

HAYS AREA PLANNING COMMISSION MEETING AGENDA
CITY COMMISSION CHAMBERS
1507 MAIN ST, HAYS, KS
April 15, 2019
6:30 PM

1. CALL TO ORDER BY CHAIRMAN.

2. CONSENT AGENDA.

A. Minutes of the meeting of March 18, 2019 Meeting

Action: Consider approval of the minutes of the March 18, 2019 meeting.

B. Citizen Comments

Action: None.

3. PUBLIC HEARING ITEMS.

A. None.

4. NON- PUBLIC HEARING ITEMS.

A. Annual Comprehensive Plan Review

Action: Consider approving update of the Compatibility Matrix

(tabled from previous meetings in January and February)

B. R9 Ranch update – Toby Dougherty

Action: None

5. AGENDA ITEMS/COMMUNICATIONS.

A. City Land Acquisition Discussion – Robert Readle

B. Planning Commissioner Comments

i. Opportunity for Planning Commissioners to ask questions of staff or initiate topics for discussion.

6. ADJOURNMENT.

Any person with a disability and needing special accommodations to attend this meeting should contact the Planning, Inspection and Enforcement office (785-628-7310) 48 hours prior to the scheduled meeting time. Every attempt will be made to accommodate any requests for assistance.

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HAYS AREA PLANNING COMMISSION
CITY HALL COMMISSION CHAMBERS
March 18, 2019
6:30 P.M.

1. CALL TO ORDER BY CHAIRMAN: The Hays Area Planning Commission met on Monday, March 18, 2019 at 6:30 p.m. in Commission Chambers at City Hall. Chairman Paul Phillips declared that a quorum was present and called the meeting to order.

Roll Call:

Present: Paul Phillips, Matthew Wheeler, Robert Readle, Mike Vitztum, Dustin Schlaefli, Jim Schreiber and Joseph Boeckner

Absent: Lou Caplan

City staff in attendance: Curtis Deines, Superintendent, Planning Inspection and Enforcement and Linda Bixenman, Administrative Assistant.

2. CONSENT AGENDA:

Paul Phillips asked if there were any changes to the agenda. There were none.

A. Minutes: Robert Readle moved, Matthew Wheeler seconded the motion to approve the minutes from the February 18, 2019 meeting. There were no additions or corrections to those minutes.

Vote: AYES Paul Phillips, Matthew Wheeler, Robert Readle, Mike Vitztum, Jim Schreiber and Joseph Boeckner

Dustin Schlaefli arrived after the vote for the approval of the minutes.

B. Citizen Comments: Paul Phillips asked if there were any comments from the audience not on the agenda. There were none.

3. PUBLIC HEARING ITEMS

A. Rezoning request for South 60 feet of Lot 2, Block D, Tallgrass 2nd Addition to be rezoned from "NC-3" (Neighborhood Conservation District -Single Family, Duplex, Tri-plex) to "C-2" Commercial General District: Curtis Deines provided a power point presentation with a map for the overview of the above property requested to be rezoned. The location of the property is at the Southeast corner of 22nd and Wheatland Avenue.

In January 2019, the City Commission approved rezoning Lot 1 and North 20 feet of Lot 2, Block D, Tallgrass 2nd Addition to "NC-3". This property is identified for medium density residential. The property directly west of this property is zoned "C-2".

The Compatibility Matrix rating found in the Comprehensive Plan shows a value of 2 out of 5 between commercial and medium density residential. This compatibility matrix rates this rezoning a 5 out of 5 when compared to the commercial property to the west of Wheatland Avenue. With the new Unified Development Code bufferyard regulations, this is an acceptable change of zoning request. He described the different types of bufferyards. Buffers make different zoning districts more compatible. This is also a common situation in Hays where the compatibility of the districts can be seen in many areas of town.

He presented the list of land uses by right for the "C-2" zoning district. He pointed out to not rezone with one use in mind; even if it is known what may be planned. Any of these uses are "fair game".

He read the options to consider:

- Approve rezoning request
- Do not approve the rezoning request

Staff recommends approving rezoning the property from "NC.3" Neighborhood Conservation District to "C-2" Commercial General District.

He explained there would be a motion to approve Staff Findings of Fact and a motion to approve the rezoning.

Paul Phillips informed the audience that per The Kansas Open Meetings Act, the first part is a public hearing. After the public hearing, the meeting will be closed for the commission members to discuss the issues relative to the request. There will be two motions; a motion to approve/disapprove staff finding of fact and the second is a substantive motion to approve or disapprove the rezoning request with justification from the list of considerations.

He reiterated to keep in mind not to rezone with one use in mind even if they know what is planned. He reiterated the land uses and special use permits granted by the Hays Area Board of Zoning Appeals could be allowed with the subject rezoning classification. He asked that the list of uses be shown on the overhead.

He opened the public hearing.

Luke Oborny, 1720 Wheatland Avenue, came before the board to state that he had attended the City Commission meeting on the rezoning of the property north of this property since he was not able to attend the public hearing and he did not receive notification. This time he did receive notification and thanked the City and his neighbor being in communication with him making him aware of the public hearing.

He stated that without a doubt, it is easy to understand why he is against the rezoning request because of the realization of the unknown and that he lives so close.

He stated that it is not a matter of being against this rezoning; one of his big questions is with the uses for the "C-2" zoning classification that it could be any of those listed at any point in time. Unfortunately, sometimes businesses succeed and sometimes they don't. His concern is the unknown, what can it be in the future? Some of the uses would support and be positive and helpful to a residential environment. Some of the uses could be a very negative environment especially if you have children and live in a residential area.

What is confusing to him are some of the uses like "Heavy Retail" and "Mixed Use" (what isn't on this list?). He brought it up at the January City Commission meeting for the rezoning of the northern lot asking if there are too many uses within the "C-2" zoning district that would not belong in a residential area. He asked "Can some of the uses in the "C-2" zoning district be broken down. He thinks of the worst case scenario on some of the land uses. He asked if "Can it be changed at this level?" He pointed out that everyone in this room would agree that there are many land uses on the list. Some uses would be okay next to residential and some are a little more cumbersome or risky.

He has lived at his home for five years and plans to stay there for his whole life. You never know when things will change around you.

He pointed out there are some uses that support the residential environment; that are very positive and helpful. There are some uses that would lend themselves to a negative environment especially if you have small children.

He stated that how they vote tonight, he understands the responsibility. He appreciates each and every one on the commission for serving and for their time. He understands what it is like since he serves on the school board. When you do something good, nobody says anything. When someone is unhappy, you will hear about it. He stated that however it happens tonight, he appreciates their time for hearing him and thanked the board.

Matthew Wheeler asked to point out the location of the house on the map. Luke Oborny pointed out the house on the map.

Robert Readle asked Mr. Oborny if he was not in the initial notice area. Mr. Oborny answered that he was not. He pointed to those that were notified. He did bring it up at the commission meeting that he thought it was interesting that most of those notified would go a different direction; although he would literally drive right by this property. This is the block his children play on.

Matthew Wheeler addressed Mr. Oborny stating that he really appreciated him coming and talking to them as a board. He explained that they are restricted as a board that if it is rezoned, the owner can put any of those uses in there and they have no control over that. It is controlled by a statute. With the new regulations, it

provides for the citizens that live nearby with bufferyards and things to help mitigate whatever nuisance, if you will. They cannot even ask what the developer is building. If they change this zoning, they have to change it based on the entire list.

Mr. Oborny stated that he realized he did not understand all of this and did not want to sound disrespectful. He understood by the City Commission that if the Planning Commission approves the rezoning, the City Commission cannot deny it unless there is a legal reason. He asked where change could be made. That is the frustration for him.

Curtis Deines pointed out that "C-2" is general so anything like Home Depot and Tractor Supply and businesses along Vine are within that zoning classification. With the Unified Development Code, several districts were consolidated into the "General".

He explained that if there are continued issues in the future, it could be evaluated for consideration if it needs to break into smaller districts. Mr. Oborny stated that the City Commission explained that they can help guide what can or cannot go into a location and that is comforting as well. He stated that some of the City Commissioners explained to him that piece of property was not big enough for some of the things on the list; although now another 60 feet is added. Is more property going to be added? When is it going to be on their door step, particularly William Stutterheim at 2002 Wheatland. He hopes to have a couple houses as buffer to his home. At the end of the day, all residential does not work for a town either. He thanked the commission and Paul Phillips thanked him.

William Stutterheim, 2002 Wheatland Avenue, came before the commission stating that he was the next-door neighbor and his concerns are very similar to what Luke shared. He wanted to state his case and concern for this area. One of his biggest concerns was all the uses listed under the "C-2" that could be moved into this area. With those uses nearby, he was concerned for his children, particularly at their ages.

He lived next to a liquor store in Phillipsburg, Kansas. His kids got to see a field sobriety test happen in their back yard, so they had to bring their kids back inside. When he sees the list of uses, his mind goes to the worst-case scenario. He had seen it happen, literally in his back yard.

He asked the board, in all due respect, as they make their decision, to keep in mind that if something were to happen to this business, what would that look like if a liquor store, pawn shop or bar moved into that area.

He asked if there is any guarantee this will not be a liquor store or Pawn Shop. The commissioners answered that the entire list of uses are within the "C-2" zoning district.

Mr. Stutterheim stated that it is a small area and he prays and hopes that the business thrives and succeeds. At the same time, there is no guarantee what this will look like in 5 or 10 years.

He asked again if there is anything to prevent this area to be a liquor store or pawn shop. The commission stated there would not be. He said tonight was the first he knew it could not be guaranteed that it would never be a liquor store.

His area of concern is for his children and seeing this creep further back to him. He is also concerned about the list of uses per "C-2" zoning classification.

Paul Phillips thanked those for their comments.

Paul Phillips closed the public hearing for the commission for comments among themselves on the rezoning. He entertained comments from the commissioners.

Matthew Wheeler acknowledged and stated that he respected those that had come forward for comments and acknowledged their concerns. He stated that he wanted to point out that with the college and the hospital on 22nd Street and the City invested a lot of money to redevelop 22nd Street to a heavier street to handle more traffic. They invested a lot of money on Commerce Parkway that it is all connected. It is a logical place for the city to develop. He gets his point, but it would be hard as a member of this commission to vote against this because of what is around it.

Robert Riedel stated that he would like to expand on that. Every time they are faced with these decisions, there are rights of property owners for both properties to do what he wants to do. They are trying to balance and look at the conflict that would arise. The public interest also has to be considered and how that may tip the scale a little bit. It is very difficult when there is conflict in those two goals, but at the same time there are certain things that can sway it.

Joe Boeckner stated that he empathized with their situation; although echoes the above commissioners' statement. They have to look at the whole area, not just the neighbors to the south east or west. One thing he wanted to point out was that typically a bar or liquor store are located in a building that is repurposed; it is less likely to be built in a new location, particularly the first go around, compared to some other purposes listed especially the first go around; although devil's advocate in the future it could. He added that it would be a poor investment for a bar because it is in the middle of nowhere with no parking and walking space. He did not know what is going in there.

Paul Phillips stated that he had one question and then a comment. He noticed that Darrell Dreher owns several surrounding parcels. He asked Curtis Deines to point out the properties relative to the subject property. He stated that to keep in mind, that he like the other commissioners see the value of 22nd Street and continuation of the "C-2"; there is "C-2" zoning to the west. It seems like a reasonable thing; although he would have some real issues extending down in the

residential area. From his perspective to make it clear, the lots extending down should be residential.

Mathew Wheeler moved, Mike Vitztum seconded the motion to approve the Staff Findings of Fact as written.

Vote: AYES Paul Phillips, Matthew Wheeler, Robert Readle, Michael Vitztum, Dustin Schlaefli, Jim Schreiber and Joseph Boeckner

Paul Phillips stated that the second motion is a substantive motion to approve or disapprove from the list of considerations with at least two characteristics that is relevant.

Mathew Wheeler moved, Joe Boeckner seconded the motion to approve the above rezoning based on the suitability for the use of the subject property and the zoning and uses of the property nearby.

Vote: AYES Paul Phillips, Matthew Wheeler, Robert Readle, Michael Vitztum, Dustin Schlaefli, Jim Schreiber and Joseph Boeckner

4. NON-PUBLIC HEARING ITEMS:

Paul Phillips stated that it had been suggested by many of the commissioners that because of a game going on in the City of Hays, they would like to table the next item unless there is motion to bring it forward. There was no objection.

A. Annual Comprehensive Plan Review - Tabled

5. AGENDA ITEMS/COMMUNICATIONS:

A. Planning Commissioner Comments - No comments

i. Opportunity for Planning Commissioners to ask questions of staff or initiate topics for discussion: None

6. ADJOURNMENT: Robert Riedel moved, Jim Schreiber seconded the motion to adjourn the meeting at 6:54 p.m. All Planning Commissioners agreed.

Submitted by: Linda K. Bixenman, Administrative Assistant
Planning, Inspection and Enforcement

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2019 Comprehensive Plan Review - Compatibility Matrix

Summary

The Compatibility Matrix is used for comparing uses between different properties. If there are differences

in zoning, we use this chart to understand the level of compatibility. In 2012 the Comprehensive Plan was completed, and one way we use this chart is to assist in rezoning cases. This is not the only tool we use to make a decision on rezoning cases, but it's an important one. Bufferyards were introduced in 2016 into our Unified Development Code. Bufferyards are intended to make properties that have different uses next to each other more compatible. Staff recommends an adjustment to allow for more accuracy of the chart when doing a presentation and providing information.

These options will be further discussed and explained at the Planning Commission meeting.

Current Compatibility Matrix

Option 1

1. 1's and 5's do not change and are highlighted
2. 2, 3, & 4's were increased by 1. 3's in yellow were 2's
3. 2's with asterisks remain a 2 due to the compatibility of districts

Current Compatibility Matrix

	Urban Reserve	Low Density Residential (LDR)	Medium Density Residential (MDR)	High Density Residential (HDR)	Mobile Home (MH)	Mixed Use/Redevelopment	Mixed Use	Commercial (COMM)	Commercial/Industrial Mixed Use	Downtown Mixed Use	Business Park (BP)	General Industry (GI)	Civic (CIV)
Urban Reserve		3	3	3	3	3	3	3	3	3	3	3	3
Low Density Residential (LDR)			4	3	3	3	3	2	2	3	1	1	4
Medium Density Residential (MDR)				5	4	5	4	2	3	4	2	1	4
High Density Residential (HDR)					5	5	4	2	4	5	2	1	4
Mobile Home (MH)						4	3	3	4	3	2	2	4
Mixed Use/Redevelopment							4	4	4	5	3	2	4
Mixed Use								4	4	4	4	3	4
Commercial (COMM)									5	4	4	3	3
Commercial/Industrial Mixed Use										5	4	3	4
Downtown Mixed Use											3	2	4
Business Park (BP)												4	2
General Industry (GI)													1
Civic (CIV)													

- 5 Completely Compatible
- 4 Basically Compatible with existing adjacent use
- 3 Potential conflicts
- 2 Significant conflicts
- 1 Generally incompatible with adjacent uses

Option 1

	Urban Reserve	Low Density Residential (LDR)	Medium Density Residential (MDR)	High Density Residential (HDR)	Mobile Home (MH)	Mixed Use/Redevelopment	Mixed Use	Commercial (COMM)	Commercial/Industrial Mixed Use	Downtown Mixed Use	Business Park (BP)	General Industry (GI)	Civic (CIV)
Urban Reserve		4	4	4	4	4	4	4	4	4	4	4	4
Low Density Residential (LDR)			5	4	4	4	4	2 *	2 *	4	1	1	5
Medium Density Residential (MDR)				5	5	5	5	3	4	5	2 *	1	5
High Density Residential (HDR)					5	5	5	3	5	5	3	1	5
Mobile Home (MH)						5	4	4	5	4	3	3	5
Mixed Use/Redevelopment							5	5	5	5	4	2 *	5
Mixed Use								5	5	5	5	4	5
Commercial (COM)									5	5	5	4	4
Commercial/Industrial Mixed Use										5	5	4	5
Downtown Mixed Use											4	2 *	4
Business Park (BP)												5	3
General Industry (GI)													1
Civic (CIV)													

- 5 Completely Compatible
- 4 Basically Compatible with existing adjacent use
- 3 Potential conflicts
- 2 Significant conflicts
- 1 Generally incompatible with adjacent uses