

**Haysville Planning Commission**  
**Minutes**  
**November 15, 2012**

Those members present were: Tim Aziere, Deb Coleman, Janet Parton, Katie Roggenbaum, Don Schneider, and Bob Wethington.

Chairperson Aziere called the Haysville Planning Commission Meeting to order at 6:36 p.m. in the Council Chambers of the Haysville Municipal Building, 200 West Grand Avenue.

Aziere presented for approval the minutes of October 25, 2012.

Motion by Parton

Second by Roggenbaum

I move to approve the minutes as presented.

Aziere yea, Parton yea, Roggenbaum yea, Schneider yea, and Wethington yea. Coleman abstained.

Motion declared carried.

Aziere presented a Consideration of MAPD Case ZON2012-00030 – 8051 S. Broadway.

**Dale Miller, Metropolitan Area Planning Department**, approached the Commission and gave them an overview of the case. Miller explained the applicant had purchased a residential lot, adjacent to his commercial business, and would like to rezone for conformity. Miller stated staff was recommending approval and said it would be contingent upon platting within one year.

Aziere asked if the property to the north had already been platted. Miller stated he assumed so. Morgan stated the property had not completed their platting process. Morgan explained that they had received approvals from Haysville's Planning Commission and Governing Body but had then withdrawn their plat because of right-of-way dedications.

**Kirk Miller, K.E. Engineering**, stated they would only be platting the property requesting a zone change and would not be platting both properties.

Motion by Roggenbaum

Second by Schneider

I would make the motion we approve this zone change with the condition of platting within one year.

Aziere nay, Parton yea, Roggenbaum yea, Schneider yea, and Wethington yea. Coleman abstained.

Motion declared carried.

Aziere presented a Public Hearing for Conditional Use Permit for Propane Transfer and Dispensing Station – 7560 S. Broadway.

Aziere read from the public hearing script and opened the public hearing. Aziere asked for staff report. Morgan gave an overview of the case, explaining that the applicant had originally approached the Board of Zoning Appeals for a use classification. Morgan stated BZA determined that the use would be allowable only as a conditional use permit in zoning districts "E" Heavy Commercial, "F" Light Industrial, and "G" Heavy Industrial. Morgan stated she could answer any questions about the defined use and said the applicant was present if they had any operational questions. Schneider asked about fire department requirements. Ron Grieving, the applicant, stated he has met all the fire department requirements.

Aziere closed the Public Hearing.

Motion by Schneiter

Second by Roggenbaum

I would move we approve the conditional use permit.

Aziere yea, Parton yea, Roggenbaum yea, Schneiter yea, and Wethington yea. Coleman abstained.

Aziere presented a Public Hearing for Broadway Corridor Protective Overlay Districts.

Aziere opened the public hearing and read from the script. Aziere asked for staff presentation.

Morgan approached the Planning Commission to present the case. Morgan reminded the Commission that they had previously approved the South Broadway Corridor Plan. Morgan stated they then approved and incorporated regulations for the South Broadway Overlay Districts into the Zoning Regulations. Morgan said next the overlay was prompted for properties located in the South Broadway Corridor as identified by the plan. Morgan stated the consideration of the overlay was before them that evening. Morgan explained the general overlay and its three subdistricts to accommodate the residential, commercial, and industrial uses in the corridor. Morgan stressed to the Commission that the base zoning for the properties was not being proposed to change. Morgan explained the four zoning districts found in the corridor (“AAA” Single Family; “D” Light Commercial; “E” Heavy Commercial; “F” Light Industrial) and stated none of those zoning classifications were being requested for change. Morgan stated the combination of the base zoning and the overlay classification would determine the additional allowable uses and the prohibited uses that were intended to help work towards the vision for the corridor as established by the South Broadway Corridor Plan. Morgan advised the overlay would also establish regulation for aesthetics in regards to building materials and signage. Morgan stated that overlays were not assigned by the base zoning, but rather by the land use scenario presented in the South Broadway Corridor Plan and explained some residential areas received commercial overlays as well as some commercial areas received residential overlays. Morgan went on to explain the existing protective overlays in the corridor. Morgan stated the largest protective overlay area was created during the annexation process for the Broadway Court area, areas near the turnpike, and areas near 79<sup>th</sup> Street South on Broadway. Morgan also described the protective overlay found at Broadway and Blossum. Morgan advised that all current overlays would be abolished with the approval of the Broadway Corridor Overlay and explained how the overlay established during the annexation was incorporated into their zoning allowances in “AAA” Single Family. Morgan stated the other overlay which would be removed would not be detrimental to the property and would in fact open it up for more allowable uses.

Wethington asked why an overlay was proposed, rather than rezoning. Morgan stated that going into the process staff did not want to do anything that might be detrimental to the existing businesses and property owners. Morgan stated that was why the base zoning remained and an overlay was proposed, which could be better tailored to the individual properties. Morgan advised this allowed them to review each property and its current use when determining allowable and prohibited uses in the different overlays. Morgan stated the current land use varied greatly from the recommended future land use as provided by the consultant. Morgan stated it was the best approach for guiding new development and redevelopment in the corridor while protecting existing uses. Morgan advised the overlay would not require any of the existing businesses to close or stop operating. It would only apply to new development or future redevelopment.

Aziere asked about building and signage requirements. Morgan stated there was regulation for the type of building materials that could be used, depending on the overlay district. Morgan said there were also some prohibited signs and regulation as to what type of signs could be constructed. Morgan stated the overlay also provided for a site review process that allowed staff to meet with business owners and developers in determining required improvements and materials. Morgan said this allowed for more open discussion in making the determinations of regulation.

Aziere began asking for members of the public to speak.

**Ken Boote, 6603 S. Broadway,** stated when he had attended the first public meeting for the South Broadway Corridor Plan it seemed that they were going to put the brakes on the project. Boote stated everything he saw in the overlay could be achieved without the overlay. Boote explained that his business was crushing salvage cars and he was concerned about where the City would like the business to go. Boote said the overlay was an attempt to emulate communities they don't care to be like such as Andover and Derby. Boote stated he supported sidewalks in the corridor but not the overlay. Boote said he wants Haysville to be a unique community.

**Marilyn Mosteller, 6900 S. Broadway,** stated she would like them to consider the homeowners in the corridor. Mosteller read a portion of the regulation and stated she believed that meant they would not still have their residential zoning. Mosteller went through a presentation that included photos of the homes on Broadway Court, explaining how nice they were and how they were identified to be commercial. Mosteller believed the overlay would cause a decline in property values. Mosteller stated she was not sure what was included in the Comprehensive Plan for the City and said when their one lane road was installed, there were no conversations about the upcoming overlay. Mosteller also showed photos of Country Plaza Villa, explaining how they were mobile homes and were identified to be retained as residential. Mosteller stated she had a hard time understanding the logic and said the overlay must have surely been done by an aerial.

**Robert Nunn, 628 Chatta,** stated his property was one of the ones that already had an overlay. Nunn explained he purchased the property in 2004 and had requested a rezone to allow for automobile restoration. Nunn stated through the rezoning process, an overlay was applied to the property. Nunn stated the proposed residential overlay had nothing to do with automobile restoration. Nunn asked them to reconsider the overlay and place a commercial overlay on his property. Nunn asked the Commission to please consider what he purchased the lot for and said if they were to put the overlay to put a commercial one.

**Elvin Leedy, 6731 S. Broadway,** stated his property was proposed to go from heavy commercial to residential. Leedy stated he was ready to retire and sell the property and stated the overlay would not allow for outside parking. Leedy stated he believed someone just copy and pasted the regulations together in order to come up with a list of prohibited things. Leedy said he wished the Commission had asked for feedback from the people that are involved.

Aziere apologized for interrupting and explained that this was a consultant project that had gone on for over a year. Aziere stated the Commission did not just make this up. Leedy stated he wasn't very impressed with the consultant or the meetings that were held for the plan. Leedy said the consultant might have been flawed. Leedy stated those who wanted to sell their property would be affected. Roggenbaum asked for clarification on the fact that the regulation would only apply if the redeveloped the property. Morgan stated that was correct and said he could sell the business as it is currently

operating and it would be allowable under the nonconforming use regulations found in the zoning regulations. Roggenbaum reiterated to Leedy that he could sell the business and it would remain allowable. Leedy stated he believed Planning Commission needed to look at all the overlay regulations and see what is going to happen.

**Carl Kelly, 6803 S. Broadway**, stated he bought the property from a dog groomer and lives in Peck. Kelly said he had been trying to rent the property and stated with the new restrictions it would be vacant for a long time. Kelly stated he wanted to make it an automobile retail sales lot and said that would not be allowable with the new regulations. Kelly said Haysville has historically been a difficult place to build and do business and this will make it worse. Kelly stated he had a prospective tenant for automobile sales.

**Fred Mosteller, 6910 S. Broadway**, said he didn't see the point of making residential into a commercial area. Mosteller stated he was opposed to this and asked what kind of guarantees there were that they wouldn't be forced into this like they had been forced into annexation.

**Sherilyn Hurst, 7127 S. Broadway**, said her and her husband have had the liquor store for 31 years, paying taxes on it. Hurst said she came to the first meeting but was unaware of any other meetings and thought it had died out. Hurst stated the regulations for signs and façade would affect their property. Hurst said the City should be happy that they have a business they work hard to keep in Haysville. Hurst stated they should make these regulations for all businesses in Haysville and not just on Broadway. Hurst stated she was against this.

**Teresa Angle, 334 N. Sunnyside**, stated she had received a registered letter and asked how it would affect her and if there was going to be a road installed.

There was a comment about the residential overlay and Morgan stated she wanted to clarify the residential overlay. Morgan said it was being discussed as if that were an area intending for residential housing when in fact it was for low scale commercial businesses that would serve the surrounding neighborhoods rather than outlying communities such as Derby, Clearwater or Mulvane. Morgan stated Ms. Angle had received notification because by State statute, properties within a certain radius of a proposed change must be notified about the change.

**Richard Keiter, 6441 S. Broadway**, stated he owned the nursery and said the last thing they need is more regulation. Keiter stated they had been cited for an issue that they had been doing for the past five years and it was going to put them out of business. Keiter said he spends money in the community, lives here, and grew up here. Keiter stated he was going to move his business out of here unless there is some type of code change and said that elevating his firewood six inches off the ground was totally unpractical. Keiter stated he had talked with the City Council and the Mayor to deal with this.

**Bob Shippers, 6701 S. Broadway**, said he was proposed to have a residential overlay and stated he has tractors and trailers. Shippers stated he was currently in conversations with a business that could add some additional employees but the use did have some contradictions with the proposed regulation. Shippers asked if there was a process to reassure him before going through with the business proposal.

**David Lathrom, 7131 S. Broadway**, owner of Broadway Street Bikes, said he understood what they had hoped to accomplish with the overlay such as improving the looks of the corridor. Lathrom said

he read the overlay to be restrictive with his business use and stated he had just put \$51,000 into his business, working with the City to put in parking. Lathrom stated he would be constructing an additional building in the future and had no problem with making it look how the City wanted it to. His problem was when he went to sell the property and retire. Lathrom stated if he was going to have a problem selling the property he would not do the \$300,000 expansion, would not increase employees from six to twelve, and would relocate his business.

**Marcia Armstrong, 207 N. Twin Pines**, asked why they were worried about Broadway and why they weren't worried about Grand, which has trashy houses and vacant buildings. Armstrong said they needed to stop worrying about building businesses that don't exist yet and start thinking about the people who live here and the businesses that are here and to stop worrying about Broadway. Armstrong stated just because the casino built does not mean that everyone is going to want to build on Broadway.

**Marilyn Mosteller, 6900 S. Broadway**, asked the Planning Commission to look at Sunnyside Court (actually referring to the Broadway Court) and notice how a portion of it was identified as commercial, red, and a portion was identified as purple. Mosteller asked that Broadway Court be exempt from any overlay development. Mosteller stated the homes had been built in the last five to seven years and they were \$200,000 – 400,000 homes. Mosteller said she had lived on the street for 43 years and said the homes built since then should be exempt. Mosteller stated people had invested their money in their home and had the rug pulled out from underneath them. Mosteller asked if they would be given any explanation for why they were doing this to them and stated she had not been at any of the South Broadway Corridor Plan meetings. Mosteller stated she does not come down here just to see what is happening and to stir up trouble. Mosteller said she spoke with other people in the neighborhood and they all thought nothing was going on with the Broadway Plan. Mosteller stated the Commission has the power to ignore them and do whatever they want to do but said that is a negative thing to do at a time we are trying to grow Broadway.

**Elvin Leedy, 6731 S. Broadway**, read a portion of the protective overlay regulation, stating there was a conflict in the language regarding conflicts between portions of the code. Leedy stated that there are people in administration that think this Country is in really good shape and said he sees people that don't even have money to pay their storage. Leedy said to implement things that cost more money is not a good thing to do at this time. Leedy stated he pays a lot of taxes and wants to make sure that things won't be affected when he retires.

**Lavonna Benner, 6962 S. Broadway**, states she has had a home since 1947 and never has anyone said that she needed to get a permit to paint her house. Benner read a portion of the code that referred to changes to the exterior of a building, including painting, and said she felt that was stupid. Benner said if she did apply for a permit she would probably be told that she couldn't have one because she wasn't licensed with the City.

Aziere asked for clarification in that requirement. Morgan stated there had been an oversight in the regulation that Planning Commission had previously approved. Morgan said the intent was not to regulate improvements to single family homes and stated that should have been clarified in the regulation to exempt them. Morgan advised it was something that needed to be revised in the next zoning regulation update.

**David Glidden, 6964 S. Broadway,** said he has a residential house. Glidden asked how the overlay benefited him.

Aziere stated he believed the intention was to have a vision for the future of the corridor so that community could have control over what was redeveloped in the corridor. Glidden asked if he could sell his house once it is zoned commercial. Aziere clarified his zoning was not changing. Morgan stated the property is zoned “AAA” Single Family and that would not change. Parton told Morgan she was doing a backwards way of rezoning and if the structure burnt down they would have to comply with the new regulation and could not rebuild. Morgan stated that was not true. Morgan explained that because he still has his base residential zoning that he could rebuild his home and said the land didn’t have to redevelop as commercial, simply that it could build commercially if they wanted to. Parton stated that was only if someone came in and had it rezoned on the base. Morgan stated that was incorrect and said with the overlay they could do which ever they wanted without a rezoning.

Glidden again asked how this benefited him. Roggenbaum stated he was getting more allowable uses for his property and said if he decided to sell he could market it to more people. Glidden asked if he could put a business in front of his home. Aziere stated not necessarily in front of his home but yes if he chose to redevelop he could do it commercially. Glidden asked what happens if he wants to replat his land to have the front half as commercial and the back half be residential. Aziere asked how replats would work. Morgan stated platting didn’t dictate that zoning of the property but stated if someone wanted to rezone that was allowable. Schneiter stated that if he wanted to convert his residence to a commercial business he would have to rezone his base zoning. Morgan stated that was not correct and said as long as the business was listed as allowable in the overlay, it would be allowable without rezoning.

Glidden asked if he put up a garage in the future, fronting Broadway, would that require certain building material requirements. Morgan stated it would. Glidden stated that if he were to sell it in the future then he would need to let the buyers know that they would have to make it look like a nice office building. Aziere stated it would need to look like the requirements require.

**Richard Keiter, 6441 S. Broadway,** said there was a lot of ‘we’ being used and asked who ‘we’ was referring to. Aziere stated this was based on what the consultants came up with from public comment at the South Broadway Corridor meetings. Keiter stated he went to the first meeting and said it was terrible, explaining there were photos of parking lots. Keiter stated he has seen parking lots before and doesn’t need to see pictures of parking lots. Keiter said if ‘we’ were the five people sitting at the bench, then they were going in the wrong direction. Keiter stated they were appointed and not elected and asked what was wrong with that picture.

**Tom Debbrecht, 6405 S. Broadway,** stated he got annexed into the City when he didn’t want to be. Debbrecht said he has kept his property up and has fought the City for a long time just for a sign on his property. Debbrecht stated everyone has seen the sign, with the city administration’s head in the sand, and stated it is still that way. Debbrecht stated everyone wants Broadway to look better but said nobody wants to be told how they have to do that. Debbrecht said he went to the first Broadway meeting and stated he thought they would bring the plan back and ask them what they thought but that didn’t happen. Debbrecht stated the only reason this was being done was because of the casino and they didn’t ask people that have been here what they think. Debbrecht stated he had put a sign up and it wasn’t good enough for the City. Debbrecht said he lost the case in Haysville and gave him a \$500 a day fine and six months in jail or he could shut the sign off at night and he would get probation.

Debbrecht stated he took it to County court, where they have real judges to change that. Debbrecht said city administration still has their head in the sand because they haven't woken up yet and he doesn't know if they ever will. Debbrecht said what they were proposing for the overlay is great to help make Haysville grow but the property owners didn't get asked right. Debbrecht said the Planning Commission thinks they can play with their lives and that is what has happened to him and he knows whatever Planning Commission decides is the way it is going to go down unless property owners take them to court.

**Jerry Rain, 7345 S. Broadway**, said he moved here in 1947 and has lived in the same house since then. Rain stated his grandfather had started a salvage yard where A-One Auto Salvage is located now. Rain said he couldn't believe at his age he would have to beautify his house. Rain stated he doesn't like the way his house looks but he doesn't have the money to do what the overlay asks for. Rain stated the City called his property a floodplain and it made his property worthless. Rain stated he gets 8-10 inches of water in his garage every time it rains. Rain stated the overlay was a waste of taxpayer money and said there are a number of people that can't afford to do the beautification.

Aziere asked for anymore public comments. There were none and Aziere closed the public comment period. Aziere asked for any Planning Commission discussion.

Schneiter stated he still wanted to know what would happen if there was significant damage to a property. Morgan stated redevelopment would prompt the overlay regulations. Schneiter stated it is one thing if a person buys into a situation by approving or adding on. Morgan stated there are still nonconforming standards within the zoning code. Morgan said those are set at 50% of building size or value. Morgan advised they had also incorporated an administrative waiver into the overlay regulations that allowed for discretion to be given based on the situation. Schneiter stated the overlay was going to be damaging to the existing businesses.

**Ken Boote, 6603 S. Broadway**, asked if Alison Brown represented the City or the consultant. Morgan stated her name and explained that she was not Alison but that the nameplate had been left from Council. Boote stated Morgan was saying everything was going to be okay and to believe what she is saying and not what she is reading. Boote stated now he was hearing that if you are part of the good ole boy club you were going to be okay. Morgan apologized if that was the impression she had given. Morgan stated she was simply trying explain what had been written into the regulation that will allow for those waivers.

Parton stated if Mr. Boote's salvage yard (Air Capitol Salvage) were blown away in a tornado, he would not be allowed to rebuild because of the overlay. Morgan stated that was not a good example because salvage yards are not allowable in the City anymore. Morgan advised there were still a few that were operating as nonconforming uses but that new salvage yards would not be allowed anywhere within the City. Parton used a different example, stating that if Broadway Street Bikes were blown away by a tornado they would not be allowed to rebuild because of the overlay and again stated it was a back door zone change. Morgan stated that was incorrect because their overlay allowed for the type of business use they were conducting and they would be able to rebuild. Schneiter asked about if they wanted to expand. Morgan stated that would still be allowable and explained that the City had already worked very closely with Broadway Street Bikes with their current expansion and how that could be affected by the overlay.

Aziere stated he was concerned with the regulation in regards to the residential properties and wanted to clarify that the development criteria was applicable to the properties as currently written. Morgan stated that was correct and again said the painting portion was a mistake and that was something that needed to be corrected in the regulations.

Schneiter stated the Planning Commission had spent a lot of time with Mr. Nunn, working on his overlay several years back. Schneiter stated they had worked with the neighborhood and resolved all this issues for the best interest of everyone. Schneiter said you would think you would want your heavier stuff on Plaza and Shahin street area and stated there was no rhyme, reason, or consistency with the land use. Schneiter stated this would detrimentally impact the neighborhoods and said they are not benefiting anyone with this overlay. Schneiter stated that yes, administratively these things could be considered, but having one or two people on staff doing that was very scary.

Coleman gave a scenario where the salvage yard was hit by a tornado and asked if they would be able to rebuild. Morgan stated it would depend on the level of damage. Coleman asked if everything were gone. Morgan stated they would not be able to rebuild. Wethington stated that would be true whether the overlay was there or not. Morgan stated that was correct. Parton said that had happened with the 1999 tornado on Main Street, where businesses were nonconforming and could not rebuild. Morgan stated that was correct and said there had been attempts to require additional standards on Main Street. Someone from the audience asked what good that did since so many of the buildings on Main Street remain empty.

Motion by Schneiter

Second by Parton

Based on the hardship we will be causing on property, I would move we deny the zone change (overlay) request.

Aziere yea, Parton yea, Roggenbaum yea, Schneiter yea, and Wethington yea. Coleman abstained.

Motion declared carried.

Coleman explained that with this being her first meeting she chose not to vote. Coleman stated that she had attended the South Broadway Corridor Plan meetings and she had not been impressed. Coleman said she had asked questions and received no answers. Coleman stated she was impressed with everyone showing up and said it is difficult to get people to be involved. Coleman urged people to keep attending the meetings because things happen and decisions are being made.

There was a question over whether the item would be coming back to Planning Commission. Morgan stated it would not. Aziere stated the intent of the overlay was good but thought maybe there were better ways to do it. Aziere said if this many people of the public attended, it must have been flawed. Aziere asked how they could re-evaluate. Morgan stated that they should have tabled the item to allow for more discussion. Morgan stated it was quite a bit of expense for the City. Aziere asked if this would go to Council. Morgan stated she would have to check with legal because she was uncertain how to proceed since Planning Commission recommended denial. Schneiter stated he wasn't sure how Council could hear an item if the Commission wasn't even recommending it. Morgan again stated she would double check with the attorney and if it were presented to Council it would be done with a recommendation from Planning Commission to deny it. Aziere asked how the public would know when it went to Council. Morgan stated if it did go to Council it would be on December 10, 2012 and said that packets are placed on the website the Friday before Council. Someone from the audience

continued to ask why the item should even go to Council if it had been turned down. Aziere stated they were uncertain if it would go to Council and to be sure to keep an eye out for information.

**Sherilyn Hurst, 7127 S. Broadway**, thanked the Planning Commission for their vote and stated that she did not live in Haysville and could not vote here. Hurst told the audience they vote and they need to find out who on Council voted for and supported the plan and overlay because they spent tax dollars on it. Hurst stated the tax money comes from China and to find out who on City Council voted for this.

Aziere clarified that the plan was paid for by the Kansas Department of Transportation and was administered by the Wichita Area Metropolitan Planning Organization. Hurst stated the money could have been turned down to help pay off the debt.

There was nothing under Old Business.

There was no Correspondence or Informational Reading.

Under Committee Updates Wethington said the Park Board would be putting new batting cages at Plagens-Carpenter. Wethington said the Park Board also wanted to put a sign in one of the circle areas at Pride Park. Lastly, Wethington stated they wanted to replace some of the dead trees around town.

Aziere asked if Roggenbaum would like to stop going to the Historic Committee meetings since Coleman was on the Historic Committee and Planning Commission. Coleman agreed and then gave an update on the Village Christmas events.

There was nothing under Off Agenda.

Aziere asked for a motion for Adjournment.

Motion by Parton

Second by Schneiter

I motion to adjourn.

Aziere yea, Coleman yea, Parton yea, Roggenbaum yea, Schneiter yea, and Wethington yea.

Motion declared carried.

The meeting of the Haysville Planning Commission adjourned at 8:22 p.m.