do this the right way. It was questioned if they will put up a fence between the neighbor to the east and it was said that a fence already exists on the residential property. Mr. Moddie referenced that their plan regarding lighting, should this go through, is to put one pole or maybe two, just enough to provide light to prevent vandalism. These lights would be facing toward the highway. They currently have 2 lights on the front of their lot on the highway. Mr. Moddie said their plan is to also put up a digital sign on their highway property and they currently have LED lights on the front of the building.

Mr. Solander went back to answering the question raised regarding fencing, saying there are fencing requirements if product is kept outside in an O-I. There is no requirement in a B-1 (general business district). You cannot store equipment outside. If there is a service truck or other equipment it will need to be stored inside.

Mr. Thomas said the issue at hand here is changing the zoning so that the language allows for a car lot. So technically there isn't anything that would change the usage of the property other than selling cars. You could park all the cars you wanted to there, do whatever has to be done that is conducive to the benefit of the neighbors as to not cause them harm. Mr. Solander reiterated that very little difference would be seen from the day to day operations.

Mr. Peterson brought up the special use permit, which allows special uses to be granted. Special use follows the current owner. If the business were to cease to exist the property use would revert back to its former zoning. Mr. Peterson wants to make it clear to the Board that if this zoning change is granted and this business were to perhaps go out of business, the new zoning change would allow businesses in B-1, such as automobile or implement sales, lumberyards, contractor yards, office or retail. Mr. Solander spoke to Mr. Peterson's example of a contractor's yard as highly unlikely, and told the Board a car dealership is not a permitted class under special use.

Mrs. Mersman asked how soon the vacant house will be torn down, to which Mr. Moddie responded as soon as they get the okay from the City on this issue. They have a signed contract with the owner pending the outcome of this rezoning issue. This is the fifth store of their franchise but the first stand alone "used" car lot. Mr. Moddie reiterated that they just want to do this right. This additional property will allow them to expand from 30 to 40 cars on site to 50 to 60 cars and possibly increase staff from 2 full-time employees to 4.

With no further discussion, Skip Landis made a motion to recommend to the City Commission to approve the rezoning of this property located at 407 West 2nd Avenue to B-1; also to have the appropriate directional lighting, and if fencing is required, to have the necessary fencing in place. Burt Peterson seconded the motion. Those in favor: 4. Opposed: 0. Motion unanimously carried.

Mr. Moddie wanted to state for the record that Mr. Frye has been very professional and wonderful to deal with through this whole process. It might not be the case in every community but it has been in this one. Mr. Moddie and Mr. Clark left the meeting.

Discussion was held on the history of this property with Mr. Solander explaining that at one time the zoning on this property was split down the middle of the house, half and half. That was subsequently changed to R (residential), then later to B-1.

Mr. Peterson questioned why this is not spot zoning, to which Mr. Solander responded because it is adjacent to a commercial area. It is not a "spot".

OLD BUSINESS - NONE.

NEW BUSINESS - NONE.

Andy asked the Board if they felt they were being adequately notified of their meetings. The consensus was "yes".

A motion was made by Burt Peterson to adjourn the meeting. Skip Landis seconded said motion. Motion passed unanimously. The meeting adjourned at 6:30 p.m.

Minutes recorded by Susan Wettstein.