

# PLANNING AND ZONING COMMISSION

MINUTES OF THE MEETING OF AUGUST 24, 2009

**MEMBERS PRESENT:** Roland Dalrymple, Chairperson  
Joel VanBecelaere, Vice Chairperson  
Mike Creel  
Francis DeMott  
Laura Klusener  
Connie McGeorge  
Frank Slapar  
Earl Ward

**MEMBERS ABSENT:** Gary Falcetto

**OTHERS PRESENT:** (See Attached Sign-In Sheet)  
Mark Turnbull, Director of Economic Development  
Todd Kennemer, Assistant Director of Public Works

The Pittsburg Planning and Zoning Commission met on Monday, August 24, 2009, at 7:00 p.m., in the Municipal Courtroom of the Law Enforcement Center, 201 North Pine. Chairperson Roland Dalrymple called the meeting to order at 7:00 p.m. with eight (8) members present.

**The first order of business was the approval of the minutes of the meeting of July 27, 2009.** Mike Creel moved, seconded by Connie McGeorge, that the minutes be approved as submitted. Motion carried unanimously.

Representatives of the Capstone Development Group from St. Louis were present to represent the site review plan for the old Washington Elementary School senior apartment project. The Board agreed to hear their presentation first as they [Capstone representatives] had to return to St. Louis that same evening.

**The first order of business under Presentation of Requests and Petitions was the review of a site plan submitted by Professional Engineering Consultants on behalf of Washington Crossings, LP, of St. Louis, Missouri, to allow for the construction of a 12,000 square foot apartment complex for seniors at 205 S. Locust.** Bruce Remsberg of PEC and Capstone representatives Damon Femmer and Rod Roentz presented the site plans for the project. Since the school is now on the historic register, the addition must be compatible with the existing building. As much of the original school, including the blackboards, is going to be restored to its original condition and made into senior apartments. The addition will blend well with the existing neighborhood.

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The additional stormwater runoff created by the addition and the new parking lot has been addressed by underground gravel-filled detention vaults located underneath the garden plots. These vaults are very similar to the ones that are being used under the new pervious pavement parking lots at PSU.

Todd Kennemer stated that this is a well done, complete site plan and the following points were discussed:

The property is considered as having four front yards. The north yard setback is shown as 10' instead of the required 30'. Section 29-103.3(d) of the Zoning Code states that when 40% of the block face is already developed with yards less than 30', the existing development determines the setback. The houses fronting on Rose Street (in this same block) have setbacks ranging from 10' to 20'. Properties on Rose Street located west of Locust are built on the property line. Allowing a 10' setback blends well with the neighborhood and is allowed per code.

In the west yard, the proposed covered drop-off area extends from the front of the building to the property line. Section 23-101 of the Zoning Code states that *requirements pertaining to setbacks, height, signs, etc. may be adjusted or modified so the property in question can be developed in a reasonable manner.* Allowing the cover for the drop-off would blend with the neighborhood and would provide a great amenity for the senior tenants; HOWEVER, because this building is now on the historical register, the covered drop-off area must be approved by the State Historical Preservation Office (SHPO). Mr. Femmer said that most likely the canopy would not be approved by SHPO and would not be built; however, he asked for the City's approval so they can be prepared to build it if SHPO approves the canopy.

A brick pier and wrought iron fence 6' in height is shown to be located in the front yard setbacks of the north, south, and east yards. Codes allow up to 4' fences. Section 23-101 of the Zoning Code states that *requirements pertaining to setbacks, height, signs, etc. may be adjusted or modified so the property in question can be developed in a reasonable manner.* Since it is a decorative wrought iron fence that is mostly open it should be allowed.

He also stated that the sign encroaches about 3' into the visibility triangle. Moving it a little to the north and/or east should bring it out of the triangle. The Capstone representatives said they will adjust the placement of the sign so it does not interfere with the visibility triangle.

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Mike Creel moved, seconded by Francis DeMott, to **approve** the site plan as submitted and to allow the requested adjustments. Motion carried unanimously.

**The second order of business under Presentation of Requests and Petitions was a PUBLIC HEARING to consider Case No. 09P-3, a request submitted by Charles M. Heckert, President of Heckert Construction Co., Inc., on behalf of Westbrook Development, LLC to rezone 1308 South Rouse from R-1A Single Family Residential to CP-2 Planned General Commercial. Chairperson Roland Dalrymple opened the request by stating the request and then asked the applicant to comment on behalf of said request.**

Lori Fleming, attorney for the applicant, made the presentation. She stated that the six acre tract of land was the original location of Heckert Construction and has been used for construction yard type purposes for over 50 years. Says the property is zoned as residential and there is a house and accessory structure on the lot. Since the City has grown, and is growing in the direction of the property, it is becoming less and less viable for residential purposes. Given the subject property is bounded on three sides by arterial streets and an active railroad, it is becoming more and more desirable and valuable for commercial uses. The applicant is requesting to change the zoning to commercial and to build a Dollar General retail store on just over an acre at the southeast corner of the lot fronting on Rouse; as the City continues to grow, other commercial development would be planned for the intersection.

Ms. Fleming then produced a traffic analysis report stating current daily traffic counts on Rouse are 10,100 vehicles (per the City of Pittsburg). Dollar General estimates 140 vehicles per day, 30% to 40% of those vehicles are already traveling down Rouse so additional traffic generated is approximately 90 cars per day, 6.42 vehicles per hour.

She and Mr. Heckert then distributed sheets showing the front elevation and general site plan of the proposed structure and accoutrements. She stated there would be landscaping in the front [east side] of the building; that studies show traffic is increasing at this intersection even as the property sits undeveloped; and that when a property is zoned commercial the surrounding property values generally increase.

Chairperson Roland Dalrymple then asked for those opposed to the request to state their case.

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Area residents presented a lengthy petition opposing the change of zoning. Several of them spoke against the application stating it would devalue their property, increase traffic, increase loitering and crime, lower pedestrian safety, add to storm drainage problems, they do not want to see a Dollar General Store out their window, it would attract more commercial development; commercial zoning could allow any type of commercial use such as liquor store and adult businesses; and that zoning cannot "jump more than two zoning levels at a time".

Mr. Kennemer clarified some of these statements by saying that traffic has steadily increased at this intersection even as the land sits undeveloped; any development at this location will not be allowed to add to drainage problems. The developer does not have to solve the drainage problems of others but he cannot add to them; a liquor store is allowed in commercial zoning but there are regulations in place specifically prohibiting adult businesses from locating within 500 feet of residentially zoned districts; and that there is no limit to how many zoning levels a property can "jump" at one time.

Chairperson Roland Dalrymple closed the **PUBLIC HEARING** to allow for discussion amongst the Commission.

The Planning and Zoning Commission then considered the following factors:

1. The character of the neighborhood.

The subject property is located at the intersection of two section-line arterial streets. Single-Family Residential on the east side of Rouse. Sparse residential development (single-family & multi-family) on the north side of Quincy. There is a church located to the south. This property and the church property on the south are bounded on the west by a railroad right-of-way 120' in width. West of the railroad is vacant property and another church.

2. The Zoning and uses of property nearby.

The east side of Rouse is zoned R-1A and used as Single-Family Residential. The north side of Quincy is zoned RP-3 Multi-Family Residential. There is a single-family structure located at the NW corner of the intersection with duplexes and 4-plexes located north and west of it.

Property to the west is zoned R-1A and is vacant. It is separated from the subject property by a railroad right-of-way.

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Property to the south is zoned R-1A and is occupied by a church.

3. The suitability of the subject property for the uses to which it has been restricted.

The subject property could be developed as residential. A sample plat is attached (See Attachment "A" at the end of this summary). If left (and developed) as single-family residential, it would be best to have larger lots to help mitigate against the negative impacts of lots abutting an active railroad, rear lot lines abutting arterial streets, and the need for additional right-of-way when Quincy is widened. If developed as residential, access to the individual lots will not be allowed from Rouse or Quincy; access must be from a newly created interior residential street.

According to the current Comprehensive Plan, Quincy is currently a collector street scheduled to be reclassified as an arterial street and widened to 4 lanes due to increased traffic. It is on the Capital Improvements Plan to be widened in 2013.

The subject property is becoming less and less suitable or desirable for single-family residential; and more and more suitable for multi-family or commercial use.

4. The length of time the property has remained vacant as zoned.

Although there is an existing house at its NE corner, the property is mostly vacant. Aerial photo from 1956 shows the house in existence at that time.

5. The extent to which removal of the restrictions (to rezone to a less restrictive classification) will detrimentally affect nearby property.

Staff has discussed this change of zoning request at length and there are differing interpretations on the effects a zoning change would have on nearby properties.

One interpretation is that the change would make the existing residential properties in the area less desirable thereby lowering their value should the owner decide to sell.

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The other interpretation is that if this property is changed to Commercial, the surrounding properties fronting Rouse or Quincy could also change to commercial zoning thereby increasing their value.

**QUESTIONS TO ASK YOURSELF -**

If you are looking to buy a home would you buy one that is next to or facing a commercial establishment?

Would you buy one on a 4-lane arterial street with steadily increasing traffic?

If the existing residential uses become less desirable, is there any detrimental effect if the property value continues to increase with each notice from the assessor's office?

6. The relative gain to the public health, safety and welfare (HSW) by the destruction of the value of the property being considered for rezoning as compared to the hardship imposed upon the individual landowner, which may occur if favorable consideration is not given to the request.

There will be no destruction of value of the subject property if the zoning is not approved. Changing the zoning to CP-2 will enhance the value and usefulness of this property.

Traffic on both Rouse and Quincy has steadily increased even as this property sits idle. Attachment "B" is traffic counts at this intersection since 1995. Expanding commercial development to the south and the expanding PSU campus are contributing to the increased traffic (PSU Tech Center, Names & Numbers, Polymer Research Center, Crimson Village Apartments to name a few) and to the increased value of all properties in this area of the Rouse Street corridor...so no hardship will be imposed on the individual landowner.

This corner is in the path of development and is beginning to receive development pressure. As Rouse Street is in the process of commercializing, and Quincy is in the process of converting from a collector street to an arterial, properties fronting on arterial streets (especially at the intersection of two arterial streets) will become more valuable as commercial or multi-family property and less desirable for single family use.

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The City of Pittsburg could create a self-imposed hardship on itself if it does not consider the long-term best use for this intersection.

Since this property is lying in the path of growth, it is "ripening" for development. It could sit vacant and still increase in value. Once Quincy is widened, the property will be without a doubt "ripe" for development and even more valuable...again, no hardship imposed.

7. Recommendation of professional staff.

Staff has discussed this request at length and there are differing interpretations and recommendations. Listed below are valid reasons to consider for approval and valid reasons to consider for denial.

Reasons for Approval

- A. At the intersection of two arterials.
- B. Will increase surrounding property values.
- C. Traffic steadily increasing already.
- D. Lies in the path of growth.
- E. Land is no longer appropriate for residential development; area is commercializing.
- F. Good planning to locate commercial on arterial and next to multi-family residential zoning.
- G. When it's "to close to call", best to give benefit of the doubt to applicant.

Reasons for Denial

- A. Best to wait until Quincy is widened.
- B. Will decrease surrounding property values.
- C. Will increase traffic.
- D. Not ready for development more intense than residential.
- E. Land could be developed as residential.
- F. Could be spot-zoning, property is surrounded by residential zoning.
- G. When it's "to close to call", best to go the conservative route and deny.

8. The conformance of the requested change to the Comprehensive Plan.

The current Comprehensive Plan does not address future use of this property; it only shows the current use of subject property as vacant. The previous Comprehensive Plan shows the future land use of this intersection to be multi-family or commercial, except the SE corner of the intersection, which is already developed as single-family residential.

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Before any motions were made, Mike Creel stated that his business involves commercial real estate transactions and that Dollar General Store is a client of his. Mr. Creel said he will abstain from voting in that it would be a conflict of interest and excused himself from the panel.

Based on the above findings, Joel VanBecelaere moved, seconded by Connie McGeorge, that the Planning and Zoning Commission forward a recommendation to the Governing Body for **disapproval** of this rezoning request. Motion to deny is based on the evidence heard and that it may be best to widen Quincy Street before allowing commercial development at this intersection. **Motion carried by a vote of 5-1 with 1 abstention.** This recommendation will be presented to the Governing Body for their consideration on September 8, 2009.

**The third order of business under Presentation of Requests and Petitions was the review of a site plan submitted by Westbrook Development, LLC for the construction of a Dollar General Store at 1308 South Rouse.** Due to disapproval of the above rezoning request, this review was not required.

**The fourth order of business under Presentation of Requests and Petitions was a PUBLIC HEARING to consider Case No. 09P-4, a request submitted by the City of Pittsburg to rezone the 2000 Block of East 27<sup>th</sup> Street Terrace from County "Agricultural" to IP-2 Planned Medium Industrial.** Chairperson Roland Dalrymple opened the public hearing by stating the request and then asked the applicant to comment on behalf of said request.

Mark Turnbull, Director of Economic Development presented the case. He stated that there are prospective tenants looking to locate in Pittsburg and this vacant land in the industrial park is needed for industrial development.

Chairperson Roland Dalrymple then asked for those opposed to the request to state their case.

Some area residents opposing the change of zoning spoke against the application stating industrial use would create unhealthy living conditions, ruin the rural atmosphere of their neighborhood, devalue their property, increase traffic, and add to storm drainage problems. They are concerned with noise pollution and think the property should stay vacant and serve as a buffer between industrial use and the residential neighborhood.

Chairperson Roland Dalrymple closed the **PUBLIC HEARING** to allow for discussion amongst the Commission.

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The Planning and Zoning Commission then considered the following factors:

1. Character of the neighborhood –
  - Industrial to the north, south, and west.
  - Residential on the east and southeast.
2. Zoning & uses of properties nearby –
  - Properties on the north and west are zoned and used as IP-3 Heavy Industrial.
  - Property to the south is zoned R1-B Residential but it is used as a legal non-conforming salvage yard.
  - Property to east and southeast are zoned and used as R1-B Single Family residential.

3. Suitability of the subject property for the uses to which it is being considered.

The city's Comprehensive Plans from 1963, 1990, and 1995 show the subject property has been designated for industrial use for at least 45 years. It is accessible through the industrial park and has industrial infrastructure in place.

4. Length of time the subject property has remained vacant as zoned.

The subject property is vacant.

5. The extent to which removal of the restrictions will detrimentally affect the nearby property.

The subject property contains 30 acres and is to be zoned as IP-2 Medium Industrial to transition between heavy industrial to the north and west, and residential uses to the east. Industrial land use is not that compatible with residential uses; however, since this area has been designated for industrial use for 45 years, the residential uses have basically encroached into the industrial area.

Although the property currently retains its county "AG" Agriculture zoning, agriculture use is not compatible to residential land use. Agriculture is an industry and has the same qualities as heavy industry such as smoke, dust, noise, odor, chemicals, 24-hour operations, etc.

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6. The relative gain to the public health, safety and welfare (HSW) by the destruction of the value of the property being considered for rezoning as compared to the hardship imposed upon the individual landowner, which may occur if favorable consideration is not given to the request.

Health, safety, and general welfare of the public will not be affected. The value of the property will not be destroyed if rezoned; in fact it is far more valuable as industrial land use than agriculture. Modern agriculture is either large amounts of land to produce volume of product or small specialty family farm or "hobby" farms. This property is too small for high volume crops or livestock, and is not practical for residential hobby farm use.

7. Recommendation of professional staff – APPROVE.  
8. Conformance to Master Plan –

Approval of this change of zoning is compatible with the Comprehensive Plan.

Based on the above findings, Joel VanBecelaere moved, seconded by Mike Creel, that the Planning and Zoning Commission forward a recommendation to the Governing Body for **approval** of this rezoning request. Motion carried unanimously. The Board also requested Mr. Kennemer to send notice to property owners within the 200 feet notification area when the subject area comes before them for site plan review. This recommendation will be presented to the City Commission for their consideration on September 8, 2009.

After the above application received a recommendation of approval, Mr. Kennemer told the audience of their option to file a protest petition.

**The fifth order of business under Presentation of Requests and Petitions will be the review of a site plan submitted by Curt Sackett, Lone Star Automotive, to allow for the placement of a portable office building at 301 S. Broadway. Mr. Curt Sackett stated the subject property is a vacant lot that used to be occupied by a gas station. He plans to place a portable building in the middle of the lot and use it as car sales lot similar to the one on South Broadway and the one on East 4<sup>th</sup> Street. The lot is to be paved and the building is to be "dressed up" so it does not look out of place. All utilities, and access and circulation for autos and pedestrians are already in place. The lot is zoned CP-4 so there are no parking requirements. Since it is a small office there is no need for a large trash dumpster on the site; the small amount of trash generated is to be disposed of at his current place of business. His business is growing and this is to be a sales lot only; all repairs and mechanical work are to be done are his present location which will remain in place.**

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Mr. Kennemer stated that screening must be added to the property lines that adjoin the residential use at the northeast corner of the lot. He also stated that more information is needed regarding the sign. This information can be obtained before the separate sign permit is issued.

Joel VanBecelaere moved, seconded by Connie McGeorge, that the site plan be approved as submitted. Motion carried unanimously.

The next Planning and Zoning Commission meeting is scheduled for October 26, 2009.

There being no other business, Joel VanBecelaere moved, seconded by Francis DeMott, that the meeting adjourn. Motion carried unanimously and the meeting adjourned at 10:30 p.m.

Respectfully submitted,



Todd Kennemer  
Assistant Director of Public Works

# Planning and Zoning Commission

MEETING OF Aug 24, 2009

## SIGN-IN SHEET

Ruth Lemon 110 E. Carlton

Mona Owens 2407 N. Free King Hwy

ROBERT W. EVANS 2407 N. FREE KING HWY.

Tim Dell 1311 S Rouse

Bertha Dell 1311 S. Rouse

Ashley Braden 1305 S. Rouse

Joshua Braden 1305 S Rouse

Darrel Moore 2511 N Kings Hwy

MIKE STAPLETON 1302 FRANKLIN RD

BEAN F. MCELJUNN 2403 MARTHA DR.

Clyde Lovelace 1401 S. Rouse

Lori Fleming 100 S. Broadway, Ste 200

MARLENE BULL City

Rodney Allen	3401 Roger Ave S.F.A
Charles Hector	Ft Smith AR
Nicki Palmer	746 ES 20 <sup>th</sup> Ave
Salma Yoder	1502 Imperial Circle
Walt Parker	1211 Bitner Dr
Bill Wilson	1509 Imperial
Norma Wilson	1015 E. Quincey
Mary Jo Boyd	1015 E. Quincey
Nancy Lewis	1405 S. Rouse
Shannon VanBeelaere	1408 Franklin Rd
Aaron Besperat	2108 Timber lane
Chloe Besperat	2306 Maretha Dr.
Bob Romine	2306 Maretha Dr.
Nina Romie	2107 Timber Ln
Cynthia Woodburn	2107 Timber Ln
Joe BEAUCHAMP	2002 Timber Ln 704-2219
Martin + Dorita Dupolatt	414 Winwood
Jim + Amy Lou	2204 So. Homer
ED EVANS	113 S. Sugar Creek Rd.
Bucley Phillips	Frontenac Ks 66703
PHILLIP L. PHILLIP	2005 Timber Lane
Michael Bishop	401 W Jefferson Pitt
Beth Wishall	1302 Randall Dr.

24 Aug 09

Shannon Nicklaus

DOUG BORCHARDT 2009 E 20<sup>th</sup> St.

Don Alfandi 1406 S. Rouse

Jana Beykirch 2002 Valise Ct., Pkg 66762  
Steve Beykirch PB

CURT SAKER 596 E. 570<sup>th</sup> Ave Pittsburg 66262

Todd Brynds 2505 Marella Dr.

~~XXXXXXXXXXXX~~

Damon Femmer Washington Crossings LP St Louis MO

Rod Roents " " " "

Bruce Remsberg PEC Pittsburg