

MINUTES

1. The meeting was called to Order by Chairman Richard Hemphill.

2. Roll Call:	Manson	Present	McPherson	Absent
	Garrett	Present	Shultz	Present
	Hemphill	Present	Fisher	Present
	Lane	Present		

3. General Business:

A. Commissioners approved the Planning Commission Agenda.

B. Approve Minutes of the Planning Commission meeting held on August 28th, 2018.

Motion by Commissioner Garrett to approve the Minutes; second by Lane.

Commissioners approved by “ayes.”

Motion carried.

C. Disclosure of conflicts of interest. N/A

D. Disclosure of outside communications regarding Commission business. Commissioner Lane stated she had discussion with a Councilman about the signage being proposed. Chairman Hemphill asked Commissioner Lane to explain. She stated the Councilman explained to her the signage project and how he thought it would enhance the City and that he thought it was a good thing for the City. Commissioner Lane advised she gave no opinion and remains impartial.

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. Call to Public was closed.

5. Public Hearing:

- A. Re-zoning from Light industrial to Business General for Jake’s Fireworks. Planner Brad Weisenburger gave a summary of the staff report. The address will be assigned later. Applicant is here tonight to answer any questions. Staff met with Applicant and gave process summary. The site will contain a combination of uses. Fireworks will be sold on and around the 4th of July holiday, and the remaining 50 weeks will be an indoor sports training facility. Staff approached it in that manner. Permitting on fireworks is allowed in a permanent structure. Notifications given. Existing zoning is M-1. Proposed is C-2. Fireworks sales are not allowed in M-1 zoning. Criteria of zoning factors were reviewed.

Administrator Brungardt commented that discussions about a particular use should be kept out. The rezoning allows all C-2 uses, not just the site plan uses.

Commissioner Garrett commented on the VFW and school selling fireworks and how they have to get a permit to sell. He wanted to know if Jake’s will also need to get a permit to sell fireworks? Staff commented ‘yes, a permit is necessary.’

Chairman Hemphill opened the Public Hearing and invited audience members to speak.

Justin Milburn, Civil Engineer, with the Milburn Civil Engineering Company commented on the rezoning and stated he is working with Mr. Hicks on a concept plan for the remainder of the vacant land, and rezoning to C-2 fits in with future development plans.

Chairman Hemphill commented that in the Comprehensive Plan being updated, the consultant is in favor of C-2 here. The site has a commanding view of the community.

Chairman Hemphill closed the Public Hearing.

Chairman Hemphill said the name catches him off guard. Jake’s Fireworks may not be a good fit. The C-2 zoning fits well.

Commissioner Manson stated the proposed rezoning makes the property more useful long-term. This item is about the property use, not the current proposal.

Commissioner Fisher commented the building looks really good.

Motion by Commissioner Garrett to recommend approval to the City Council of the rezoning from M-1 Light Industrial to C-2 Business; second by Commissioner Lane.

Roll Call:	Manson	Yes	McPherson	Absent
	Garrett	Yes	Shultz	Yes
	Hemphill	Yes	Fisher	Yes
	Lane	Yes		

Motion carried.

6. Old Business: None.

7. New Business:

- A. Site plan for Jake's Fireworks. Planner Brad Weisenburger reviewed the site plan process and items stated in the Staff Report. Staff recommends approval of the site plan. Chairman Hemphill had questions about the arch elevations views. Chairman Hemphill asked if the materials are consistent with masonry. Staff confirmed they are. There is height and elevation variation in the design. Chairman Hemphill discussed the visual barrier that might be imposed by the building. Commissioner Garrett asked if it will block the view of the motel? Discussion ensued. Commissioner Lane asked if the landscaping requirements are acceptable. There was general discussion among Commissioners and Staff concerning the property. Commissioner Manson stated the board can't deny an approval if the applicant has met all the requirements. Commissioner Fisher agreed.

Justin Milburn, the architect for the project, introduced Mr. Eric Easter of Jake's Fireworks. They presented an overview of building elevations and utility connections. Parking numbers and storm drainage were also addressed. Discussion among Commissioners.

Commissioners and Staff discussed the future setbacks with the applicant and the architect. Administrator Brungardt said front setbacks will always be along Commerce.

Commissioner Manson asked what happens if the property next door doesn't develop? Discussion ensued. The access road becomes a dead end if property isn't developed.

Mr. Raj Patel, owner of the Super 8 hotel, asked is this building is going to block the sign on the Super 8. He also asked about the property setback requirements. Mr. Patel and Administrator Brungardt discussed the setback requirements. A discussion ensued on the visibility of the Super 8 sign when the proposed building is completed.

Mr. Eric Easter, 1500 E 27th Terrace, Pittsburg, Kansas. He addressed the store's name for the 75 stores. Mr. Easter said he has done 55 of these stores in all states. They have added the sports aspect recently due to the fireworks having a very limited sales aspect. Jake's has a sports training facility in Topeka and Pittsburg. It is an interior multi-use sports facility branded "Works Class Sports". A fireworks sales permit from the City will be required each year when the fireworks are stocked inside the building.

Commissioner Lane voiced concerns about safety with the batting cages inside the building with the fireworks, as well as with the close proximity of the hotel. Who will monitor the split usage at change-over? Planning Director Weisenburger answered that would be the purview of the Building Inspection Department.

Commissioner Garrett asked if there were any plans for a pole sign. Mr. Easter responded, 'No.'

Chairman Hemphill asked about sprinkling requirements. Eric Easter answered that they will be required to sprinkle the building and that they would meet NFPA 13, under an ordinary hazard Group 2. Fireworks storage is limited. Mr. Easter indicated that a permanent building is far safer than a tent for fireworks sales.

Commissioner Manson commented that the building permit plans will need to be submitted.

Chairman Hemphill commented on there being no brick, just split faced block. Corrugated metal siding, and mesh was discussed. Architectural screen panels are proposed for the building facade.

Commissioner Lane said this will be a real asset to our community. Commissioners agreed. Commissioners Garrett and Manson said this is a good fit for this corridor space.

Mr. Easter said he believes it will bring a lot of people to De Soto for the sports facility.

Motion by Commissioner Lane to approve the Site Plan for Jake’s Fireworks as presented; second by Garrett.

Roll Call:	Manson	Yes	McPherson	Absent
	Garrett	Yes	Shultz	Yes
	Hemphill	Yes	Fisher	Yes
	Lane	Yes		

Motion carried.

B. Discuss Text Amendment allowing for Digital Highway Monument Signs. Administrator Brungardt outlined the history of the project. Chairman Hemphill provided some background from previous years concerning pole signs. Administrator Brungardt commented on the City’s decision to relax the sign regulations. Then the Council was asked to consider a request for an electronic message board sign. There has been some aversion to the idea historically. At the time, the applicant, Travis Hicks, had proposed the amendment and both the Planning Commission and the Council voted to deny the requested sign regulation change. Since that time, there has been more discussion on an electronic sign with Mr. Hicks. There has also been discussion concerning the concern for local businesses to be able to afford advertising on the electronic sign. That brought up concerns that outside businesses would be able to purchase advertising on the sign and those businesses would not be located in our community.

Since that time, there have been off-topic discussions between a council member and Mr. Hicks about modifying that concept to be more palatable to the community. It was a discussion item for the City Council in August concerning the proposed sign being a monument sign with some architectural entry-type sign, and also an increased presence for City businesses to advertise. The City Council wasn’t opposed to further discussion about his proposal. Since that Council discussion, a Council member, Mayor, Staff and Mr. Hicks had a meeting to discuss the sign proposal in more detail and that is where this proposed red-lined text amendment for the sign regulations came about. There would be City advertising rotation on the proposed sign, and it will be a monument type sign and the sign will require a Special Use Permit.

The Council then discussed this matter at the Council meeting on October 4th, 2018, that the City might want to consider a partnership agreement with Mr. Hicks in constructing a welcome sign, a City entry welcome sign with the City logo, which could be a part of or located next to the electronic sign. There wasn't complete and total buy-in on that part of the concept, which may possibly be for the reasons because no one knows how much the sign will cost or what the sign could actually look like. The concept is still being discussed, and the Council decided the process should go forward in the process of the Planning Commission review. The Council has also agreed to engage an architect to work with Mr. Hicks, the one who designed the monument sign design several years ago, to come up with some type of concept and a price just for the City's involvement for a welcome sign.

The Planning Commission would follow the normal process and would need to go through the public hearing process if these type signs are a possibility. The idea in front of the Commission is a different concept than the one presented to the Planning Commission a few years ago. So, the question is, "do we want these signs to be a possibility?" It used to be 'no', but

Chairman Hemphill said he wanted to quote former grocery store owner and Planning Commissioner Marge Morse at that time who said, "Travis, you are going to be advertising for merchants on this sign who do not live in De Soto on this sign that is in De Soto? That will be the day!" Chairman Hemphill said that was her comment. So, we are now answering that. Commissioner Lane said the City cannot regulate the messages or content on the sign, even though the sign is in the City of De Soto. Administrator Brungardt said he wanted to be very clear on the distinction between the background and what's before them now.

The question is, 'do we want the City's logo on the sign?' This is a very valid question. The City cannot control the content on the sign. People driving down K-10 are going to 'assume' this is the City's sign, and the City is controlling the content and the City may be advertising for Olathe Dodge. That is a very valid concern and one the Council will have to discuss.

Tonight, the discussion is, 'do we want to implement a mechanism that makes electronic message boards possible along K-10?' We may very well decide that we don't want the City's logo on this sign. If that's the case, then the sign will need to stand on its' own. Mr. Hicks or any other citizen can then come to this board and apply for a permit to do what is independent of the City. This is a very sticky wicket. Some might say it is fabulous and would make a name for De Soto in the region and we aren't all that concerned that the sign could be advertising strip clubs in Topeka. Commissioner Garrett responded that the sign owner could do that. Administrator Brungardt said, 'yes, as long as it's not vulgar.' There is a 'vulgarity clause' in the First Amendment.

Commissioner Garrett said the Planning Commission has spent many, many hours on this subject. One of the big things is advertising outside businesses. Commissioner Garrett said he personally asked Mr. Hicks if he would be advertising his businesses in Lawrence and Mr. Hicks said 'yes'. Chairman Hemphill said that was one of the things Marge Morse brought up. She said we have merchants here in De Soto. How do you expect them to make it if you are advertising for businesses out of town? Commissioner Garrett said anyone could go to him and say, 'I want to advertise on your sign.' If you have the money

to pay the fee, then that advertising could go on the sign. Commissioner Garrett said he thinks at that time the cheapest ad was around \$800 a week. Chairman Hemphill said it was very expensive. Discussion ensued.

Commissioner Manson said it is his understanding it would be laying the groundwork for essentially one sign along K-10. Commissioner Manson said we just talked about the height of the sign in the previous application for Jake's, with the maximum height of 35 feet. The 35 feet of height was discussed. Commissioners discussed the sign size. Commissioner Shultz asked about the height of the sign and where the actual height would be measured from. Administrator Brungardt said that language would have to be clarified. He provided the concept plan that was shown to City Council members at their last meeting. There is also a 4,000 feet requirement between signs. Discussion ensued among Commissioners on each aspect of the red-lined proposal.

Commissioner Garrett said he has concerns that the Planning Commission will be blamed for approving it if it doesn't go well with the citizens. Discussion between Commissioner Manson on the special use permit process. It would be a public hearing item. Discussion again ensued among Commissioners. Commissioner Garrett said De Soto would be the only one on K-10 from Renner to the county line. Chairman Hemphill said the City's advertising could be at 3:00 a.m. when no one would see it. He said let's take a stab at looking at it, but it is the City Council's request for the Commission to review this.

Commissioner Lane recited her conversation with Councilman Daniels that the need for advertising is there and would be good for the community to advertise community events. It could also tie in with other businesses in the community and make it more affordable for the businesses in the community.

Commissioner Manson commented on the sign that is presently there. The size and height would definitely have to be reviewed. A special use permit can have a sunset clause and the applicant could come back to the Planning Commission at whatever interval is deemed appropriate by the Planning Commission. There are many factors to be considered for any long-term use. The special use permit should be created for opportunities to discuss the sign conditions fairly frequently. Chairman Hemphill said we need to think of the things we don't think of in the beginning. Commissioner Garrett said we have to cover all the loop holes. Discussion continued.

Chairman Hemphill said he would like to send some items back to the Staff and Council members for discussion on the 35 feet sign height and if that's the requirement, then the current definition of monument sign will need to be revised. Discussion.

Administrator Brungardt said the general bulk and structure of the sign would need to be clarified in paragraph 2.c. A discussion ensued concerning the architectural materials. Chairman Hemphill said he will do an 'edit version' and forward it to City Staff for review.

Commissioners commented on the number of restrictions and the distance between signs. Discussion continued on the red-line comments. Chairman Hemphill commented that the property owner will have to disclose to surrounding property owners that he is planning to

erect a large sign that could impact that property owner's land as regards to visual and light display.

Commissioners commented on the amount of work to be done for this proposed text amendment.

Motion by Commissioner Garrett to adjourn at 8:45 p.m.; second by Shultz.

Commissioners approved by "ayes."

Motion carried.

Submitted by:

Mike Brungardt, P.C., City Administrator