

**Haysville Planning Commission
Minutes
March 28, 2013**

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 7:00 p.m. in the Council Chambers of the Haysville Municipal Building, 200 West Grand Avenue.

Aziere presented for approval the minutes of March 14, 2013.

Motion by Wethington

Second by Parton

I move to approve the minutes as presented.

Parton mentioned a typo on the first page which should have said look but said like.

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

Motion declared carried.

Aziere presented a Public Hearing for Zone Change Request from “AA” Single Family to “AAA” Single Family (418 W 79th Street).

Aziere read the public hearing script and formally opened the public hearing. Aziere asked for the staff report. Morgan read the staff report provided to Planning Commission and stated the applicant was requesting the change to allow for horses and donkeys on his property. Morgan stated that was the major difference between “AA” and “AAA” zoning districts. Morgan advised the livestock allowance had been added during the Broadway Corridor Overlay process to accommodate the properties annexed in 2003 which were proposed to lose their protective overlay. Morgan explained some of the requirements associated with the livestock allowance such as fencing and sanitation items. Morgan stated the property was not platted and did not have utility services. Morgan advised the property would have to plat before being able to receive a building permit. Morgan explained the surrounding land uses and zoning adjacent to the property, stating they were unincorporated Sedgwick County zoning district SF-20 and were single family housing. Morgan stated livestock was allowed in the SF-20 zoning district. Morgan advised the property was identified as parks and open space on the land use map.

Aziere asked for anyone from the public that would like to speak.

Gloria Vance, 7900 Nina Circle, stated she was in opposition of the zone change request. Gloria gave a presentation of the 9 Golden Rules, explaining how the zone change did not meet the requirements based on the golden rules.

1. Character of the Neighborhood – Does not meet character. Sedgwick County Appraiser’s Office are all Single Family, therefore “AA” Single Family zoning.
2. Suitability of property as zoned – Does not meet suitability. All residential zoning west of 81 highway “AA” Single family.

3. Removal of restrictions detrimentally affect nearby properties. According to SCAO the applicant has \$17,500 risk and the residents have from \$54,000 to \$351,000 at risk.
4. Length of time property remained vacant – Does not meet. The property was listed on July 27, 2012 and sold on August 15, 2012 (twenty days after listing).
5. Public Health and Safety – Does not meet guidelines. Does detrimentally affect properties in value and harm when zoning is all “AA” Single Family and the health issues, due to applicants present use of property.
6. Conformance with Comprehensive Plan – Does not meet. South Broadway Corridor Plan is for commercial business and four lanes on 81 highway with “AA” Single Family Housing west of 81 highway. No “AAA” Single Family west of 81 highway.
7. Impact on community facilities – Does not meet. Already caused legal problems for the city, applicant has appeared in court and requested time to get an attorney. More expense for the city and “AAA” zoning would be a continue expense if the past is any monitor of the future.
8. Opposition of neighborhood residents. Residents are in opposition: 56 certified letters and have not spoken or visited with one resident in favor. We have affidavits against from over 20 residents who could not be here.
9. Recommendation of staff. Residents recommend that staff rejects the rezoning request by the applicant.

Schneiter asked if 56 letters were the people notified within the 1000 foot radius. Vance said that was correct. Aziere had some questions. Aziere asked if the property was in the Broadway Corridor Plan. Morgan stated it was outside the scope of the plan. Vance stated the entire area was identified as “AA” Single Family. When asked for clarification, Morgan stated the area of discussion was located in the unincorporated Sedgwick County and said the area continually being referenced as “AA” by the residents present was actually zoned SF-20 by Sedgwick County. Parton asked if SF-20 allowed domestic animals. Morgan stated that was correct. Aziere asked if it was correct that there were no “AAA” zoning districts west of Broadway. Morgan stated that was most likely an accurate statement but said there were areas located on the east side of Broadway at 79th Street. Morgan explained the areas annexed in 2003 (Mostellar Addition, portion of Country Plaza Villas, and 79th & Broadway) were the only areas of “AAA” zoning in Haysville. Aziere asked about the farm at 79th & Meridian (Curless farm). Morgan stated that was not in the city limits of Haysville.

Roy Shelinbarger, 300 W. 79th Street, stated he was immediately to the east of the property. Shelinbarger stated he was not there against the zone change and said he would like to still have the right to have livestock on his property. Shelinbarger stated the people that live to the east of him have a horse on their property. Shelinbarger said he did not want the applicant to be restricted anymore than people in a good radius and said the Curless farm had plenty of animals and the smell of animal waste is a part of living in the country. Shelinbarger stated he had lived there twenty-five years and said at times people across the street did have animals. Shelinbarger asked about the different zoning districts.

Morgan stated the biggest differences were the lot size requirements, setbacks, and allowance of livestock. Aziere asked Shelinbarger if he could have livestock on his property. Shelinbarger stated he believed he could. Aziere asked Morgan. Morgan stated the county allows for livestock on SF-20 and said she had called Sedgwick County Animal Control and they explained there were only three areas in the county that didn't allow for livestock and this was not one of those areas.

Kent Elder, 7935 Nina Court, asked for clarification on annexing land in as "AAA". Morgan again explained the process that occurred for the annexation done in 2003. Elder stated the presentation by Vance was extremely good and said he didn't have much to add to it. Elder said he had been to Council and brought up the point that the zoning ordinance did not include public opposition. Elder said it was his understanding that the opposition would be sent to Council in the form of a letter. Elder stated they do not explicitly say they will consider public opposition but replaced it with the master plan. Elder stated there was language about a protest petition that did not have any definitions or information. Elder gave a background on the landowner previous to the city owning the lot and stated he believed the area was to remain as agriculture. Elder stated he asked the Council for minutes when they bought the property and he has not been provided with those. Elder said there was a plan for the property in 1999 and they had not seen it. Elder stated there was a degradation in the quality and said they are trying to protect the residents. Elder read sections of the zoning regulations that the property was currently violating and mentioned there had been a citation issued. Elder said the applicant did this on his own without asking permission and using the correct process. Elder informed the Planning Commission that there was no representatives on the Commission to represent him and the properties in his area. Roggenbaum stated they would love to have representation from that area but no one in his neighborhood was volunteering to do that. Elder said that was correct.

Aziere interrupted Elder because he was out of time. There was a vote approved to allow Elder an additional five minutes.

Elder stated 85% of people have a negative image of the Broadway Corridor and stated he believed that was because of all the fences. Elder said this was an eye sore for anyone traveling 79th Street. Elder stated Haysville had always been good to them and he wondered why they would do this to the residents by selling the property. Schneiter stated there was a plan for a detention pond and the area would help with flooding issues. Schneiter said he would like to see the area be a park and agreed there had once been talk of a school but stated he was unsure why Elder thought there was a set plan for the property. Schneiter reminded Elder that all properties are brought in as "AA" and are then rezoned appropriately. Schneiter stated their role was to make decisions based off of factual evidence. Schneiter informed Elder that there were measures like the public hearing and protest petition to help accommodate public opposition even though it was not listed in the zoning ordinance.

Vance stated according to the ordinance they could have up to 13 animals on the property.

Aziere asked if the applicant or his agent would like to speak. They declined and Aziere closed the public comment portion. Aziere read the eight criteria in determining a zone change request.

Parton stated the zoning uses in the area of SF-20 allows for livestock so the requested zone change is consistent with surrounding zoning. Schneiter stated you need to look at uses and that is housing. Schneiter stated he still wanted to see it be a park. Schneiter stated he was concerned with the piles of manure. Aziere stated that was a matter of code enforcement. Schneiter stated there were multiple violations. Schneiter stated it does not conform to the master plan.

Motion by Schneiter

Second by Roggenbaum

To recommend denial of the zone change request based on the factors mentioned.

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

Motion declared carried.

City Attorney Alison McKenney-Brown gave an explanation of Planning Commission's responsibilities, the Governing Body's final authority, and the petition process.

Aziere presented a Discussion of Capital Improvement Plan.

Morgan stated the Planning Commission had been provided with a copy of the current capital improvement plan from 2011-2015 and asked for any input and projects they feel are necessary. Schneiter stated there had been discussion at the candidate forum about the pay-as-you-go for street improvements and stated the cost of increased construction may be more than the interest that would have been paid to bond. Schneiter stated there are a lot of streets that need to be done and said they had bonded for improvements to Wards Fourth streets. Schneiter had questions about the radio read meters. Morgan stated she was not familiar with which projects had already been completed and timeframes of project completion. It was mentioned that projects could be discussed at the upcoming workshop. Morgan stated the workshop was for historic discussion and stated they should not treat it as a catch-all for issues they have with Council and the city. Schneiter stated it was difficult to do this without knowing how things would be funded. There was general discussion over the current capital improvement plan, possible projects, and funding. Planning Commission requested that Morgan provide them with more information on which projects had been completed while they thought of projects to discuss at the next meeting. Schneiter asked how Planning Commission was part of the capital improvement program. McKenney-Brown stated by statute Planning Commission is part of the process and are responsible for creating the draft document of the capital improvement program and it is discouraged that they interact with the Governing Body so as not to impact their decisions.

Schneiter asked about not having representation for the area of influence. McKenney-Brown explained that it was not a legal issue with not having representation there and said it could however impact votes on certain issues that require a majority of the board and not just majority of appointed members. McKenney-Brown also explained the Golden case and how the factors are not rules and are not mandatory. McKenney-Brown stated that public opinion cannot be the only factor considered in making their decision.

There was nothing under Old Business.

There was no Correspondence or Informational Reading.

Under Committee Updates Wethington stated the park board had a special meeting to discuss the damaged slides in the parks. Wethington said they voted to spend funds on replacing the plastic slides.

Aziere asked for any Off Agenda items. There were none.

Aziere asked for a motion for Adjournment.

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Motion by Parton

Second by Roggenbaum

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 8:18 p.m.