

MINUTES OF THE PLANNING COMMISSION MEETING

February 24, 2020

The regular meeting of the Mission Planning Commission was called to order by Chairman Mike Lee at 7:01 PM Monday, February 24, 2020. Members also present: Robin Dukelow, Burton Taylor, Charlie Troppito, Pete Christiansen, Jordan McGee and Frank Bruce. Stuart Braden and Brad Davidson were absent. Also in attendance: Jim Brown, Building Official, and Audrey McClanahan, Secretary to the Planning Commission.

Approval of Minutes from the November 25, 2019 Meeting

Comm. Troppito moved and Comm. Bruce seconded a motion to approve the minutes of the November 25, 2019, Planning Commission meeting, with two corrections noted by Comm. Bruce.

The vote was taken (5-0). The **motion carried**. Commissioners Christiansen and McGee abstained from the vote.

New Business

Election of New Officers

Comm. Dukelow moved and Comm. Troppito seconded a motion to elected Mike Lee as Chairman of the Planning Commission.

The vote was taken (6-0). The **motion carried**. Commissioner Lee abstained from the vote.

Chair Lee moved and Comm. Taylor seconded a motion to elect Commissioner Braden as Vice Chairman of the Planning Commission.

The vote was taken (6-0). The **motion carried**.

Case #20-01 Non-Conforming Situation Permit 5959 Broadmoor Street

Mr. Brown: I'm bringing you this evening Case #20-01, a request for a non-conforming situation permit for property located at 5959 Broadmoor Street. In attendance this evening is Russ Ehnen, the architect of this project, along with the owner. For specific design questions, landscaping elements, etc., they'll be able to respond to those. This property is comprised of three individual parcels identified. It's located at the northeast corner of Broadmoor Street and Martway Street and is addressed as 5959 Broadmoor Street. The existing one-story building is approximately 3,700 square feet, and a small garage for storage located toward the back of the property has been there for several years. I think they stored barbecue cookers and that sort of thing. The building has been a restaurant since its construction in 1973. It started out as Straw Hat Pizza, and most notably, it served as Johnny's Bar-B-Que for 25-plus years. In January, the restaurant closed due to the retirement of the owner. The applicant represents a prospective buyer that would like to continue to use the building as a restaurant. The buyer intends to open a restaurant known as The Other Place in the building.

The property is zoned "C-2B" Retail and Service District. A restaurant is an allowable use in this zoning district. This property is subject to the Mission, Kansas Design Guidelines

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for the Johnson Drive Corridor. It is also located in Block S of the West Gateway Overlay District and therefore subject to the West Gateway Form Based Code.

Surrounding properties are all zoned C-2B in this area, both north, east south and west, and both with various entities such as a post office, pet supply, retail stores, carwash, etc. The Comprehensive Plan Future Land Use Recommendation identifies the subject property for mixed use high density development to include a pedestrian friendly mix of offices, retail, service uses and medium to high density residential. The Form Based Code implements this via the requirement for mid-rise and high-rise structures.

The applicant is requesting approval for modifications to the exterior façade of the existing building by removing the existing mansard style roof elements and replacing with a parapet wall and new entry element, which will incorporate a modern and appealing architectural design. Materials to be used will include brick, native stone veneer and a metal trim overhang. A more detailed description will come a little later in the staff report under the analysis. All proposed exterior renovations are in keeping with the Johnson Drive Design Guidelines. There is no proposed expansion to the existing building or site. A building permit will also be required for the exterior renovation as well as the proposed interior modifications. We will handle that through the building department and permit issuance.

As noted above, the subject property is zoned C-2B, and the intent of this zoning district is for the purpose of permitting, regulating and encouraging retail and service establishments which serve a broad section of the general public. Products and services offered will vary, and in this case, the existing use is permitted within the zoning district. The structure and overall property comply with the stipulations of the zoning district in terms of height, setbacks and parking. In addition, this property is located in Block "S" of the West Gateway Form Based Code district, which stipulates mid-rise structures (2-4 stories in height) and high-rise structures (5-16 stories in height) with parking structures located behind. Upon the adoption of the FBC, the subject property no longer conformed to one or more of the regulations applicable to the Form Based Code. As such, it makes it a legal non-conforming situation.

There are three (3) types of non-conforming situations regulated by the Code. These are use, lot area, and site improvements. The type which applies to this property is the site improvement, which means that the property has improvements like, but not limited to, parking, storm water facilities, sidewalks and landscaping that no longer conform to the current codes that regulate the property. Section 410.340 (C) (1) of the Mission Municipal Code provides for the following:

C. There is hereby incorporated herein by this reference the "Form Based Code for the West Gateway Study Area" ("Form Based Code"), copies of which are on file in the City offices.

1. Designs and uses set forth in the Form Based Code shall govern all facets of the development or redevelopment in the West Gateway Study Area, except as indicated in Sections 420.130 through 420.230.

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Section 420.190 specific to non-conforming site improvements state that on lots with non-conforming site improvements, no additions to or repairs or renovations of any structure or site improvement may be made without first either bringing the non-conforming site improvements into complete conformity with the regulations applicable to the zoning district in which the lot is located, or obtaining a non-conforming situation permit, which is the reason before us this evening. However, this section does not apply to the following circumstances:

1. Repairs or restoration of a structure pursuant to Subsection (B) of Section 420.170; or
2. Minor repairs or renovation of a structure or site improvement.

Minor repairs or renovation are defined as renovation or repair costs that do not exceed ten percent (10%) of the structural value of a structure, or the site itself. When an addition to or repairs or renovation of any structure or site improvement is proposed on a lot with a non-conforming site improvements, the Planning Commission may approve the non-conforming situation permit allowing such addition or repairs or renovation if it finds that:

1. The non-conforming site improvement(s) is the only non-conforming situation pertaining to the property.
2. Compliance with the site improvement requirements applicable to the zoning district in which the property is located is not reasonably possible.
3. The property can be developed as proposed without any significant adverse impact on surrounding properties or the public health or safety.

The existing structure does conform to the underlying C-2B district zoning regulations. However, it does not conform to the Form Based Code relative to height and setbacks. In this particular case, Section 420.130 applies specifically to the non-conforming site, and it states:

“No additions to or repairs or renovations of any structure or site improvement may be made without first either bringing the non-conforming site improvements into complete conformity with the regulations applicable to the zoning district in which the lot is located, or obtaining a non-conforming situation permit.”

Also, this section will not apply to the following circumstances: Repairs, as we’ve mentioned, whether minor, or pursuant to 420.170. Specifically, Section 420.170 states:

“Minor repairs to and routine maintenance of structures where non-conforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than fifty percent (50%) of the fair market value of the structure to be renovated shall not be permitted.”

Any repairs, renovation or restoration of a structure pursuant to this Section which would require the issuance of any permit shall also require the issuance of a non-conforming situation permit. That’s the reason that we’re here. The cost of renovation or repair or restoration shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair or restoration.

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The Johnson County Appraiser's Office reflects the value of the structure as being \$373,840. Fifty percent of this value is \$186,920. The applicant has indicated the exterior improvements will be valued at \$275,000. Minor repairs or renovation of a structure is defined as anything less than 10%. Again, the appraisal is \$373,840. Ten percent is \$37,384. And again, exterior improvements will be valued at around \$275,000. So, in this case doesn't apply. The 10 percent applies. So, what applies in this specific case I Subsection C of Section 420.190.

When an addition to or repairs or renovation of any structure or site improvement is proposed on a lot with a non-conforming site improvements, the Board of Zoning Appeals – or here, the Planning Commission – may approve the non-conforming situation permit. Following those three guidelines, those three bullet points we mentioned earlier, basically the findings define the parameters of whether the Planning Commission will be in favor, or not.

Suggested Findings of Fact for this particular case is applicable to those three items. When we look at item 1, the non-conforming site improvements is the only non-conforming situation pertaining to the property. In this case, the existing structure is the primary non-conforming situation on the property. The Form Based Code stipulates a mid-rise structure with a minimum height of two (2) stories and a setback of no more than ten feet. The existing structure is one story and the existing setbacks from the property lines are approximately 25 feet south, 65 feet west; 29 feet north and 132 feet to the east edge of the parking lot. Full compliance with the Form Based Code would necessitate substantial renovation or the demolition and re-building of the structure which is not reasonably possible or economically feasible.

Item 2. Compliance with the site improvement requirements applicable to the zoning district in which the property is located is not reasonably possible. Full compliance with the Form Based Code would necessitate substantial renovation or the demolition and re-building of the structure which is not reasonably possible. Item 3, the property can be developed as proposed without any significant adverse impact on surrounding properties or the public health or safety.

The existing structure was constructed in 1973 and has operated in its current capacity for 47 years without an adverse impact to surrounding properties or the public health and safety. The proposed improvements are cosmetic in nature and will greatly enhance the appearance of the building by providing a fresh modern look and reflect harmony with other recent façade improvements along the Johnson Drive corridor.

The proposed renovations to the existing structure will begin with removal of the current, faux mansard roofing element that goes around the building, which is discouraged in the Johnson Drive Design Guidelines. An approximately five (5) foot EFIS parapet will be added around the perimeter of the structure to hide the mechanical equipment on the roof. The top of the parapet will be approximately 15 feet in height. Trim accents at each of the corners of the building will help to visually scale down the height of the parapet. In addition to the parapet, an 18 foot accent wall, covered in a native stone, will be added to one side of each entrance, the east and west sides. Perpendicular to the façade and

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projecting out approximately two feet. From this accent wall a pre-finished metal canopy will extend approximately twenty feet across the east and west façades above the entrances. Altogether, this will create a visually appealing focal point, accenting each entrance to the building. The entire building will be painted in a beige color, which you can see here. Including the current brick work, which is [inaudible].

A sign will be added to the wall above each entrance with the name of the proposed business. These are all signs you see here. The script on each one of these signs is 91 square feet, which is within 10% of the overall façade, which is 975 square feet. The sign does project slightly above the roof line – the parapet – which is not permitted in the City's sign regulation. However, this does not seem to detract from the overall appearance of the building, and staff would be supportive of the minor deviation, meaning this deviation here. We've removed the roof line. Any signage that's above the roof line. It's basically the word "The" and maybe just a portion of some of the letters. Furthermore, the applicant is proposing to remove the existing pole sign located at the corner of Broadmoor and Martway. In its place, the applicant proposes a monument sign, which is acceptable under the sign regulations in lieu of one of the allowable wall signs. Three wall signs are basically allowed, but the applicant is seeking only two, thereby allowing for the monument sign. Monument signs can be no more than six feet in height. The monument sign would be in this location here. Here are the monument sign details. Typically, they are six feet in height and they must be 10 feet back from the curb, in this case. For every additional 10 feet that you are back from the curb, you are allowed one foot in height increase. So, this monument sign is probably 25 feet back; therefore, seven feet as proposed is allowed. And then, all sign requirements in addition to, as far as approving the process, is going to be approved through City staff with a sign permit application.

The two existing sweet gum trees located will be removed and replaced with Heritage River birch, which is a preferred tree for Northeast Kansas. A western red cedar trellis is proposed to be constructed around the cooler that protrudes from the southside of the building. The trellis will have English Ivy with daylilies planted around the base, all to serve as a screen for the cooler, and break-up the massing of the south wall. Junipers will be placed around the perimeter of the outdoor patio on the west side of the building, which is this area here. In addition, the patio that you see here, that's also noted in the plan as having a future trellis [inaudible] developments of new concrete, but that's at a future date, and that's not going to be part of the immediate scope of work for the building.

All proposed renovations are in keeping with Johnson Drive guidelines, and staff recommends the Planning Commission adopt the findings of fact contained in this staff report and grant a non-conforming situation permit for Case #20-01, located at 5959 Broadmoor Street. There will be no City Council action required.

Chair Lee: Thank you. Would the applicant like to step forward?

Mr. Ehnen: Good evening, I'm Russ Ehnen, I'm the architect, here on behalf of The Other Place. I'd like to introduce Troy Stedman, the owner of the Owner Place, and Clayton Pressley (?), one of his colleagues. Troy will speak to you in a few minutes.

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First, I'd like to commend City of Mission staff. Jim and Brian Scott, while they were very firm and professional in protecting Mission's interests, they were also very reasonable in recognizing that we have a 45-year-old building and development that's not been covered by very new and modern building code and zoning ordinance. They were very helpful and provided good guidance through the process. Thankful, that's a very welcome and refreshing change to what we experience in a lot of jurisdictions. I'd just like to extend kudos to them for doing a fine job.

Briefly, a couple words about the architecture. I had the good fortune to design the Cornerstone project just to the northeast of this, and we've picked up on a lot of the details and materials. While not exactly mimicking that project, we have a lot of the proportions and same hues and earth tones as that, and we think it makes for a nice homogenous addition to the area. In terms of the landscaping, we picked materials that are very hardy and durable. This is a semi-urban situation and there's not a lot of green space, and it's not irrigated, so we wanted things that you kind of have to work at to hurt, that kind of take care of themselves.

Lastly, one thing that we did that wasn't in the report, that we think is very important, the adjacent property about right here has a pretty big drop-off. This is a car wash, and right now, there's only some concrete wheel stops there. We're going to install a steel guardrail there so that people and cars don't, even though it's not on our property, where the hazard is, we think it's important to provide that margin of safety there. That's about all I had. I'm certainly willing to entertain any questions or comments. If not, I'll let Troy tell you a little more about his business.

Chair Lee: Any questions?

Comm. Troppito: I have a question. There's the building, and the improvements, and then there's the property. Who owns the property? Who will [inaudible] on the property? Will the applicant's lease the property, or acquire title to the whole property?

Mr. Ehnen: The Other Place is purchasing the property and the building.

Comm. Troppito: Okay, thank you.

Comm. Christiansen: I have questions in regard to some of the existing fans that are located on the roof, particularly the grease fan. Will the parapet be above that grease fan? Will that grease fan be concealed?

Mr. Ehnen: That's one of the reasons why we raised these two elements, particularly on the main entry side [inaudible] parking. That roof top equipment is about right here, and this awning comes out of this raised height here, and will do a good job screening it.

Comm. Christiansen: So from the street, the sidewalk, are people going to be able to see it?

Mr. Ehnen: It's not particularly visible from this direction now. It's more visible when you're coming in. So, we think this is the most effective way to do it. I'm not going to warrant to you that you'll never, ever see equipment up there because this existing parapet is really

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low. But within the bounds of what we can do, we thought that would be the most effective way to do it.

Comm. Dukelow: I have a couple questions as a follow up to what Commissioner Christiansen said. When one is heading south on Martway from, say, the post office, I'm pretty sure you'd be able to see the roof. Because as you know, it goes up. So, my question would be, would you agree to screen the rooftop equipment as required by the City?

Mr. Ehnen: Your assessment is correct. We really can't raise the wall up high enough to screen it when you're looking from above. We can certainly put some metal panels that are maybe the same color as the band, or something like that, to screen it. You wouldn't see the veins, or the grills, or all the parts of the mechanical equipment itself, but you would see the metal screens.

Comm. Dukelow: That would be desirable, if you'd work with City staff to accomplish that. And I also have a question regarding the dumpster enclosure. I don't see any details, and if memory serves me, there currently is no enclosure for the dumpster. So, I'm wondering what the plan and the details are for that.

Mr. Ehnen: We would match the base of the building with the concrete slope block that's painted the gray. Or currently painted gray, will be beige.

Comm. Dukelow: [inaudible] painted and fully grouted CMU walls with top cap and gate per City Requirements, details, I don't know...? Where are you going with it?

Mr. Ehnen: Well, the current building is made out of a concrete block product called slump block, and we would match that slump block veneer around the [inaudible] base. Of course, it would have gates. We'd match the base of the building, basically?

Comm. Dukelow: And a steel gate?

Mr. Ehnen: Typically we would do steel.

Comm. Dukelow: And the location of that? It looks like it might be in front of it.

Mr. Ehnen: It is. There's a pad here right now, and there was a wood enclosure there, but it was dilapidated, so we removed... We would just be replacing that in the same location with the hard material.

Comm. Dukelow: And is that adequate for both the trash dumpster and the grease container?

Mr. Ehnen: Yes, it is. Most of the restaurants anymore have a grease management system, where they have a couple of tanks. They don't generate the kind of grease they used to, so it's all filtered and run through those tanks.

Comm. Dukelow: Okay. So, I anticipate that any containers or refuse would fit inside whatever that detailed enclosure comes out to be?

Mr. Ehnen: Right. There's a 30 or 40 yard dumpster that will go in there, and the management is based on frequency, how often it gets serviced.

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Comm. Dukelow: So that's another detail that we need to look at with City staff. It's not been represented in our documents today. Two more questions related to landscape. This may be in part a question for City staff, and it may be in part a question for the design team. The parking lot area along Martway, certainly that parking could be screened by low plant material. And I'm not sure exactly what the City has in mind. I know that we recently re-did the Broadmoor corridor there with site elements, sidewalks, and all of that. So, I'm not sure if there's been any dialog regarding the landscape screening, the screening of the parking along Martway, at this point.

Mr. Ehnen: Additional landscaping in this area?

Comm. Dukelow: Correct. It's, what, about 30 feet?

Mr. Ehnen: No, it's about 120 feet.

Comm. Dukelow: I'm looking at... Just the section where there are two...

[crosstalk]

Mr. Ehnen: This is 60...

Comm. Dukelow: Right...

[crosstalk]

Mr. Ehnen: ... with a 30-foot drive... [crosstalk] So, 90 feet.

Comm. Dukelow: ... certainly don't want to interrupt the triangle there. My third question has to do with, again, landscaping. The Heritage River birch. Is that one of the trees on our plant materials palette?

Mr. Ehnen: Preferred planning list, yes.

Comm. Dukelow: It is?

Mr. Ehnen: It is.

Comm. Dukelow: Thank you. That's all I have.

Comm. Troppito: I have a couple more questions. In this area where the shed is, and what's shown as green space there. I tried to get staff to pull the satellite picture there. What I'm looking at is a satellite image taken by Google in January. And if anybody wants to verify it, [inaudible]. It shows around the shed what appears to be just a whole bunch of junk laying around. Maybe a car. Look at Johnny's Bar-B-Que. If you're using AIMS, I'm not sure you're going to see what I'm looking at.

Unidentified Female: This one?

Comm. Troppito: Click on satellite view, down on the lower left. Zoom in on Johnny's. Zoom in towards the shed, where the shed is. All right. It's kind of hard to see the same details I'm seeing because of the resolution on the screen, but what I'm seeing is some cars parked there, a bunch of miscellaneous, what appears to be junk laying around there. [inaudible] potential green space, once it was all cleaned up. You could do more plantings in there, I would think. To the left of the shed.

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Mr. Brown: I can certainly warrant that The Other Place will pick up and remove any debris, anything that's abandoned. I can't speak to the landscaping. I'd like to look at the ordinance for both parking lot screening and that. But one of the things, for instance, that you're seeing here is dumpsters that will, one will go away, and one will go here and be enclosed. Frankly, I'm not sure what those circular things are on that map.

Comm. Troppito: Well, I'm kind of [inaudible] higher resolution image in my laptop. There, you can see a lot more. Nonetheless, the point I'm trying to make besides it needs to be cleaned up is there's potential to plant more trees there. More birch trees and landscaping. Depending on what use the new owners are going to make of it. I haven't seen anything addressed about what use that shed is going to be, or what it's going to be used for.

Mr. Brown: I'll let them speak in more detail to that. The property line us here, and there's really not enough breadth for a drive and more parking, so I don't think that's a feasible solution. But I don't know that they've got anything projected long term for that particular space at this time.

Comm. Troppito: I just see an opportunity to provide more planting here [inaudible] reduce CO-2 emissions. That's my main [inaudible]. Birch trees would be good for that.

Unidentified: Just to clarify, are you asking them to put trees there, or are we asking staff, if it's required by staff?

Comm. Troppito: Well, I'm asking if they're planning to do it, whether it's required or not.

Unidentified: We haven't discussed that area at all, and I don't know if they've contemplated anything. I'll let them speak to what they may or may not do in the future.

Comm. Troppito: I'd just like to see it.

Chair Lee: Other questions? Thanks.

Mr. Stedman: Good evening, everyone. Troy Stedman is my name. I'm the owner and operator of The Other Place restaurants here in Johnson County. I'm a big fan of trees, by the way, so I'll start with that. A little bit about myself. We've been in Johnson County since 1997. We had our first location in downtown Overland Park, and have been operating [inaudible] three years. Recently, we opened another store in western Shawnee. That's been fantastic for us. Now, truth be told, I've had my eye on the Mission community for quite some time. When this opportunity arose, I didn't hesitate to jump on it. I know it's big shoes to fill with Johnny's, which has been there for... 40 years now? Is that right? So, we will do our very best to contribute. I would love to take questions if you have any.

Comm. Troppito: Well, nothing but what I've already asked.

Mr. Stedman: Okay. Anything regarding the concept, or...?

Comm. Dukelow: I've been to The Other Place in Overland Park several times. I enjoy it. It seems to be a good use. The questions I had were really regarding the landscaping and the site development, which I already shared.

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Comm. Bruce: What are your anticipated hours of operation?

Mr. Stedman: Eleven a.m. daily to probably midnight during the week. I would say until 1:00 or 1:30 on Friday and Saturday. The community will kind of dictate those hours. If it's worth our while, we'll stay open.

Chair Lee: Anything else? [None.] Thank you. Is there anyone else who would like to speak? [None.] I have a question for staff. When you address the sign extending above the roof line, these canopies that are going away, that are.... Sounds like [inaudible]. Do those not become the new roof [inaudible]...?

Mr. Brown: We'll be looking at all of that, yes.

Chair Lee: So that may not be a deviation.

Mr. Brown: It may not.

Chair Lee: Comments? Discussion? [None.]

Comm. Troppito: Mr. Chair, I move that the Planning Commission approve the Non-Conforming Situation Permit for Application #20-01; allowing the applicant to make modifications to the exterior facade of the building at 5959 Broadmoor Street once applicable City building permits have been reviewed and issued.

Mr. Bruce: Second.

Comm. Dukelow: Mr. Chairman, I'd like to make an amendment to the motion. The motion as stated, with: Work with City staff to provide landscape screening for parking along Martway; work with City staff on details of the dumpster enclosure and provide rooftop screening for mechanical equipment per City Requirements.

Comm. Troppito: And the dumpster?

Comm. Dukelow: That was dumpster and grease container.

Comm. Troppito: Second.

The vote was taken (7-0). The **motion with amendment passed**.

Old Business

Mr. Troppito: At our last meeting in November, I requested staff to consult with the City Administrator and City Attorney regarding requiring Phase 1 environmental site assessments for certain applications coming before this commission by applicants whose property did not meet the subject of the [inaudible] sophisticated lenders. I asked for a report for that. I was advised by Brian by email that [inaudible] he couldn't get to it, [inaudible]. I just want to note for the record that I'm still looking forward to receiving that at our next meeting.

Mr. Brown: I'll make sure I pass that information on to Mr. Scott.

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Staff Updates

Mr. Brown stated that a joint meeting between Planning Commission and City Council is scheduled for Thursday, March 12th. Also, interviews for a full-time planner are taking place.

ADJOURNMENT

With no other agenda items, **Comm. Bruce moved and Comm. Christiansen seconded a motion to adjourn.** (Vote was unanimous). The **motion carried.** The meeting adjourned at 7:47 P.M.

Mike Lee, Chair

ATTEST:

Audrey McClanahan, Secretary