

**PLANNING COMMISSION**

**October 4, 2016**  
7:00 pm  
Council Chambers

**ROLL CALL**

Commissioners Present: Commissioners Burney, Davis, Huddleston, Loyd, McDowell, Pinkley, Seay, Woolery, Vice-Chairperson Romine, and Chairperson Harris  
Commissioners Absent: None.  
Staff Present: William Duston City Attorney  
Joel Hornickel Director of Planning and Development  
Tara Norback Planning Assistant  
Kim Varner Planner  
Kendall Powell Utilities Plans Examiner  
Randy Fogle Division Fire Chief  
Matt Filice Assistant City Engineer

**1. Approve Agenda.**

Recommended Action: Approve the October 4, 2016 agenda

**MOTION:**

Motion by Commissioner McDowell and seconded by Vice-Chairperson Romine, and unanimously carried to approve the October 4, 2016 agenda as presented.

**PUBLIC COMMENTS**

**REGULAR AGENDA ITEMS**

**2. Approve Minutes.**

Recommended Action: A) Approve the minutes of the September 6, 2016 regular meeting  
B) Approve the minutes of the September 6, 2016 study session meeting

**MOTION:**

Motion by Commissioner Seay and seconded by Commissioner Loyd, and unanimously carried to approve the minutes of the September 6, 2016, Planning Commission Study Session and regular meeting as presented.

**OLD BUSINESS**

**PUBLIC HEARING AGENDA ITEMS**

- 3. Request for R-2 Two-Family Dwelling District Zoning for the Property Located at 180 Stillwood Drive, Branson, Missouri.  
Project No. 16-2.3 (16-00200003)  
Applicant: Theodore & Arlene Nibbe**

Mr. Hornickel presented the staff report as filed with the Planning and Development Department.

Vice-Chairperson Romine asked if there would be four remaining properties within the Stillwood subdivision yet to be annexed.

Mr. Hornickel stated she was correct.

Chairperson Harris asked if any of the Commissioners had any questions of staff; there was no response. He asked if the applicant or their representative was present.

Mr. Hornickel stated staff had been in communication with the applicant regarding the request, and as common practice with an annexation request, staff had them also complete the zoning application. He stated he believed the applicant was aware of the meeting, but had not planned to attend.

Chairperson Harris asked if any of the Commissioners had any other questions; there was no response. He then asked if anyone else was present who wished to speak in regards to the item; there was no response. He entertained a motion.

**MOTION:**

Motion by Commissioner Huddleston and seconded by Vice-Chairperson Romine to approve Resolution 16-2.2.

AYES: Commissioners Burney, Davis, Huddleston, Loyd, McDowell, Pinkley, Seay, Woolery, Vice-Chairperson Romine, and Chairperson Harris  
NOES: None  
ABSTAIN: None  
ABSENT: None.

Motion to approve Resolution 16-2.2 carried with a 10-0 vote.

**4. Request for a Zoning Change from A Agricultural District to R-1 One-Family Dwelling District for the Properties Located at 432 Camp Drive, Branson, Missouri.  
Project No. 16-3.3 (16-00300003)  
Applicant: Sherman Cogdill**

Mr. Hornickel presented the staff report as filed with the Planning and Development Department.

Chairperson Harris asked if any of the Commissioners had any questions of staff.

Commissioner Seay stated the neighboring church had reached out to her to make sure there were no plans or intent at this time for a residential subdivision as they had concerns regarding run-off.

Mr. Hornickel stated the applicant had shared no such intent with staff. He stated the applicant's intention was instead to only combine a small portion of the larger lot with his other property which had been previously zoned R-1 One-Family Dwelling District. He stated both properties needed to be the same zoning designation prior to being combined. He stated if the applicant were to change their intention and develop the property in the future as something not allowed under the R-1 zoning, they would first need to rezone the property which would include at least one public hearing. He stated if they were to develop something allowed under the R-1 zoning, such as a subdivision, they would be required to go through a public hearing process for a subdivision plat. He stated such a subdivision would also be required to comply with the City's design criteria through the Engineering Department. He stated both scenarios would prevent any negative affect from occurring on the church's property, and the church would be given the opportunity to share their thoughts of any proposal publically.

Commissioner Loyd asked if the one hundred foot buffer setback would be required within the small band of property currently zoned C Commercial District to the north of the applicant's property if the request was approved.

Mr. Hornickel stated that property was part of Danna's Bar-B-Que, and the lot was that shape most likely due to the severe topography and simply by how it had been subdivided as a result. He stated the buffer would be required, but as it would be very challenging to develop that portion of the property, it should not be a concern. He stated at the time of development of a property zoned commercial, they would be required to provide a one hundred foot buffer from any property zoned residential. He stated the zoning change would reinforce that portion of the property to remain vegetated as a result.

Chairperson Harris asked if any of the Commissioners had any questions of staff; there was no response. He asked if the applicant or their representative was present.

Mr. Sherman Cogdill approached and stated staff had explained the request well. He restated the reason for the request was to sell his existing cabin and shed, but he needed to split off a portion of his property to do so and combine the two pieces.

Chairperson Harris asked if any of the Commissioners had any other questions for the applicant; there was no response. He then asked if anyone else was present who wished to speak in regards to the item; there was no response. He asked if any of the Commissioners had any other questions; there was no response. He entertained a motion.

**MOTION:**

Motion by Commissioner Seay and seconded by Commissioner Loyd to approve Resolution 16-3.3.

AYES: Commissioners Burney, Davis, Huddleston, Loyd, McDowell, Pinkley, Seay, Woolery, Vice-Chairperson Romine, and Chairperson Harris  
NOES: None  
ABSTAIN: None  
ABSENT: None

Motion to approve Resolution 16-3.3 carried with a 10-0 vote.

**5. Request for a Municipal Code Amendment to Chapter 22 –Business, Chapter 42 – Fire Prevention and Protection, Chapter 58 – Offenses and Nuisances, Chapter 62 – Parks, Recreation and Other City Facilities, Chapter 66 – Planning and Subdivisions, Chapter 70 – Signs, Chapter 78 – Streets, Sidewalks and Other Public Places, Chapter 86 – Traffic and Vehicles, and Chapter 94 – Zoning, Pertaining to the Zoning Code and Temporary Signs.**

**Project No. 16-12.2 (16-01200002)**

**Applicant:** City of Branson

Mr. Hornickel presented the staff report as filed with the Planning and Development Department. He stated he was going to present the proposed zoning code based on the project summary which had been provided in the staff report. He stated the first item from the summary was the overall organization of the zoning code. He stated the new format should provide increased efficiency and clarity for its users and staff. He stated the next item pertained to the definitions. He stated staff had reviewed and provided clarification for almost every definition. He stated many definitions were also added and removed as necessary to reflect current development practices and the proposed changes in the code.

Chairperson Harris asked staff to specifically review the definition for special events for the Commissioners.

Mr. Hornickel read the proposed definition for special events and stated the new definition resolved the issues with the current definition.

Chairperson Harris stated the Board of Aldermen had reviewed portions of the proposed code earlier, and he asked Commissioner Seay for her input.

Commissioner Seay stated the Board of Aldermen had not yet discussed the special event definition. She stated they had only previously discussed the basic land use items and food trucks. She stated she had several concerns with the proposed code, and so did the rest of the Board of Aldermen.

Chairperson Harris stated special events were proposed to remain, and public events were proposed to be added.

Mr. Hornickel read the definition of public events.

Chairperson Harris asked if any of the Commissioners had any other questions regarding definitions.

Commissioner Seay asked if the ten thousand square feet of meeting area only counted for the for-profits, or would it also be counted for non-profit events also.

Mr. Hornickel stated there would be no size requirement for non-profit events. He stated many non-profits had been regulated as special events in the past, but they were no longer when staff began enforcing the actual special event definition. He stated the community had spoken out their desire for their events to have off-premise signs again, so a mechanism needed to be found to assist with the request.

Commissioner Seay asked if there would be any issue with having rules for profit and others for non-profit.

Mr. Hornickel stated the same question had been posed to the consultant, and she felt confident that it would be acceptable as written as it had been used by other communities.

Mr. Duston stated he would create a memo based on any questions from the Commission.

Chairperson Harris asked if any of the Commissioners had any other questions pertaining to definitions; there was no response. He asked if anyone else was present who wished to speak in regards to the definitions; there was no response.

Mr. Hornickel stated the next item was an update of the common processes and procedures along with additions to each to better reflect actual practices. He stated the site plan review process had specifically been one area which additional regulation were proposed to insure a better process.

Chairperson Harris asked if any of the Commissioners had any questions pertaining to the process and procedure section; there was no response. He asked if anyone else was present who wished to speak in regards to the process and procedure section; there was no response.

Mr. Hornickel stated the next item pertained to the increased regulations for Planned Developments and their approval process. He stated Planned Developments would be regulated as an overlay district moving forward, and they would be required to include a phasing program and some amount of public benefit. He stated a two year timeline would also be enforced so the City would not be left with any additional unfinished planned developments.

Chairperson Harris asked if any of the Commissioners had any questions pertaining to planned developments; there was no response. He asked if anyone else was present who wished to speak in regards to planned developments; there was no response.

Mr. Hornickel stated the next item was the establishment of a new lineup of zoning districts. He stated there were currently ten districts and thirteen districts were being proposed based on the Community Plan 2030. He stated within the districts the Conservation District would be revised to better reflect its intent. He stated the new code would establish five Commercial Districts for more specificity as there were only two districts currently. He stated

an Entertainment District would be created to provide requirements specific to the Highway 76 corridor which would provide and promote creativity and flexibility. He stated the Industrial District would be updated and a Business District would be added to help promote a business environment in specific areas of the community.

Chairperson Harris asked if any of the Commissioners had any questions pertaining to the districts; there was no response. He asked if anyone else was present who wished to speak in regards to the districts; there was no response.

Mr. Hornickel stated the next item included updates to the bulk and dimensional standards to reflect the desired range of local development and opportunities.

Chairperson Harris asked if any of the Commissioners had any questions pertaining to the standards; there was no response. He stated he thought the charts within the code were a much easier way of showing and understanding the regulations. He asked if anyone else was present who wished to speak in regards to the standards; there was no response.

Mr. Hornickel stated the next item pertained to the list of allowed and special uses. He stated several uses were added to reflect modern development and anticipated future uses based on current trends.

Chairperson Harris asked if any of the Commissioners had any questions pertaining to uses; there was no response. He asked if anyone else was present who wished to speak in regards to the uses; there was no response.

Mr. Hornickel stated the next item pertained to the creation of supplementary standards so certain allowed uses could be reviewed and approved administratively, thus saving an applicant time and money.

Chairperson Harris asked if such a process would reduce the number of special use permit requests.

Mr. Hornickel stated he thought it would reduce the number, especially in combination with the creation of the Entertainment District and the overall updated list of uses in the table.

Chairperson Harris stated maintaining some level of flexibility was a good thing in order to stay up with the times.

Commissioner Pinkley asked if the certification of new and unlisted uses section in the draft code pertained to Chairperson Harris' statement.

Mr. Hornickel read the section and stated the proposed process in code would provide staff with a way to work with a proposed use even if it was not listed in the table.

Chairperson Harris asked if any of the Commissioners had any other questions pertaining to supplementary standards; there was no response. He asked if anyone else was present who wished to speak in regards to supplementary standards; there was no response.

Mr. Hornickel stated the next item pertained to the introduction of the temporary use category. He stated the new process and regulations would assist with accommodating uses that may exist on private property for a short duration with no negative affect caused to neighboring properties.

Chairperson Harris asked if any of the Commissioners had any questions pertaining to temporary uses; there was no response. He asked if anyone else was present who wished to speak in regards to temporary uses; there was no response.

Mr. Hornickel stated the next item pertained to special events. He stated that along with the updated special event definition, staff also reviewed the entire section and made minimal changes to improve the process.

Chairperson Harris asked if any of the Commissioners had any questions pertaining to special events; there was no response. He asked if anyone else was present who wished to speak in regards to special events; there was no response.

Mr. Hornickel stated the next item pertained to off-street parking requirements. He stated the main change was from a minimum parking standard based on occupant load to a maximum parking standard based on the square footage of a structure. He stated parking based on square footage was the more common way of calculating parking.

Chairperson Harris asked if any of the Commissioners had any questions pertaining to off-street parking; there was no response. He asked if anyone else was present who wished to speak in regards to off-street parking.

Mr. Bob Huels approached and stated many franchises and national chains require five parking spaces per one thousand square feet, and they would not develop in any place if less were required. He stated he would typically be in favor of less parking, but in some instances it would prohibit some businesses from coming to town.

Chairperson Harris asked if it was common for federal or government agencies to require certain parking requirements.

Mr. Huels stated it would, but it would be more common for retailers. He stated developers are very detailed in their requirements due to the statistics and demographic information they pull for future locations.

Mr. Hornickel stated there would be an opportunity for a maximum parking waiver. He stated there would be such a process instead of not having any flexibility.

Mr. Huels stated there had been a dynamic change which occurred because he typically would argue the amount of required parking was not needed.

Commissioner McDowell asked if pervious parking areas instead of impervious areas would make any difference.

Mr. Huels stated it would depend on the cost and availability of materials.

Chairperson Harris stated there had been discussions over the years on the topic of pervious paving, and he thought the expense was becoming more feasible for construction.

Commissioner Seay asked where the requirement of four per thousand came from.

Mr. Hornickel stated the parking regulations were discussed with the consultant who had worked across the country, and she had recommended the best practices from what she had come across. He stated he did not have the information as to the specific city or cities it came from.

Mr. Rick Huffman approached and stated he had not been aware of the red-lined copy. He stated he agreed with Mr. Huels that some businesses require more parking, such as five per thousand, and it had been a requirement for a Starbucks location in Springfield. He stated some retailers required four parking spaces per thousand, but it was only when there was flexibility through a cross-parking agreement or parking easements. He stated there needed to be some flexibility for those franchises that require more parking.

Mr. Hornickel stated there would be a waiver process in place which could be utilized as well as opportunities for cross parking agreements.

Commissioner Huddleston asked if they thought someone would not locate in Branson if there was a requirement for only four spaces per thousand based on their experiences.

Mr. Huffman stated certain larger franchises would not develop here unless they could acquire a cross parking easements.

Commissioner Huddleston stated the intent should be to encourage cross parking and to encourage fewer parking spaces. He asked if franchises would walk if the City did not meet their requirements.

Mr. Huffman stated he dealt with franchises every day, and they would walk away and go to another site.

Chairperson Harris asked if any of the Commissioners had any other questions pertaining to off-street parking; there was no response. He asked if anyone else was present who wished to speak in regards to off-street parking; there was no response.

Mr. Hornickel stated the next item pertained to the revisions made to the temporary sign code based on a recent Supreme Court decision.

Chairperson Harris asked if any of the Commissioners had any questions pertaining to temporary signs.

Commissioner Seay stated she would like more information on the topic from the City Attorney.

Mr. Duston stated he would work up a memo for the topic along with the others requested for him to review.

Mr. Huffman asked if they were referring to the Reed versus Town of Gilbert case.

Mr. Hornickel stated they were.

Mr. Huffman asked how religious signs would be treated for a bake sale or another other type of event.

Mr. Hornickel stated as a city we were not allowed to regulate signs based on their content, but we could regulate quantity, location and timeframe for display of any sign. He stated if a church were having an event on their property and wanted to advertise, they would need to follow the regulations for on premise advertisement as they currently are required. He stated if they wanted off-premise advertisement, they would be able to apply for a temporary use permit which would allow them to have up to ten yard signs and five banner signs which could be put anywhere within the city limits on private property with permission from the owner.

Mr. Huffman asked if a church needed to get a permit for an on premise bake sale sign.

Mr. Hornickel stated the sign's content would not matter, but they would be required to get a temporary sign permit.

Mr. Huffman asked if that was also the attorney's interpretation of the Supreme Court ruling.

Mr. Hornickel stated as a city they had the right to regulate the location, amount, size and length of time for a sign, but not it's content.

Mr. Huffman stated he did not understand.

Mr. Hornickel stated every property would have the right for a temporary sign, and they could choose it's content.

Mr. Huffman asked if they still needed to get a permit.

Mr. Hornickel stated they would need to get a temporary sign permit, but the permit had no bearing on the content, only whether it was on or off-premise.

Mr. Huels asked staff to look into previous case law regarding real estate signs, specifically Century 21 versus the City of Jennings, or the Missouri Association of Realtors versus the City of Jennings, and the Missouri Association of Realtors versus Creve Coeur.

Mr. Duston stated most sign cases had been upheld after Reed versus Gilbert.

Chairperson Harris asked if any of the Commissioners had any other questions pertaining to temporary signs; there was no response. He asked if anyone else was present who wished to speak in regards to temporary signs; there was no response.

Mr. Hornickel stated he was through the major items of the proposed draft. He stated staff was very comfortable with the status of the draft, otherwise they would not have presented it to the Commission. He stated staff recommended approval, and he would respond to any questions.

Commissioner Seay stated she wanted to request for the item to be postponed for a month as the red-lined version had only just been released the previous Thursday. She stated she still had several questions, and recommended an additional thirty days of time so she and others could complete their review.

Chairperson Harris asked Mr. Hornickel what the draft's timeline had been.

Mr. Hornickel stated the recent draft had been posted Thursday morning, and it had been sent to the Planning Commission and staff for additional review at that time as well. He stated it had also been sent to those on their email list from the open house, the stakeholder list, and those who had reached out to staff since the draft was posted the first week of September. He stated staff had specifically reached out to a group regarding the public event topic and a group regarding the food truck topic to make sure to get their input on the draft. He stated through the use of email, staff suggested for the draft to be passed on to other members of the recipient's organizations.

Chairperson Harris asked if the Board of Aldermen had shared a specific end date during their study session review.

Mr. Hornickel stated the open house had been the first time a tentative timeline was shared with the public. He stated the same timeline was then shared with the Board of Aldermen during their study session presentation in June. He stated the Board's request to look further into the food truck topic caused a month delay to the initial timeline. He stated staff had always been working towards an effective date of January 1, 2017, for the code.

Mr. Jay Wilson approached and stated he was with the Stone Castle Hotel and represented the Lodging Association's Board of Directors. He asked about the surveillance cameras requirement for hotels, and what the number of camera locations were proposed. He asked for clarification whether existing hotels would be held to the proposed criteria.

Mr. Hornickel stated existing hotels would not as the requirements were only for new development.

Mr. Wilson asked if they would be required when a hotel is sold.

Mr. Hornickel stated the requirements would only be required for new development.

Mr. Wilson asked how the proposed codes would work with the recently approved hotel tier system.

Mr. Hornickel stated there was no connection as the tier system was a separate process through the Police Department.

Mr. Wilson stated the proposal requirements were far reaching regarding the amount of coverage for the cameras as well as the cost involved. He stated his concern was also with the liability in pool areas. He thanked Mr. Hornickel for the clarification.

Mr. Hornickel stated he had spoken with someone else from the Lodging Association, and they had touched on the same topics. He stated the definitions were different for a motel and a hotel in the zoning code. He stated the other individual had stated cameras were a good idea, but not to the extent listed, and the lobbies and entrances should be the focus.

Mr. Huffman stated Marriott and Hilton restricted cameras from being placed in any corridors, or by any pools as it was their branch standard. He stated he was in agreement about having an additional thirty days to review the draft.

Mr. Hornickel stated if the Commission decided to go the route of delaying their decision for thirty days, staff needed to be active in any conversation because they could not address questions or changes to the draft if they were not involved in the conversations.

Chairperson Harris asked how many changes there had been.

Mr. Hornickel stated he did not know the exact number, but he was able to read the code completely at least three times over the past thirty days, and noticed things to change each time. He stated it was an active document, but staff would not know any of the public's concerns unless they were directed at staff.

Vice-Chairperson Romine asked how many calls staff received between when the red-line version was released and the day of the meeting.

Mr. Hornickel stated he responded to about six people, but they had all called the day of the meeting.

Vice-Chairperson Romine asked if they had any of the same concerns.

Mr. Hornickel stated the parking concern was new, but the hotel topic had been discussed with two other people.

Mr. Huels stated he originally thought the parking standard was a minimum, but later realized it was a maximum. He stated it seemed like an earlier version had been used as the original when the red-lined version was compared and distributed. He stated it seemed confusing to combine and compare previous versions.

Mr. Hornickel stated any issue with the drafts would have been a miscue on staff's part, but their intention of the red-line version was to take the draft posted the first week of September and compare it to the draft posted for the Planning Commission.

Mr. Mark Ruda approached and stated he preferred to have more time to review the draft as well. He stated he had several points he wanted to mention, and he had spoken with Joel earlier. He asked a question in regards to the classification of nightly rentals as lodging establishments. He asked what the feasibility of food trucks would be at their new development. He stated they had a lending facility that dealt with other commercial entities, and he asked how they would fit within the definition of an alternate lending facility. He stated the method of how building height would be measured had changed. He stated there were additional areas he questioned, including bicycle racks.

Chairperson Harris stated he had also questioned an aspect of bicycles, and Mr. Hornickel was able to address it.

Mr. Hornickel stated it had been addressed by simply adding a note stating if a safe route or access could not be achieved then bicycle racks would not be required.

Chairperson Harris asked if any of the Commissioners had any other questions; there was no response. He then asked if anyone else was present who wished to speak in regards to the item; there was no response. He asked if they voted to delay the item for thirty days, would the time sequence be maintained.

Mr. Hornickel stated he thought they could maintain the same timeframe as the code would be for new development only, not existing development, so it would not require as much lead in time for the changes.

Chairperson Harris stated when people are busy, they wait until the last minute to spend time on certain things. He stated he felt more comfortable than he had before to allow everyone more time to review it. He stated it would not do anyone any good to talk amongst themselves about any changes, and so they needed to involve staff and be specific with their concerns and questions.

Mr. Hornickel stated the added benefit of an extra month of review would be that any additional changes and concerns could be brought before the Board of Aldermen at their upcoming study session so staff could receive additional direction.

Commissioner Woolery thanked staff for their efforts, but he also had the idea of postponement. He asked if the January date would be enough time to make the code right.

Mr. Hornickel stated nothing committed staff to the January date. He stated the date had only been staff's recommendation to the Commission, the Board of Aldermen and the public. He stated they felt January was a good date to implement the code, and staff had already been communicating with potential applicants of the anticipated changes.

Commissioner Seay stated she was more concerned about making it right versus when it would be implemented.

Chairperson Harris asked if any of the Commissioners had any other questions; there was no response. He then asked if anyone else was present who wished to speak in regards to the item; there was no response. He entertained a motion.

**MOTION:**

Motion by Commissioner Huddleston and seconded by Vice-Chairperson Romine to approve Resolution 16-12.2.

Motion by Commissioner Seay and seconded by commissioner Huddleston to postpone Resolution 16-12.2 until the next Planning Commission meeting.

- AYES: Commissioners Burney, Davis, Huddleston, Loyd, McDowell, Pinkley, Seay, Woolery, and  
Chairperson Harris  
NOES: Vice-Chairperson Romine  
ABSTAIN: None  
ABSENT: None

Motion to postpone Resolution 16-12.2 carried with a 9-1 vote.

**COMMISSIONER & STAFF REPORTS**

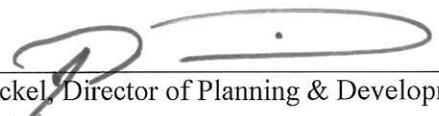
Mr. Hornickel stated the Missouri's annual chapter conference for the American Planning Association would be happening later in the week in Springfield.

**ADJOURNMENT**

Motion by Commissioner Seay and seconded by Commissioner McDowell, and unanimously carried to adjourn the meeting at 9:00 pm.

  
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Clark Harris, Chairperson

11-1-16  
Date

  
\_\_\_\_\_  
Joel Hornickel, Director of Planning & Development

11/1/16  
Date