PLANNING AND ZONING COMMISSION

MINUTES OF THE MEETING OF JANUARY 28, 2008

MEMBERS PRESENT: Gary Falcetto, Chairperson
Mike Creel, Vice Chairperson
Don Cash
Roland Dalrymple
Laura Klusener
Frank Slapar
Joel VanBecelaere
Earl Ward

MEMBERS ABSENT: Francis DeMott

OTHERS PRESENT: Robert Graham, 912 Dogwood Trails, Carl Junction, MO
Nancy Weigand, 2602 N. Grand, Pittsburg
Mr. & Mrs. Doug Starr, 2606 N. Michigan, Pittsburg
Jewell L. Bennett, 507 E. 25th Street, Pittsburg
Jason Denny, 506 E. 27th Street, Pittsburg
Bob Caruso, 524 E. 25th Street, Pittsburg
Richard Brill, 617 E. 25th Street, Pittsburg
Brenda Hurt, 601 E. 25th Street, Pittsburg
Jennifer Dickerson, 2502 N. Grand, Pittsburg
Andrea McConnaughey, 620 E. 27th Street, Pittsburg
Steve Angermayer, 107 W. 4th Street, Pittsburg
David Rua, Route 5, Pittsburg
Barry Williamson, 5754 Pine Tree Circle, Joplin, MO
Barbara Williamson, 5754 Pine Tree Circle, Joplin, MO
Ronnie Shiverdecker, 503 E. 8th Street, Pittsburg
Mark Shiverdecker, 20 Century Parkway, Neodesha, KS
Billie and Randy Hawn, 510 E. Centennial, Pittsburg
Tim Kundiger, 656 E. 530th Ave., Pittsburg
Brian Renn, 920 W. 4th Street, Pittsburg
Ruth Lemon, 110 East Carlton, Pittsburg
Todd Kennemer, Assistant Director of Public Works

The Pittsburg Planning and Zoning Commission met on Monday, January 28, 2008, at 7:00 p.m., in the City Hall Commission Room. Chairperson Gary Falcetto led the flag salute and then called the meeting to order at 7:00 p.m. with eight (8) members present.

The first order of business was introduction of new member, Connie McGeorge.

The second order of business was the election of a Chairperson and Vice Chairperson to serve the 2008-2009 term. Roland Dalrymple nominated Mike Creel as Chairperson. This nomination was seconded by Earl Ward and Mike Creel was elected by acclamation. Frank Slapar nominated Roland Dalrymple as Vice Chairperson. This nomination was seconded by Mike Creel and Roland Dalrymple was elected by acclamation.

The third order of business was the approval of the minutes of the meeting of December 17, 2007. In this regard, Earl Ward moved, seconded by Roland Dalrymple, that the minutes be approved as submitted. Motion carried unanimously.

The first order of business under Presentation of Requests and Petitions was a PUBLIC HEARING to consider Case No. 08P-1, a request submitted by Robert Graham to rezone the 500 Block of East 26th Street (vacant land between N. Grand and N. Michigan) from R-1C Single Family Residential to R-2 Two-Family Residential to allow for the construction of duplexes. Chairperson Mike Creel opened the **PUBLIC HEARING** by stating the request and then asked the applicant to comment on behalf of said request. Mr. Graham and Larry D'Amico of Tri-State Realty acting as agent for this transaction were present and provided the following information. The lots are currently owned by Norman Miller. Mr. Graham is in the process of purchasing these lots contingent upon them being rezoned. He would like to rezone these lots to put up some duplexes. Since the housing market wasn't really booming right now plans are to construct one duplex to start off with and see how it goes. It will take several years to develop these lots, but hopefully once all the improvements are made the lots could then be sold off. Mr. Graham and his brother own three other duplexes around town. This would not be an aggressive project where 12 duplexes would be constructed at one time. Mr. Miller had this property replatted a few years ago, but it was never developed. One advantage of this property is that sewer is located on both the north and south sides of the property and water is also available on site. Mr. Graham is employed by Bridges and his intent would eventually be to put some of the clients into two of the duplexes, which is the number restricted by the State. Each unit would consist of 3 bedrooms and would house a total of 6 clients per duplex. Traffic would not be increased in this area because most of the clients do not drive and the rezoning of the property would not devalue property values. The lots as you come off Grand Street would probably be the most viable lots to start building.

Those persons wishing to speak in opposition to the request were then given the opportunity to comment as follows:

Nancy Weigand, 2602 North Joplin, stated she bought her property from Norman Miller and built a totally handicap accessible home on it. She stated when she bought the property Mr. Miller promised her the rest of the property would be single family dwellings and that there would be no storage units or low income housing built on it. Ms. Weigand stated she does not want the property rezoned as it will lower the value of the other homes in the area.

Jason Denny, 506 E. 27th Street, stated one of his concerns was who would move into the duplexes if Bridges ever closed down and could no longer house the special needs people. He stated that the rezoning of the property to allow for the construction of duplexes would seriously impact the value of his home. Mr. Denny stated his home may not be a $150,000 to $200,000 home, but it doesn't give anybody the right to come in and rezone the property and drop its value even more.

Jewel (Peggy) Bennett, 507 E. 25th Street, stated there are no guarantees as Mr. Denny stated. She stated she did not want the dust and dirt created by the trucks that would go in and out of there. Ms. Bennett stated she was definitely against the rezoning as it would hurt the value of other homes in the area.

Bob Caruso, 524 E. 25th Street, stated he thought this property historically was always going to be single family dwellings, so that is why he built his home in 1977. He stated there has to be other land in town where these types of facilities could be constructed. Mr. Caruso stated he would envision this property turning into the JFK area which is a blighted neighborhood.

Richard Brill, 617 E. 25th Street, stated he was told by the City that the alley located between 25th Street and 26th Street could not be improved because all the utilities were located too close to the surface, so he would be concerned with any heavy truck traffic traveling the alley to construct the duplexes. He stated another concern would be how drainage would be addressed because if they filled in the slue area he would be afraid the water would flood the properties behind there.

Brenda Hurt, 601 E. 25th Street, stated she built her home 9 years ago under the assumption the area would remain as single family dwellings and, therefore, opposed the rezoning.

Doug Starr, 2606 N. Michigan, stated the rezoning would affect the property value in a negative way. He stated there are enough of these types of developments in this part of town. Mr. Starr stated that should Bridges sell the property later on the duplexes could be turned into low income family homes.

Jennifer Dickerson, 2502 N. Grand, stated there are a lot of small children in the neighborhood and she would be concerned with any additional traffic that would be generated from the duplexes. She stated she felt it would also decrease the value of her home.

Andrea McConnaughey, 620 East 27th Street, stated she just purchased her home. She stated she was currently making improvements to the property, one of which is a fence. Ms. McConnaughey stated she was told by some of the neighbors that water backed up into all the back yards from the area of the alley and tree line, so she would be concerned with the possibility of her property being flooded should the duplexes be constructed. She stated she also felt it would devalue her property. Ms. McConnaughey stated that she didn't know why single family homes couldn't be constructed on these lots and still support Bridges clients.

There being no further comments, Chairperson Mike Creel closed the PUBLIC HEARING to allow for discussion amongst the Commission.

The Planning and Zoning Commission then considered the following factors:

1. *Character of the neighborhood* – Residential.

2. *Zoning & uses of properties nearby* – All surrounding properties are zoned R-1C "Single Family Residential". Properties on the north, south, and west are developed and used as single-family residential. Property on the east side of Michigan is zoned R-1C but is sparsely developed, it is old pit grounds and is vacant except for a couple of single-family houses. Approximately ½ to 1 block to the west, property fronting on Joplin St. and extending into the neighborhood on 26th St. & 27th St. is multi-family, residential care facilities for handicapped, infirmed, and/or elderly.

3. *Suitability of the subject property for the uses to which it has been restricted* The property is suitable for single-family residential.

4. *Length of time the subject property has remained vacant as zoned* – The property is vacant.

5. *The extent to which removal of the restrictions will detrimentally affect the nearby property* – If the zoning is changed from R-1 to R-2, there would be no detrimental affects. It is still low intensity residential use. The surrounding area (Chaplin Addition) was platted a long time ago as 25' lots, sold 2 lots at a time. Current density regulations would allow for a maximum of 24 single-family homes per block. The Miller Addition is a re-platted block of the Chaplin Addition. It is platted as 12 lots at 70 to 75 feet in width. If rezoned to R-2, this would allow a density of 12 duplexes (24 dwelling units) per block, the same density as the surrounding area, so an increase in traffic caused by 2-family homes on larger lots is no more than increased traffic caused by single-family homes on smaller lots which is already allowed. (Already allowed in the surrounding area. Allowed density in the Miller Addition as platted and zoned as is [R-1C], is 12 single-family dwelling units.)

6. *Relative gain to public health, safety, and welfare* – Health, safety, and general welfare of the public will not be affected if the property is rezoned or if it remains zoned "as is".

7. *Recommendation of professional staff* – DO NOT APPROVE. The property in question is surrounded by properties zoned and developed as R-1C "Single Family Residential". It does not adjoin any other zoning district and would constitute "spot" zoning. Spot zoning is a type of zoning decision that goes against guided land use plans of the city and/or allows land uses on an individual's property that are not available to any adjacent properties. It provides benefit to an individual property with no relation to public benefit. Such a zoning decision cannot be legally supported. Since this property is not addressed in the Master Plan, it should be developed substantially similar to the surrounding area.

8. *Conformance to Master Plan* – The Master Plan shows the current use and future use of this property as vacant. This is either an oversight or an arbitrary designation of future land use.

Based on the above findings, Laura Klusener moved, seconded by Frank Slapar, that the Planning and Zoning Commission recommend to the Governing Body **denial** of this rezoning request. Motion carried 7 to 1 with Joel VanBecelaere voting no. This recommendation will be presented to the City Commission for their consideration on February 12, 2008.

The second order of business under Presentation of Requests and Petitions was a PUBLIC HEARING to consider Case No. 08P-2, a request submitted by David Rua, Trustee of Helen Rua Revocable Trust to rezone the 400 Block of East Centennial from R-1B Single Family Residential to CP-0 Planned Commercial Office District to allow for the construction of an optometrist office. Chairperson Mike Creel opened the **PUBLIC HEARING** by stating the request and then asked the applicant to comment on behalf of said request. Steve Angermayer was present as counsel on behalf of David Rua and Dr. Brad Wimmer and provided the following information. This case and the following Case No. 08P-3, a request submitted by Michael and Angela Sarley to rezone 411 East Centennial from R-1B Single Family Residential to CP-0 Planned Commercial Office District, are all a part of the same request for the optometrist office. Dr. Wimmer is in the process of purchasing both pieces of property to allow for the construction of an optometrist office. The Rua property borders the bank property and also goes around to the north and the Sarley property is located on the corner of Centennial and California. Dr. Wimmer has been in business in Pittsburg for 16 years and is an established member of the community. There currently is no site plan available, but would be presented to the Planning and Zoning Commission in the near future. There will definitely be ingress and egress on Centennial. It is not definite, but there could also possibly be ingress and egress on California. The hours of operation will be either 8:00 to 5:00 or 9:00 to 5:00 and maybe even one night the office would be open a little later similar to what Dr. Wimmer is doing at his current location. If the rezoning of both properties is approved it will make a continuous CP-0 zoning district all the way along Centennial from Joplin to California. The reason the odd shaped area of the Rua property is being requested for rezoning is because of the setback requirements. If all the property is not rezoned the building could not be built.

Mr. Kennemer stated that for discussion purposes the two cases could be combined, but would have to be voted on as two separate properties. He added that he understood the plans are to remove the existing residential/daycare structure owned by the Sarley's and build the new office on the eastern half of the site. Mr. Kennemer stated that the western half of the site and the panhandle that extends further north between the first house on California and the apartments to the west will remain vacant for now. The "panhandle" is not a buildable area because of a public sewer that runs diagonally the full north/south length of the "panhandle." He also stated there is an additional 10 foot easement along the southern border with Centennial on these properties to allow for the new hike and bike trail to be constructed this spring.

Those persons wishing to speak in favor of the request were then given the opportunity to comment as follows:

Tim Kundiger, 656 E. 530th Ave., stated that he has the apartments on Joplin north of the bank, Seasons-on-Joplin, and indicated that it would be nice to see something go on the subject property.

David Rua, Route 5, stated he is a real estate agent and a certified appraiser for the state of Kansas. He stated it has always been his experience that whenever commercial goes in next to residential the property values have only increased. Mr. Rua stated that this area is not just residential as there is a bank as well as fifty some apartments to the north of the bank on Joplin that borders the residential property on California.

Those persons wishing to speak in opposition to the request were then given the opportunity to comment as follows:

Mitch Hull, 2501 Random Acres Court, stated he wasn't necessarily opposed that he just wanted to know about how large the building would be. He was advised that it would be similar in size to the bank (3000 square feet or so).

Barry Williamson stated that he lives in Joplin, Missouri, but was present on behalf of his father-in-law, Joe Shiverdecker, who lives at 2302 California that is just north of the properties being requested for rezoning. He stated they are not opposed to progress and think this would be a good location for the optometrist office. Mr. Williamson stated, however, that they were opposed to that piece of property that borders 2302 California on the south as well as the 50 foot strip of the odd shaped lot owned by Mr. Rua that is located between the apartments and 2302 California being rezoned. These two properties provide a buffer for the residential properties and they would like to see that buffer retained.

Randy Hawn, 510 East Centennial, also expressed concern for traffic being put onto California since they live just across California from the subject property. He stated they also understood the building would be constructed to the far west of the subject property.

Mark Shiverdecker, Neodesha, Kansas, stated that there was no doubt that when the grocery store and the bank went in the property values went up, but he thinks it is important to make sure the occupancy fits the neighborhood. He stated that his dad's concerns would be with the traffic that would go in and out all hours of the day and night. Mr. Shiverdecker stated that he hoped when the site plan for the building was reviewed that serious consideration be given to the traffic flow because Centennial is a very busy stretch of roadway.

There being no further comments, Chairperson Mike Creel closed the PUBLIC HEARING to allow for discussion amongst the Commission.

The Planning and Zoning Commission then considered the following factors for Case No. 08P-2 (Rua property):

1. *Character of the neighborhood* – This property is at the edge of a residential area. Its southern property line is located on a 4-lane, major arterial street. The eastern property line is in a residential area. It is bounded by single family residential, multi-family residential, and a bank.

2. *Zoning & uses of properties nearby* – Property to the north, east, and south is zoned and developed as R-1B Single Family Residential. Property to the west is zoned CP-O Planned Commercial Office and is occupied by Community National Bank. Property to the northwest is zoned RP-3 Planned Medium Density Residential. It is occupied by Seasons-on-Joplin apartment complex.

3. *Suitability of the subject property for the uses to which it has been restricted* - The SW portion of this lot (Centennial frontage) is not practical for residential use. The eastern portion of this lot is suitable for residential use. The "panhandle" is not a buildable area. When viewed as a whole (the combination of this lot plus the Sarley lot), the highest and best use of the land is commercial. Offices are the lowest intensity of commercial use.

4. *Length of time the subject property has remained vacant as zoned* – The lot is vacant.

5. *The extent to which removal of the restrictions will detrimentally affect the nearby property* – Rezoning the property will not have a detrimental effect on the surrounding area. The north side of the 400 block of Centennial is in the process of commercializing; the west half of the block is already zoned CP-O. Office use is a good transition from commercial land use to residential land use.

6. *Relative gain to public health, safety, and welfare* – Health, safety, and general welfare of the public will not be affected if the zoning of the property is changed or if it remains zoned "as is".

7. *Recommendation of professional staff* – APPROVE.

8. *Conformance to Master Plan* – The Master Plan shows the current use and future use of this property as vacant. This is either an oversight, or an arbitrary designation of future land use. Changing the zoning to Commercial Office allows the highest and best use of the land and is compatible with the surrounding area.

Based on the above findings, Earl Ward moved, seconded by Roland Dalrymple, that the Planning and Zoning Commission recommend to the Governing Body **approval** of this rezoning request. Motion carried 7 to 1 with Frank Slapar voting no. This recommendation will be presented to the City Commission for their consideration on February 12, 2008.

The third order of business under Presentation of Requests and Petitions was a PUBLIC HEARING to consider Case No. 08P-3, a request submitted by Michael and Angela Sarley to rezone 411 East Centennial from R-1B Single Family Residential to CP-0 Planned Commercial Office District to allow for the construction of an optometrist office. For discussion purposes only, this request was combined with the Rua rezoning request.

The Planning and Zoning Commission considered the following factors for Case No. 08P-3 (Sarley property):

1. *Character of the neighborhood* – This property is on the corner of Centennial and California at the edge of a residential area. Its southern frontage is along a 4-lane, major arterial street; eastern frontage is on a residential street. The north and west sides adjoin the Rua property which is also up for a change of zoning request.

2. *Zoning & uses of properties nearby* – This property is zoned and developed as R-1B Single Family Residential. It is surrounded by R-1B Single Family Residential zoning. The person purchasing this lot is also purchasing the adjoining Rua property. The purchaser's plan is to treat the properties as one lot and construct an optometrist office on the eastern half.

3. *Suitability of the subject property for the uses to which it has been restricted* - This property is suitable for, and has been developed as residential use. Since it is a corner lot on a 4-lane, major arterial, it is also suitable for commercial office use. There is an existing single family residence on the property. A Conditional Use Permit (CUP) to operate a daycare (for 12 children) was approved in August 1996. This structure is to be removed.

4. *Length of time the subject property has remained vacant as zoned* – The lot is not vacant.

5. *The extent to which removal of the restrictions will detrimentally affect the nearby property* – Rezoning the property will not have a detrimental effect on the surrounding area. The north side of the 400 block of Centennial is in the process of commercializing, and office use is a good transition from commercial land use to residential land use.

6. *Relative gain to public health, safety, and welfare* – Health, safety, and general welfare of the public will not be affected if the property is rezoned or if it remains zoned "as is".

7. *Recommendation of professional staff* – APPROVE.

8. *Conformance to Master Plan* – The Master Plan shows the current use and future use of this property as vacant. This is an oversight or an arbitrary designation of future land use. Changing the zoning to Commercial Office allows the highest and best use of the land and is compatible with the surrounding area.

Based on the above findings, Gary Falcetto moved, seconded by Earl Ward, that the Planning and Zoning Commission recommend to the Governing Body **approval** of this rezoning request. Motion carried unanimously. This recommendation will be presented to the City Commission for their consideration on February 12, 2008.

The fourth order of business under Presentation of Requests and Petitions was the review of a site plan submitted by Brian Renn for the construction of a new 54' x 100' office building and 20' x 100' storage building at 319 South Broadway. Mr. Renn was present and provided the following information. Mr. Renn would like to move his glass shop currently located at 920 West 4th Street to 319 South Broadway. The current building will be rented out and used as a storage facility. The 54' x 100' proposed building will be used as the glass shop and the 20' x 100' proposed building will be used strictly as storage for the glass shop. Dick Conway of Morton Buildings will be constructing the buildings.

In reviewing the Plan Approval Checklist, Mr. Kennemer stated that the site plan complies with all the requirements with the exception of the parking and driveway. The parking spaces are shown to be 8' x 14' which are too small. Regulations require a minimum size of 9' x 19' per space. CP-4 zoning has no parking requirements, however, if parking is to be included they must meet regulations. The curb cut for the driveway on Kansas Street is shown to be 80' in width. Commercial driveway specifications allow a maximum width of 60' for curb cut/approach, and 40' maximum width for driveway. The driveway entrance will need to be redesigned. Also parking on the south side of the building as shown interfere with the driveway and ingress/egress, therefore, these spaces need to be redesigned or eliminated.

There being no further discussion, Joel VanBecelaere moved, seconded by Roland Dalrymple, that the site plan be approved with the condition the parking and driveway be changed in accordance with regulations. Motion carried unanimously.

The next Planning and Zoning Commission meeting is scheduled for February 25, 2008.

There being no other business, Laura Klusener moved, seconded by Connie McGeorge, to adjourn. Motion carried unanimously and the meeting adjourned at 8:45 p.m.

Respectfully submitted,

Todd Kennemer

Todd Kennemer
Assistant Director of Public Works