

**HAYSVILLE PLANNING COMMISSION
& BOARD OF ZONING APPEALS**

Agenda

February 22 2024

6:00 p.m., Municipal Building, 200 W. Grand

- I. Call to Order
- II. Roll Call
- III. Presentation and Approval of Minutes
 - A. Minutes of January 11, 2024
- IV. New Business
 - A. Review of ByLaws
 - B. Public Hearing Zoning Code Amendment Article 4: Sections 401 through 414
- V. Old Business
- VI. Correspondence
 - A. Email – Council Member Benner
- VII. Off Agenda
- VIII. Adjournment

HAYSVILLE PLANNING COMMISSION/BOARD OF ZONING APPEALS

Minutes

January 11, 2024

The regular Planning Commission Meeting was called to order by Chairperson Tim Aziere at 6:00 p.m. in the Council Chambers at the Haysville Municipal Building, 200 W. Grand.

Those members present were: Jeff Blood, Dan Rinke, Tim Aziere, Debbie Coleman, Laura Adkins, and Mark Williams. Also present were Planning and Zoning Administrator Jonathan Tardiff, and Deputy Administrator Georgie Carter.

The first item of business was the Minutes of December 14, 2023.

Motion by Coleman Second by Williams.

To approve the minutes as presented.

Blood aye, Rinke abstain, Aziere aye, Coleman aye, Adkins abstain, Williams aye.

Motion carried.

Under new business was the public hearing of the Zone Change LC and SF to TF of property located North of Grand Ave. and East of Plaza Drive.

Aziere asked if the agent for the applicant was present. Mellies stated she was. Aziere read the opening instructions, formally opening the public hearing for the zone change for properties that are "LC" Light Commercial and "SF" Single-Family Residential to "TF" Two Family Residential of Lots 1-3, Block C, Reserve A, S 106 Ft Lot 3, Block B, E ½ Lot 5, Lot 6, and S ½ Lot 7, Block A of the Country Plaza Villas Addition to Haysville, and asked the commission if anyone had a conflict of interest in the case. There was none.

Aziere asked the commission if they had received any written or electronic communications on this matter. Blood stated he had received a letter from the city due to being a property owner of a lot nearby. Aziere asked for staff to present the staff report.

Tardiff stated that before the commission was the staff report for the zone change for properties that are Light Commercial and Single-Family Residential to Two Family Residential of Lots 1, 2, & 3, Block C, Reserve A, S 106 Ft Lot 3, Block B, E ½ Lot 5, Lot 6, and S ½ Lot 7, Block A of the Country Plaza Villas Addition to Haysville. Tardiff stated that the properties are located North of Grand Avenue, and East of Plaza Drive and that the properties would need to be replatted.

Tardiff stated that the Haysville Land Use Plan proposed changes and identifies the properties as neighborhood mixed-use, comments from area residents are in the staff report for the commission to read and that staff is recommending approval of the zone change from Light Commercial and Single-Family Residential to Two Family Residential, and that the agent for the applicant is here to answer any questions the commission may have..

Aziere asked the commission if there were any questions for staff. Blood asked about lots 1, 2, & 3 as they are split on the county's website as east half and west half. Carter stated that they would

have to be replatted. Aziere asked if there were any other questions for staff. There was none.

Aziere asked if the agent for the applicant wished to speak. Rebecca Mellies, with PEC located at 303 South Topeka in Wichita, was the agent for the applicant and stated that one clarification for the commission in the staff report in regards to a correspondence with Mr. Briley who resides at 7041 Shahin Street inquiring why his property was included, it was recently discovered by the development team that the property was sold a few years ago, and the deed was never filed. Mr. Briley has found the deed and is going to have it filed. Mellies stated that they are requesting for that property to be removed from the zone change if the commission approves the zone change this evening, and she would provide the revised legal description for the city council approval of the voting ordinance. This is to clarify the removal of the south half of lot 7 of the addition, and that they are in agreement with the rest of the staff's comments.

Mellies apologized for not having prints of the site plan concept due to technology issues and was unable to show them for clarity. Mellies stated that as Tardiff mentioned these properties will be replatted into duplex lots for approximately 15 new residential lots on the south side of Chapman Street that would have a new street bisecting the property that would allow access to the new street for those residential lots. Mellies stated that adequate detention would be required and done during the replatting process, as well as new infrastructure, water, and sewer would be extended as part of the platting process. The applicant will be pursuing that relatively quickly pending the results of the hearing tonight and stated she would stand for any questions concerning the zone change or the clarification of the properties the commission may have.

Williams asked that after having driven by the area it looked like Lots 1 and 3 on the south of Chapman Street already have structures on them. Mellies stated that there are some mobile homes there and that they will be moved at the time of construction if this project moves forward. Williams stated that it looked like people were still living in one of them. Mellies stated that she would have to defer the question to the owner of the property that they would make arrangements in the future for those relocations, and she was not aware of any discussions at this time with the owner and the tenants.

Aziere asked if any members of the public wished to speak.

Edwin R. Hill, residing at 7050 Plaza Drive, asked if there was a plat map available. Aziere stated that thing the applicant will produce a plat map as the next step. Hill asked if this TF allows for 2 story construction like the ones down the street or for one-story construction and would the applicant be building one-story or two-story structures. Carter asked Mellies what the plan was, as Carter believed the height restriction was 45 feet. Mellies stated that the zoning allows 2 stories, but the developer is not anticipating 2 stories at this time, is planning on a 1 story structure, and just doing a 1 story duplex structure. Carter stated 2 story structures are allowed up to 45 feet. Hill asked if this development would affect the taxes of the current homeowners. Mellies stated that no because the current city system can handle new development and any infrastructure required to serve this development would be paid for by the future property owners.

Hill asked about the sewer and water that would be extended there and would the sewer and water be able to handle new development. Mellies stated that there is adequate capacity in the system,

the applicant would coordinate with city staff with the infrastructure, that would be passed on to the future property owners, and that no current property owners would be impacted financially by the zone change.

Hill asked about heavy equipment coming into the area and would any damages be taken care of by the developer. Mellies stated that if the existing infrastructure were to deteriorate, the developer would have to coordinate with the city to make that a requirement of the developer to fix the street for damages. Mellies stated that traditionally no existing infrastructure is maintained by the city at large. Hill asked if this was a cost to current homeowners. Mellies stated no.

Hill asked then about street parking allowed as this was located on a 2-lane road. Carter stated that as part of zoning with the district, this is going to have required parking guidelines for each duplex depending on what is put in. Part of the zoning has required parking for the type of structure being put in for off-street and on-street parking, and there is a number of parking spaces the developer has to meet. Hill asked if there would be any street lighting for this development. Carter stated that would be part of the platting process and would be shown through Evergy at that time.

Hill asked if these units would be owner-occupied or rentals. Mellies stated that she did not know at the time and would ask the applicant to let him know. Mellies stated that the applicant was looking for the properties to be rental properties. The last concern Hill had was about traffic backups or accidents at this location. Aziere asked how many units the applicant was planning to build. Mellies stated the estimate was 30 units on 15 lots with 2 units per lot. Aziere stated that that single-family is 9.8 trips per day, and that duplexes are a little less at 8.7 trips per day. Mellies stated that traditionally traffic requirements are addressed at the time of platting so if there is concern from staff this would be reviewed at the time of platting, and that Aziere is the traffic engineer, and to save him some time with mental math. Aziere stated that the total trips throughout the day are 261 trips, but we generally consider for a.m. and p.m. peak is the top 10% of that, and 26 trips, which is in and out, potentially you would be an extra 12 to 15 vehicles extra at that intersection in the morning and evening. Hill stated he was wondering because if you had a duplex you could have 2 people in that family each with a car, and you are saying there would be 60 cars out there. Aziere stated no what he was saying was that the total trips would be 15 in the morning of actual vehicles for a standard single-family home, which is 10 trips during the peak hour. Hill stated that was all the questions he had and thanked the commission for the information.

Aziere asked if any other member of the public wished to speak.

Sharon Powell, residing at 7044 Shahin Street, stated that everything was being answered, and asked if the public would be able to review the plat once it is submitted to have input on it before the plat is finalized. Aziere stated that would come before the commission as well. Powell asked if the public would have notice when the plat comes in so people can come to the meeting. Carter stated that planning commission meetings are open to the public and are posted on the webpage, and social media, but there will not be a notice mailed out to you directly for the plat, you will either need to call and enquire when it will be on the agenda, or watch the webpage for when it comes up on the agendas. Powell asked if they come to the meeting would they be able to speak and ask questions about the plat. Carter stated they would be able to fill out a comment card for a citizen to be heard and speak at that time. Powell asked because she is a retired realtor, has worked

in developments, and wanted to know when they could come to speak and make changes if they wanted to. Carter stated that would be when the plat comes before them, citizens can come, fill out a card, and speak during that time under citizens to be heard or off agenda citizens to be heard. Powell thanked Carter for the information.

Aziere asked if there was anyone else who wished to speak.

Greg Briley, residing at 7041 Shahin Street, stated that the south half of lot 7 mentioned is owned by him, and he has been living there for 30 years and has a few problems he was curious about it asking if these number of duplexes are Section 8 housing. Mellies stated that they are not intended to be. Briley stated that makes a difference in what comes into the neighborhood and believes that there would be a lot of new traffic. The homeowners here have paid their dues living there, had the streets put in, and are all the new neighbors going to help pay for everything they already had paid for. Aziere stated no they would be paying for their streets. Briley stated that the new neighbors would be using their streets to get there. Briley stated he was just curious, wasn't sure he liked the idea, and that it was not like he was asked about it.

Aziere asked if anyone else wished to speak.

Tom Lies, residing at 7024 Plaza Drive, asked if, at the next meeting, they could stop the zone change from occurring as this was all new to him, and take time to understand all the information given to them. Aziere stated the commission is considering the zone change tonight. Lies asked about seeing a sketch of what was going to be placed at the properties. Aziere stated that the sketch did not matter at tonight's meeting, and what was being discussed was what to do with the ground there allowing duplexes instead of single-family residency. Lies stated he would like to see what the homes looked like before making a decision. Aziere stated that they are just discussing the ground itself and the configuration of the homes would be later with the plat. Lies asked how they could decide on a plan if they don't know what the plan is yet. Aziere stated that they are just voting on the land use, the applicant wants to use the ground for two-family duplexes, and that is what is being considered tonight. Aziere stated that the plan, the court, and the plat would be in the future, and the applicant does not necessarily have to do anything they say for configuration right now and that what is only being considered right now is if the commission wants to allow duplexes on this area of lots. Carter stated that currently the property is zoned light commercial so this is going from a higher intensity to a lesser intensity. Lies stated that they don't even know about light industrial areas because the landscape terrorizes them, the city does not do anything about it, and this zone change is actually an improvement. Lies stated that they do not want any Section 8 housing, or degrade the neighborhood anymore because they have single houses there and it should be a better place to live there, and if he does not see a plan, how can he agree with it. Aziere stated that at the moment the plan is not being considered right now and that it is whether or not the commission wants to allow duplexes on these lots. Lies asked what would stop them from railroading it through later. Aziere stated they would have a platting process the public can attend. Lies asked what the platting process was. Aziere stated that the applicant presents a sketch plat, the commission looks at it, and makes comments, the public, by virtue of these meetings, can come to the meetings and look at that plat, look at the plat on the website, and if the public has concerns, may can address it to city staff or come to these meetings and address those concerns here. Lies asked if changes could be made at that point. Carter stated that when the applicant

submits the plat, it has to conform to the City's regulations and that there are Subdivision Regulations that they have to conform to that area already set regulations and City Code. Lies thanked the commission for the information.

Aziere asked if there was anyone else from the public who wished to speak. There was none. Aziere asked if the agent for the applicant wished to rebut anything.

Mellies stated no, but wanted to add for clarification that the property south of Chapman is currently zoned commercial so if the right party was interested today, they could put a Quick Trip on that corner, which in her opinion if she was a resident to the north, this would be a detriment to my neighborhood more than some duplexes or more residential development. That being said, this has not happened as the staff report states, this property has been vacant for quite some time, and what the applicant is trying to do is bring new rooftops. New rooftops help support businesses and our goal is to see some positive traction happen in Haysville in particular at this location, would just ask that the commission take that into consideration, and does recognize that the property to the north is zoned single-family and the three tracts, two legal tracts are going to be zoned with a little bit more flexibility for the opportunity to allow single-family or two-family dwellings, but a majority of this rezone request is to downgrade to a residential purpose instead of a commercial purpose.

Mellies stated she could answer any questions the commission may have and wanted the commission to consider after hearing from the area's neighbors. Aziere stated that public comment is now closed for commission, action and the floor is open to the Commission's comments regarding the following criteria which the Commission could read themselves.

Aziere asked the commission if there were any questions or general discussion. There was none.

Aziere asked for a motion.

Motion by Coleman Second by Adkins.

To recommend approval of the Zone Change request from "LC" Light Commercial and "SF" Single-Family Residential to "TF" Two Family Residential for properties located at Lots 1-3, Block C, Reserve A, S 106 Ft Lot 3, Block B, E ½ Lot 5, and Lot 6, Block A of the Country Plaza Villas Addition to Haysville.

Blood aye, Rinke aye, Aziere abstain, Coleman aye, Adkins aye, Williams aye.

Motion carried.

Under old business was the review of the Zone Change of Lot 1, Block A, Shook Addition to Haysville from HC to SF.

Aziere asked for staff to present the report.

Tardiff read the memo from the City Council stating that the Haysville City Council reviewed the recommendation for the property located at Lot 1, Block A of the Shook Addition on January 8. The City Council is sending the item back to the Planning Commission to review the zone change again including allowing the applicant Adrial Barger, and Ken Boote, adjacent property owner to speak. Staff will review the points brought up during the council meeting, the chair will read Mr.

Boote's letter dated December 11, the applicant, Adrial Barger will be allowed to speak, the adjacent property owner, Mr. Boote, will be allowed to speak, and the applicant will be allowed to rebut.

Tardiff stated that the city council is requesting the commission to review the golden factors again in light of the contents of the letter, and then have a chance for discussion before giving their recommendation. The Planning Commission's options are: 1. Resubmit the original recommendation giving the reasons for returning the same recommendation, 2. Submit a new recommendation, or 3. Amend the original recommendation. If the Planning Commission fails to deliver its recommendation to the City Council following the Planning Commission's next regular meeting after receipt of the City Council's statement, the City Council shall consider this such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

Tardiff stated that several items were brought up during the discussion at council on Monday that need clarification:

- Mr. Boote's letter, visit, and phone calls were documented in the staff report. These were included in the staff report and presented in the same manner as other zone changes.
- 21 letters were sent out, and only 1 property took opposition to the proposed zone change.
- This request changes the use from a higher intensity to a lower intensity which is a basic tenet of consideration of a zone change request.
- The applicant wants to have her affairs in line for her children. She does not plan on building immediately.
- When this began back in 2021, she wanted to build a garage, but the property was not platted. According to our Subdivision Regulations, a building permit cannot be issued for an unplatted property. An accessory structure cannot be built in the absence of a primary structure.
- Access to the property was designated on the western side when it was platted, which means access is through a residential neighborhood.
- This area was annexed into the city and has many legal-non-conforming uses (the use was there when the property was annexed, and the use has continued therefore it is allowed). This includes residential uses on heavy commercial lots (along Broadway) that are unplatted. There are also residential and commercial uses on the same lot. Some of these properties have a single structure on them, like a garage, which is allowed because they are legal-non-conforming use.
- The zoning map shows that the property to the north and west of the proposed lot is zoned residential. The property to the south and east are zoned heavy commercial and have both residential and commercial use on them.
- The parcel to the east of the property is being considered for a zone change, Lot 2 will remain zoned heavy commercial, and only the west parcel, Lot 1, is proposed to change to single-family residential.

Aziere asked if was to read Mr. Boote's letter. Tardiff stated yes. Aziere read Mr. Boote's letter aloud for the commission to hear.

Aziere asked Mr. Boote if he would like to speak. Mr. Boote stated yes he would.

Mr. Boote stated that he has operated Air Capital Salvage at 6803 South Broadway continuously since 1979, and would like to address the zoning request being reconsidered at tonight's meeting for the following reasons.

Boote stated that although the secretary stated at the hearing that no request had been made for a postponement. Boote had specifically requested a postponement from the Planning and Zoning Administrator which he rejected. Upon the administrator's suggestion, Mr. Boote should detail his concerns in a letter presented to the Commission and be assured this would have the same impact as a personal appearance. Boote stated that items 2, 3, 5, and 8 of the Golden Rules fall blatantly short of this standard. Upon the public hearing on December 14, the chairman specifically asked if there was any communication regarding this proposal, and the Planning and Zoning Administrator indicated none even though he had 2 in-depth personal conversations and a written record which he personally agreed to read into the record. Mr. Boote reminded the Commission of Mr. Tardiff's assurance that this would have the same impact as personally attending the meeting.

Boote stated that the Planning and Zoning Secretary implied to the Planning Commission that the property being considered was surrounded by single-family when in fact 50% of the boundary to the south and east is heavy commercial, the 40% to the north is listed as heavy commercial on the City's Land Use Map dated 11/14/23, is presently being used as a private pool, volleyball, and picnic area, and the remaining 10% is across the street to the west and is the only legitimate single-family bordering the property in question. This misleading comment led Chairman Aziere to state "I think it makes sense to put residential against residential." Boote stated this would in fact create a checkerboard of land use zones which is contrary to City Code 16A-101.B designed to protect the boundaries zoned buffering between the various land uses. By this same logic presented by the chair Boote stated, that to maintain putting heavy commercial against heavy commercial makes sense.

Boote stated that the applicant's own statements at the public hearing that she is not in a hurry to build anything with the property, you don't want commercial in my neighborhood, that would be bad, and finally indicated that she was preparing this for the next generation with no immediate plans to build.

Boote stated that his final point is that the Planning and Zoning Administrator states in the opening that the applicant desires to build a home on the property, but the applicant states with great clarity that she has no intentions of building anything in the foreseeable future, her stated goal is to have the desired option to build in some future date. Boote stated that the bottom line is that had she been granted a variance to build a garage on this lot, she could have avoided spending \$8,000 in surveying and platting expenses, neighbors would be getting along like neighbors, and this unnecessary conflict would never have been necessary. Mrs. Barger and he have been good neighbors for 44 years he has run Air Capital Salvage. Mrs. Barger and her husband purchased the property in question some 20 years ago as heavy commercial property, until there is such time that a building proposal is on the horizon, and saw no prudent reason for the requested change.

Boote stated that finally as community servants, we hold the responsibility to make decisions,

many times without the luxury of first-hand knowledge, so we depend on paid city staff to gather facts, allowing us to make the best possible decisions for our community. When members of the city staff take it upon themselves to withhold information that is contrary to their goals, or worse yet offer misleading information, decisions placed before you may have unintended consequences. Boote stated that he is hopeful that the Commission utilizes this opportunity placed upon you by your City Council to make what the Commission believes is the best decision for our community. Boote thanked the Commission for allowing him to make this request and would stand for any questions.

Aziere asked if it was 2, 3, 5, and 7 of the Golden Rules were correct. Boote stated that was correct.

Boote stated that number 2. Are these uses suitable given the surrounding zoning and site criteria? Boote stated that it is a blatant no, considering the odors, dust, concussion, and noise make it unsuitable for a residence. Aziere stated that this was all the things Boote was causing. Boote stated that these were all things he was causing for 44 years, and probably 44 years prior to that running this business as a legitimate salvage operation. Aziere asked Boote if he was doing anything in his operations that was outside the area of his legal nonconforming use. Boote stated no and this is the way business is run. Aziere asked Boote if he would continue this for the next 44 years. Boote stated that he intends to be here for a moment yes. Aziere stated that when the commission had asked Barger at the meeting if she had any issues with any of Boote's operations, she had stated no. Boote stated that he could not agree more and that Barger is situated behind the Salvage, and that the position of her residency and the residents at the front of Boote's property, and the residents to the north of his property are placed as far as humanly possible away from the equipment. Aziere asked if the equipment in question was the crusher. Boote stated that the crusher is the biggest problem, but even the running of semis, tractor-trailers through, and hi-loaders when they are driven across the ground, the ground shakes. Aziere asked if the crusher was in the center of the property. Boote stated that the crusher is to the north edge of his property as the furthest distance we could get from the residents. Aziere asked how many times a year the crusher is used. Boote stated that this is typically an annual event, but can happen more frequently depending on the market. Aziere asked that in the letter, that he tries to do this during the work day. Boote stated that they never operate outside the realm of the hours of 7 am and 5:30 pm. Aziere asked also in the letter if he tried to be a good neighbor, and if would he continue to do that in the future. Boote stated yes that is his intention, has no problems with Adrial, and that his biggest problem is that all Adrial wanted to do was put in a garage to park a car, and maybe a boat, it was a simple request and an excellent use of the property. Aziere stated that if Adrial wanted to build a house there and move into that house she would have full awareness of Boote's property, the comings and goings, and what that would be like. Boote stated that he understands Aziere's point, but that the point is she has no interest in building a home herself, and this is for the next generation.

Aziere stated to play the case out, and for example, a builder comes to Barger in 5 years to buy the lot for \$1.5 million to put a spec house on it, the builder builds the house, puts it up for sale on Zillow, and a young couple sees the house and is happy and goes view it. The couple sees that it is next door to an auto salvage yard and is it likely that they will not buy the house. Boote stated no. Aziere asked if they would buy the house and then go to war with Boote to get his land use changed somehow. Boote stated that case in point that 2 miles east is a river that has half million

homes, everyone comes and buys the homes because the wind is blowing out of the south when they buy the homes, and now the wind comes from the north and now there is a battle going on because we just built downstream from a poop plant. Boote also stated that there is another case going on in the north end of Wichita by North Hoover, million dollar homes were built around a lake that is adjoined by a salvage yard doing a much heavier and more active crush operation than his, it has been around for over 50 years, and now the neighbors want him to move out. Aziere stated that this couple buys the house, comes before the planning commission, and states that they want the auto wreckage yard shut down, it has been there for 44 years, and they have been here for 1 year, do you think so little of this commission that we would allow this to happen. Boote stated that this same case is going on in North Wichita on North Hoover. Carter stated that they would have to have an ordinance to complain against, and since Boote is running in his time frame of operation they would have to find something in the code to complain against noise or something, but if you are operating during normal hours of operation there wouldn't be a nuisance violation. Boote stated that understood what was being said, but this is what is going on in Wichita right now east of the river and north in Wichita.

Carter asked if Boote had any other comments. Boote stated they had gone over the Golden Rules and still believed that 4 out of the 8 Golden Rules were missing, and that number 8 opposition was absolutely ignored as it was stated there was no opposition when there was. Number 5, the protection of health, safety, and welfare is the basis for zoning and does not believe they are protecting children if they are playing in the backyard next to an operation of this nature. Number 2, can the uses allowed in the requested district be good neighbors to existing development, and the answer is no. Aziere stated that Boote's argument is that Barger cannot develop her property as she wants to, because Boote is going to be a bad neighbor. Boote stated no and that she wanted to develop her property and have a structure on it, she was told no you cannot do that, and instead told a 77-year-old lady to spend \$8,000 and roll the dice.

Carter stated that as was stated in the memo, a garage cannot be put on the property because it is not platted which is standard across the county. Boote asked if they thought so little of this board that they could not make an exception to that. Carter stated that it is standard practice across the county that you cannot build a building without a building permit, once a building permit happens on a piece of property that is platted, Barger had this explained to her and went before the commission, it was talked about, and that is not the route she went. She then went forward with platting her property, and she wanted to do a lot split, that is her choice, when she gets to speak, she can talk about that.

Aziere asked if Barger wished to speak now. Barger stated that she owns the property at 6537 Broadway, and lives at 115 Grover behind the salvage yard. Barger stated that she misspoke about something, yes her daughter wanted to build a garage which started this, they had the property platted and surveyed, then her daughter went and did something else, and now Barger's granddaughter is interested in building a house there now. Barger stated that she has lived at her house for 55 years and her granddaughter has been over there all her life and knows where the salvage yard is. Now her granddaughter cannot even consider whether they can build until they have single-family zoning there, and no they will not be building right away because they have to get things in order, see about utilities and an address, things just need to be done, and if she is ready to build we will do that, and if she is not ready I will not sell the land out from under her

right away, but that is all she knows.

Carter asked if Barger wanted the pictures on screen. Barger stated yes as she does not understand where Boote thinks this all is. Barger showed pictures of her neighborhood and stated there was her addition to the north, and her house is on the corner, the only commercial properties she sees are the ones on the east side of Sunnyside, and that is where her property divides the two lots. Aziere stated that Barger was talking about land use and not the zoning code. Carter stated that by the zoning map, Barger was talking about land uses. Aziere stated that what Carter was saying was that because the properties were brought into the city, they are legal nonconforming uses that are zoned as heavy commercial but have single-family on them so it looks like residential, but it is not what the underlying zoning is. Carter stated that along Broadway on the right-hand side, there are several pieces of property that are commercial. Carter stated that on the zoning map on screen, the areas in pink are heavy commercial and the hashed tag is single-family residential.

Barger stated that she knows that is commercial on one end and that the rest is residential single-family, and does not have apartments or duplexes. Barger stated that they are 2 blocks deep, and 4 or 5 blocks west. Barger showed a picture with a fenced gate that is to her property and those are 3 or 4 houses across from the property. Barger showed a picture of Sandy Street that showed where the swimming pool was and didn't know what that was zoned as. Barger then showed a picture of the corner of A Street and Grover Ave where her house is on the corner. Barger stated that her granddaughter is interested in building, but cannot do anything until the property is zoned single-family.

Aziere asked the commission if there were any questions for the applicant. There was none. Aziere asked the commission if there were any other questions or comments. Blood asked what the difference between this was and 7335 S Broadway which backs up into Twin Pines has a whole bunch of residential lots and backs up to A-1 Salvage. Carter stated that she was not sure if there was a difference. Boote stated that he could answer that if it was any help, and stated that the back of the A-1 Salvage facility has a good 2 acres of buffer zone between the residential area and where they run their crusher operation. Carter asked if this was off of Broadway which has the ditches to the south of the property. Blood stated yes. Boote stated the ditch was a buffer to the north, and then they have a buffer of 2 acres to the west to avoid problems with the equipment they run.

Barger stated that there is a certain amount on the property that can't be built on from the edges, does not know which direction they would run the house, and believes they will put up a privacy fence. Barger stated she does not remember smelling or seeing the crusher since she has lived at her place, but did not realize what they were doing as well, and after they are done, the semis and flatbeds do come out his back gate, and through our neighborhood leaving. Barger stated she did not know if they come in that way or off of Broadway, but when the vehicles leave, they leave because she watches them to make sure they don't hit her yard as it is a really bad angle from his gate as it is not in line with Grover, but with her house. Carter stated that there is a 20-foot platted easement on the north and south sides of the property. Aziere stated that the front yard setback is probably off of A Street and if the lot is situated. Carter stated yes it was.

Aziere asked the commission if there were any other questions or discussions. Carter stated that at the council's request, they would like the commission to go through each of the points, that there

are comments written there, and would like the commission to go through them.

Aziere stated that the Uses and Character of the Neighborhood: the use was going from heavy commercial to residential would be in line with the residential part of that neighborhood. Suitability for which the uses have been restricted: we would be moving from a less intense land use. Aziere still did not see how this was detrimental to the surrounding properties in number 3, and if Boote continues to be a good neighbor does not see why that would change. Boote stated no he and that would still be a good neighbor. Aziere stated that the length of time the property has been vacant has been 40-plus years. Carter stated it was as far as she knew and that the area property was annexed in June of 1999. Aziere stated that for the Relative gain to the public health, safety, and welfare and again that residential is much better for the public health, safety, and welfare than heavy commercial. Carter stated that it also addresses the right of the property owner to use and obtain the value of the property and wanted the commission to keep that in mind as well. Aziere stated that he understood that and that the adopted Comprehensive Plan has this as heavy commercial because that is what it was. Carter stated that after the extensive look at the Land Use Map this last fall the commission had looked at this as residential and that it is still on the proposal before the city council as they tabled the Land Use Plan because of this item being sent back to Planning. Aziere stated the impact of the proposed development on the community facilities: that water and sewer extension would need any of that. Carter stated that water and sewer are all available there from across the street. Aziere stated that from an impact standpoint single-family is less than heavy commercial. Carter stated yes. Aziere stated that opposition or support of neighborhood residents is just one of the factors to be considered and by itself is not sufficient reason to approve or deny a request. Carter stated that the comments of Mr. Boote coming in and phone call were in the staff report so they were recorded, that there was no formal request to ever table the public hearing that he could not meet it, and only asked if there was another meeting, but no request to table the meeting. Aziere asked if Tardiff had sent out 21 letters. Tardiff stated that was correct, there are 24 properties, Mr. Boote owns several properties, Adrial Barger owns a couple, and the owner of the swimming pool lives across the street from that property.

Aziere asked the commission if there were any questions, discussion, or clarification after going through the staff report. Coleman asked for clarification that large semis leave the property driving into a residential area and that Sandy Street is a one-way street and you cannot go that way, is that correct? Barger stated that was correct. Coleman asked if the trucks take Grover Street. Barger stated that she was uncertain and thought it was A Street. Boote stated that they follow the full-length street to the west and then north out of the neighborhood as it is a nice wide street. Coleman stated that would be Grover Street to Corey Street, and Grover Street is a two-lane road that is not as wide as Corey Street. Barger stated that no it was not as wide.

Boote asked about the code he had referenced as Aziere had not mentioned it and apologized for not understanding the maps that are online concerning the land use maps that show heavy commercial versus residential land uses that are effective as of this year and that the zoning code references not to make a checkerboard of these land uses and it does not make sense to cut out pieces to make parts residential versus heavy commercial.

Carter stated that the map Boote is referencing is on the webpage, and it is the old land use map, there is also a proposed land use map that is also on the webpage because the commission was

working on it this last fall, and why it is on the webpage. Carter stated that the land use map that Boote is referencing is just a tool for what the commission wants future development to be, does not distinguish between zoning categories as far as commercial and industrial, and as far as residential, it can be mixed-use which does not show two family, quadplex, or single-family so everyone knows those are the differences. Carter stated that the zoning map on the city's GIS page is Zoning Map – Public which is the one pulled up earlier with the cross hatches showing single-family residential, and the pink is heavy commercial. Carter stated that on the screen is the proposed land use map that was reviewed and is still on the webpage because it still needs to go before the council for approval.

Boote asked if the other tract on the land use map is in question as well, the Rogge property. Aziere stated no it is already zoned residential correct. Boote stated that the south side of his salvage yard is also zoned residential which is humorous as there are at least 400 cars there. Carter stated that Boote's south property was already in city limits when it was annexed in 1999 and that she had done some research on this, and the south property was already zoned single-family residential, or Double AA, and was already marked residential. Carter stated that on screen was just the land use map and currently the old land use map shows the area with the pool as heavy commercial, which has not been used for a long time, the land use map has not been looked at and why an extensive look at the land use map was done this last year with a workshop with all of the commission, went through all the properties, came back with a public hearing, and this is what is being looked at now. Carter stated that the current land use map that Boote was looking at is not the zoning classification and is just a tool being used as the land use map is a little outdated, the other map with the red outline on it is the proposed land use map that is before council to approve that outlined in red the yellow is residential use.

Aziere asked the commission if there were any other questions. Rinke asked if there were any complaints filed from the neighborhood concerning the business to date. Aziere stated that the letter said no complaints. Boote stated he was not aware of any since being there. There was one concern years ago when a truck farm was next door growing tomatoes and thought the salvage was affecting the tomatoes, KDA came out to investigate and found out it was the children on the go-carts that were destroying the tomatoes, and the only other concern was mosquitos at one point which was addressed immediately and took care of that.

Aziere asked the commission if there were any other questions. There was none.

Aziere asked for a motion.

Motion by Rinke Second by Coleman.

To approve the zone change of property located at Lot 1, Block A of the Shook Addition to Haysville, Sedgwick County from "HC" Heavy Commercial to "SF" Single-Family Residential Dwelling District based on the finding of facts and forward a recommendation of approval to the city council.

Blood aye, Rinke aye, Aziere aye, Coleman aye, Adkins nay, Williams aye.

Motion carried.

There was no correspondences.

There was no off-agenda.

Motion by Coleman Second by Williams.

To adjourn tonight's meeting.

Blood aye, Rinke aye, Aziere aye, Coleman aye, Adkins aye, Williams aye.

Motion carried.

The meeting adjourned at 7:01 p.m.

DRAFT

HAYSVILLE PLANNING COMMISSION & BOARD OF ZONING APPEALS BYLAWS

THE HAYSVILLE PLANNING COMMISSION HAS ADOPTED THE FOLLOWING BYLAWS FOR THE TRANSACTION OF BUSINESS AND HEARING PROCEDURES AS REQUIRED BY K.S.A. 12-741, ET. SEQ. The Planning Commission is hereby designated to also serve as the City's Board of Zoning Appeals, with all the powers and duties as provided for in K.S.A. 12-759

ARTICLE I MEMBERS

- A. MEMBERSHIP COMPOSITION. Membership of the Commission shall be as established by Section 1-605-606 of the Haysville City Code. The Haysville Planning Commission shall consist of seven (7) members who shall be appointed by the Mayor, with the consent of the City Council, in all respects as required by law. Five (5) members must be residents of the City of Haysville, and two (2) members must reside outside of the City, but within the City's zoning area of influence as designated in Haysville's current Comprehensive Plan. Appointment to a vacancy caused by the death, incapacity, resignation or disqualification of any Member of the Planning Commission shall be made for that Member's unexpired term.
- B. VACANCIES. Vacancies occurring other than through the expiration of the term shall be filled by appointment for the departing member's unexpired term.
- C. TERMS OF OFFICE. Members shall serve staggered three (3) year terms which shall expire on June 30 of the third year after appointment. Members may serve successive terms. At the end of the three year term, the member may be reappointed with the approval of the City council. Vacancies shall be filled for unexpired terms only. The terms of the two members residing outside of the City's corporate limits must not expire within the same year. Members shall take office on the first meeting of the Planning Commission in July.
- D. COMPENSATION. Commission members shall serve without compensation, except that all members shall be reimbursed for approved travelling expenses.
- E. ATTENDANCE. Regular attendance is an important responsibility of membership in order to maintain a quorum for voting. Members of the Planning Commission shall make it a regular practice to attend the full length of regular meetings, special meetings, and workshops. If, for any reason, a Commissioner cannot attend the scheduled meetings, it is the Commissioner's responsibility to notify the Secretary of the absence prior to the meeting. If a Planning Commissioner is absent from three consecutive meetings without notifying the Secretary prior to the meeting or is absent from 20 percent of the meetings with notification to the Secretary (approximately four times) in a calendar year, then upon a motion by the Planning Commission, the name of the Planning Commissioner will be forwarded to the Mayor for removal from the Planning Commission.

- F. REMOVAL. Planning Commissioners may be removed by the Mayor for failure to attend meetings, trainings and workshops; neglect of duty; or malfeasance in office

**ARTICLE II
ORGANIZATION**

- A. OFFICERS. The officers of the Commission shall be a Chairperson, a Vice-Chairperson, and a Secretary. The Chairperson, Vice-Chairperson and Secretary shall be elected by the Commission annually at its first meeting after July 1. Their term of office shall be one (1) year. The Planning and Zoning Administrator or his/her selected representative may serve as Secretary to the Commission.
 - 1. CHAIRPERSON. The Chairperson shall preside at all meetings of the Commission, appoint committees, decide all points of order and procedure, and perform other duties as may be assigned by the Planning Commission. The Chairperson retains his or her ability to discuss, make motions, and vote on issues before the Commission.
 - 2. VICE-CHAIRPERSON. The Vice-Chairperson shall act as Chairperson in the absence of the Chairperson. In the event the office of the Chairperson becomes vacant, the Vice Chairperson shall succeed to that office for the unexpired term, and the Commission shall select a new Vice-Chairperson for the unexpired term at the next regular meeting. The Vice-Chairperson shall perform other duties as may be assigned by the Commission.
 - 3. CHAIRPERSON PRO TEM. When both the Chairperson and Vice-Chairperson are absent from a hearing or meeting, a Chairperson Pro Tem shall be elected from the remainder of the members of the Planning Commission by majority vote to perform the duties and responsibilities of the Chairperson.
 - 4. SECRETARY. The Secretary shall be responsible for keeping the minutes of the Planning Commission; sending agendas to members of the Planning Commission; carrying out written correspondence; maintaining the records of the Commission; and performing such other duties as the Planning Commission may require.
- B. COMMITTEES. The Planning Commission may establish committees as necessary to study, facilitate, and/or make recommendation of specific issues. Each establishment will include purpose, members, and presiding officer. No committee shall have more than four (4) planning commissioners appointed to it.

**ARTICLE III
MEETINGS**

- A. REGULAR MEETINGS. The Planning Commission shall meet at 6:00 p.m. on the second and fourth Thursday of every month at the Haysville Municipal Building when

needed. The Chairperson or Secretary may cancel a regular meeting with at least three (3) days prior notice for the following reasons:

1. It is determined that a quorum will not be present;
2. No subjects are scheduled for the agenda; or,
3. Other reasonable circumstances.

B. BOARD OF ZONING APPEALS (BZA) MEETINGS. BZA meetings take place as needed, at the same date, time, and location as Planning Commission meetings. Therefore, when the Commission must act as the Board of Zoning Appeals, the Planning Commission must recess by motion, the Chairperson must then open the BZA meeting, the BZA must act on their agenda items, the BZA must then adjourn by motion, and the Chairperson must then reconvene the Planning Commission by motion.

Unless otherwise decided by the Commission, the order of business must be as follows:

1. Roll call.
2. Approval of the agenda.
3. Approval of the minutes.
4. Public agenda.
5. Committee and staff reports.
6. Communications.
7. Public hearings (including BZA Meeting, if necessary).
8. Plats.
9. Screening plans.
10. Miscellaneous.
11. Adjournment.

C. SPECIAL MEETINGS. Special meetings can be held at any time and may be called by the Chairperson or upon request to the Secretary by at least two members of the Planning Commission. Special meetings are noticed official meetings and open to the public, during which the Planning Commission deliberates and may take votes on specific items. If a special meeting of the Commission is held because of an individual request, that individual shall pay the cost of advertising the meeting and administrative costs.

Notice of special meetings shall be given to the members of the Planning Commission at least twenty-four (24) hours prior to the meeting. Such notice shall state the purpose, time and location of the special meeting and shall be posted in accordance with the Open Meetings Act. No business shall be transacted at the meeting except such as is stated in the notice.

- D. WORKSHOPS/WORKING SESSIONS. Workshops or working sessions are noticed official meetings open to the public to discuss specific matters before the Commission. The intent of the working session is informational, and the Planning Commission may neither deliberate nor take a vote during the working session.
- E. JOINT MEETING. Joint meetings are noticed official meetings, open to the public, during which the City Council and Planning Commission discuss specific planning related matters. Neither the Planning Commission nor City Council may deliberate or take a vote during the meeting.
- F. MEETINGS HELD ELECTRONICALLY. Meetings of the Commission may be held electronically or by telephone when:
 - 1. The Chairperson or Vice-Chairperson has obtained written consent for this from a majority of the Planning Commission;
 - 2. Directed by the Mayor due to health or safety concerns;
 - 3. In the case of special meetings, when so directed by those calling the special meeting;

Electronic or telephone meetings shall be subject to all rules adopted by the Planning Commission to govern such meetings. Any such rules shall supersede any conflicting rules in the parliamentary procedures, but may not otherwise conflict with or alter any rule or decision of the Planning Commission.

- G. OPEN MEETINGS ACT. All meetings shall be open to the public and shall be compliant with the Kansas Open Meetings Act (KSA 75-4317 et seq)
- H. AGENDA. Agendas shall be transmitted electronically to the members of the Planning Commission at least three (3) days prior to the Planning Commission meeting. The agenda shall also be made available to the public and posted to the Planning Commission page on the City's website. The agenda may be updated and posted to the website by 5:00 PM on the meeting date.
- I. QUORUM. Four (4) members, a majority of the Commission, shall constitute a quorum for the transaction of business. The Commission shall assemble for all regularly scheduled meetings with a published agenda. If a quorum of the Commission is not present, no business shall be conducted and the matters for consideration shall be postponed to the next regularly scheduled Commission meeting. Further legal notifications or notification of surrounding property owners shall not be required for those cases postponed due to lack of a quorum.
- J. VOTING. Unless otherwise provided for in the state statutes, an affirmative vote of the majority of the members of the Planning Commission who are present and voting shall be necessary to authorize any action of the Commission. (At the passage of these by-laws, the only exceptions are in the cases of adopting and amending a comprehensive plan (KSA 12-747(b)), amending subdivision regulations (KSA 12-749(d)) and establishing or amending

a zoning ordinance (KSA 12-756(b).) When such a vote is not possible either for or against a particular proposal, the results of such action shall be submitted to the City Council with an explanation of the failure to establish an official vote on the subject in question. All members, including the Chairman, shall have a vote and shall vote when present except that any member shall automatically not vote on any decision in which there might be a conflict of interest. All votes shall be taken by roll call.

- K. ABSTENTION. Members of the Planning Commission have a duty to vote unless they have an actual conflict of interest. Members may routinely abstain from voting upon the adoption of minutes from a prior meeting at which the member was not in attendance, or upon their own nomination to the office of Chairperson or Vice-Chairperson.
- L. PARLIAMENTARY PROCEDURE. All meetings of the Commission and of its committees shall be conducted in accordance with the current edition of Robert's Rules of Order Newly Revised.

ARTICLE IV MATTERS TO BE CONSIDERED

- A. ITEMS TO BE CONSIDERED. The Commission shall consider matters relating to the Comprehensive Plan, including zoning, subdivision, and other regulatory measures relating to the Comprehensive Plan and the physical development of the city and its area of influence. A specific list of matters to be considered by the Commission is as follows:
 - 1. Rezoning proposals, Conditional Use Permits, Special Use Permits, and Subdivision plats and associated requests for variances or vacations;
 - 2. Annexation proposals;
 - 3. Comprehensive Plan amendments or revisions;
 - 4. Text Amendments to adopted ordinances and resolutions;
 - 5. Capital Improvement Plans, and;
 - 6. Such other matters as City Staff may bring before the Commission or that the governing body may assign to the Commission or the Commission shall deem relevant or appropriate.

The Commission shall not consider any proposal, request, application, or plat which is contrary to or in conflict with provisions of the Kansas Statutes Annotated, as amended, or contrary to or in conflict with city ordinances.

ARTICLE V CALENDAR

- A. CALENDAR. The Secretary shall prepare and submit to the Commission, for its consideration and adoption, a list of closing and hearing dates for the following year. The

list shall be submitted to the Commission at its last scheduled meeting in each calendar year. Applications shall then be placed on the calendar of the Commission for hearing, in accordance with said schedule. Study items may be, but need not be, placed on the calendar.

**ARTICLE VI
PROCEDURES FOR PUBLIC HEARINGS**

- A. **INTENT.** On any matter that requires a public hearing, it is the Planning Commission's intent to provide adequate legal notice to all concerned parties, and to hold a fair and impartial hearing. Commissioners should discourage any ex parte contacts, and should:
 - 1. Come to a hearing favoring neither side.
 - 2. Have no personal interest in the outcome other than that shared by the community-at-large.
 - 3. Treat both sides alike.
 - 4. Base their decision solely on the facts presented as evidence before the Commission.

- B. **DISCLOSURE.** Commissioners must disclose any ex parte contacts or information that may have a bearing on their decisions, prior to any motion.

- C. **ORDER OF PROCEEDINGS FOR ZONING HEARINGS.** Applications for rezoning amendments, conditional use permits and special use permits that are site-specific land use decisions are considered quasi-judicial proceedings. Such proceedings require due process, including proper notice to concerned parties, and the opportunity to be heard in a fair, open and impartial hearing. At the end of the hearing, the Commission must adopt a written report or place a statement in the minutes which summarizes the evidence and states the factors that were considered in arriving at its decision.

The following order of proceedings must be used for all such rezoning and special use hearings:

- 1. Determine that a quorum is present.
- 2. Determine that proper notice has been given.
- 3. Have Commission members report any ex parte contacts.
- 4. Planning and Zoning Administrator introduction of the application.
- 5. Applicant's presentation.
- 6. Commission and staff questions to applicant.
- 7. Presiding officer opens hearing for public comments on proposed application.
- 8. Written communications or petitions received.
- 9. Applicant's final comments.

10. Presiding officer closes hearing. (No public comments will be received after this, although the Commission may question any participant at any time during the proceedings.)
11. Planning Commission deliberations.
12. Review findings and factors on which recommendation is based.
13. Motion to recommend to the Governing Body the approval, disapproval or modification of the application, or to defer the agenda item to a specific date, time and place.

D. ORDER OF PROCEEDINGS FOR LEGISLATIVE HEARINGS. Hearings for the adoption of comprehensive plans, and for adoption of zoning and subdivision regulations or their amendments, are considered to be legislative in nature. At the end of the hearing, the Commission must make a written recommendation to the Governing Body, including a summary of the hearing.

The following order of proceedings must be used for all such legislative hearings:

1. Determine that a quorum is present.
2. Determine that proper notice has been given.
3. Have Commission members report any ex parte contacts.
4. Planning and Zoning Administrator introduction of the matter, and any associated presentation.
5. Commission and staff questions to staff or consultant.
6. Presiding officer opens hearing to public comments on proposed plan or regulations.
7. Written communications received.
8. Staff's final comments.
9. Presiding officer closes public hearing. (No public comments will be received after this, although the Commission may question any participant at any time during the proceedings.)
10. Planning Commission deliberations.
11. Motion to recommend approval, disapproval or modification of the plan or regulations to the Governing Body, or to defer the agenda item to a specific date, time and place.

ARTICLE VII RECOMMENDATIONS TO COUNCIL

A. RECOMMENDATIONS. All recommendations to the City Council shall be transmitted in writing stating the meeting date, motion and vote. A record of the Findings of Fact shall also accompany the recommendations.

ARTICLE VIII
RECORDS

- A. RECORDS. The Planning Commission shall keep a record of its recommendations, resolutions, transactions, findings, and determinations. All records shall be available for public review.

ARTICLE IX
CODE OF CONDUCT

- A. QUASI-JUDICIAL CONDUCT. A Planning Commission is expected to act like a judge, or function in a “quasi-judicial” capacity, when reviewing matters that affect a specific party’s land use rights. Quasi-judicial conduct must be above reproach and within the law. Quasi-judicial conduct demands that Commissioners provide interested parties with “procedural due process.” Procedural due process includes the following:
1. Proper notice of the hearing;
 2. A proper hearing where interested parties are permitted to present their case;
 3. A fair and impartial decision maker that reviews the evidence and makes its decision based on substantial competent evidence in the record
- B. ACTIVE REQUEST. An item is an active request until such time as the Planning Commission has completed deliberations on the item, forwarded a recommendation to the Governing Body(ies) and a ‘final action of approval’ has been taken. A ‘final action of approval’ shall be construed to mean, for the purposes of this document, the adoption of an ordinance or resolution by the Governing Body(ies) to enact a zoning or text change, the filing of a plat or development plan at the Register of Deeds, the denial of a request, or the issuance of a building permit based on an approval of an “active request.” An item is an active request at least from the time that any filing or request is received by the Planning Office, or any action has been initiated by the Planning Commission or by a Governing Body.
- C. EX PARTE COMMUNICATIONS. An ex parte communication is a communication - written, electronic, oral, or otherwise - that is relevant to the merits of a quasi-judicial proceeding, that is not in the record, and that occurs between a Commissioner and a person who is not on the Commission. Communications between Commissioners, communications between Commissioners and Planning Staff, communications on issues that are not quasi-judicial in nature, and communications on purely procedural matters are not ex parte communications.
- D. DISCLOSURE OF EX PARTE COMMUNICATIONS. Any ex parte communication shall be disclosed at any meeting as part of the Communications section, at the beginning of each quasi-judicial item on the agenda, or earlier. The Commissioner receiving the ex parte communication shall disclose the full nature of the communication including the identity of the individual(s) participating in the communications and any information obtained

through the communications so that all Commissioners have the same information upon which to make their decision and so that the applicant, City Staff, interested parties, and the general public are provided a fair opportunity to respond meaningfully to the information. Commissioners continue to be subject to the ex parte disclosure requirements until a final action of approval has been taken on an active request.

- E. REQUEST FOR ADDITIONAL INFORMATION BY COMMISSIONERS. The ex parte communication restriction shall not preclude any Commissioner from requesting additional information as long as the requests for information are in writing and a copy of the request and the response are forwarded to staff and made part of the public record on that quasi-judicial matter.
- F. CONFLICT OF INTEREST. A Commissioner shall declare a conflict of interest and shall not participate in, discuss, or vote on any matter in which he or she has a conflict of interest. Any Commissioner declaring a conflict of interest with respect to an item before the Commission shall physically leave the meeting room during the discussion and the vote on the item.

For the purposes of these Bylaws, “conflict of interest” is defined as:

- 1. An immediate family member is involved in any request for which the planning commission is asked to make a decision. “Immediate family member” is defined as “a planning commissioner’s spouse, mother, father, sister, brother, son, or daughter, including an adopted child, or a relative of any degree residing in the same household.”
 - 2. The planning commission member has a business or financial interest in the property involved in the request or has a business or financial interest in the applicant’s company, agency or association;
 - 3. The planning commission member owns or has a financial interest in adjacent property or any property that is within the notification radius for the subject request under the applicable zoning regulations;
 - 4. There is a reasonable appearance of a conflict of interest, as determined by a majority vote of the remaining members of the planning commission.
- G. CONDUCT. Commissioners shall refrain from making use of special knowledge or information before it is made available to the general public; shall refrain from making decisions involving business associates, customers, clients, friends and competitors; shall refrain from repeating and continued violation of these rules; shall refrain from using their influence as members of the Planning Commission in attempts to secure contracts, zoning or other favorable municipal action for friends, customers, clients, immediate family members or business associates; and shall comply with all lawful actions, directives and orders of duly constituted municipal officers as such may be issued in the normal and lawful discharge of the duties of such municipal officers.

Commissioners shall conduct themselves so as to bring credit upon the city as a whole and shall do everything in their power to ensure equal and impartial treatment of all without

respect to race, creed, color or the economic or the social position of individual citizens.

ARTICLE X
AMENDMENTS

- A. AMENDMENTS. These bylaws may be amended by an affirmative vote by four (4) members of the Planning Commission provided such proposed amendment has been submitted to each member of the Commission at least three (3) days prior to the meeting at which said amendments are to be considered.

ARTICLE XI
Board of Zoning Appeals

Planning Commission members concurrently serve as the City's Board of Zoning Appeals, which must hear and decide appeals of Zoning Administrator determinations, variances from the terms of the Zoning Regulations, and conditional uses as exceptions. (See K.S.A. 12-759.). The Board of Zoning Appeals must follow procedures and notification requirements as described in the City of Haysville Zoning Regulations.

ARTICLE IV

- A. CASES BEFORE THE BOARD. The jurisdiction of the Board of Zoning Appeals shall be limited to the following:
1. Appeals - See Article 10 Section 1001 of the Zoning Regulations of the City of Haysville.
 2. Variances - See Article 10 Section 1004 of the Zoning Regulations of the City of Haysville.
 3. Exceptions - See Article 10 Section 1005 and 1006 of the Zoning Regulations of the City of Haysville.
- B. The procedure for requesting a hearing before the Board of Zoning Appeals shall be as follows:
1. An application (appeal, variance, exception) shall be filed with the City Clerk on forms furnished by the Secretary of the Board of Zoning Appeals.
 2. An application shall be accompanied by ~~an initial filing fee of \$150.00~~ the appropriate fee as established in Chapter 17 of the Municipal Code of Haysville, Kansas, and shall be paid at the time of submission of the application. A separate filing fee shall be charged for each appeal, variance or exception request. Total cost will include: a certified listing from an abstract company containing the names, mailing address, zip code and legal descriptions of the owners of all property within two hundred (200) feet of the property included in the application. If a proposed appeal, variance or exception to property for which review and consideration is sought is located adjacent to the city's limits, the area of notification of the action shall be extended to at least 1000 feet in the unincorporated area; notification fees associated with mailings; publication fees; recording fees.

- C. In addition to the above requirements, certain applications require additional information, as follows:
1. Appeals
 - a. The appeal shall be filed within three (3) months after a ruling has been made by the City Inspector, Zoning Administrator, and/or their designee.
 - b. The order, requirement, decision or determination by the City Inspector, Zoning Administrator, and/or their designee which the appellant believes to be in error; and the principal points supporting the appellant's allegation of errors, including reference to that Section of the Zoning Ordinance (Chapter 16, City Code, Haysville) under which it is claimed the permit should be issued.
 - c. A clear and accurate description of the proposed work, use or action, in which the appeal is involved, and a statement as to why or in what manner an error has been made.
 - d. The City Inspector, Zoning Administrator, and/or their designee, shall be represented at all hearings before the Board; and shall then make available to the Board all records regarding the matter.
 - e. A plot plan drawn to scale showing the proposed plan of improvements, when deemed necessary by the Secretary.
 2. Variances
 - a. A statement from the applicant justifying the variance requested; indicating specifically the enforcement provisions of the Zoning Ordinance from which the Variance is requested and to what degree such a Variance is requested.
 - b. A specific statement outlining in detail the manner in which it is believed that this application will meet the requirements of [the Zoning Ordinance \(Chapter 16, City Code, Haysville\)](#). ~~Section 13-308e~~.
 - c. A sketch, drawn to scale, showing the lot or lots included in the application; the structures existing thereon; and the structure or use contemplated necessitating the Variance requested.
 3. Exceptions
 - a. A plot plan, drawn to scale, showing the lot or lots included in the application; all existing structures thereon; all proposed structures; all point of ingress and egress; widths of driveways; location of parking spaces, dimensions of all proposed structures and parking spaces, screening and landscaping; interior traffic circulation and channelization; and any other information which may be required by the Secretary or may be utilized by the Board in making its determination.
 - b. A statement by the applicant, in writing, justifying the exception applied for, indicating the provisions of the Zoning Ordinance under which the Board of Zoning Appeals has jurisdiction.
- D. No application shall be considered wherein an application has been previously decided, involving the same premises and/or Zoning Ordinance requirements; except in cases where new plans or new facts pertaining to said requirements or regulations are presented, showing changed conditions or circumstances which, in the opinion of the Board, materially alter the aspects of the case. Each new consideration shall be considered a new case, requiring fees noted in Section IV B (2).

- E. No application shall be advertised for a public hearing for property wherein a change of zoning is first necessary until the zone change amendment is approved and becomes effective.

ARTICLE V
NOTICE OF HEARING

- A. Notice to the applicant shall be given not less than twenty (20) days prior to the date of hearing and shall be by mail to his last known address.
- B. Notice to all property owners within a distance of two hundred (200) feet of the property to be altered if within the city's limits. If the property is adjacent to the city's limits, the area of notification shall be extended to 1000 feet in the unincorporated area as listed on the certified abstract ownership list accompanying the application, and to Haysville Planning Commission shall be given by mail not less than twenty (20) days prior to the date of the hearing.
- C. All notices by mail shall be directed to the addresses stated in the certified abstract ownership list accompanying the application.
- D. The Secretary shall cause to be published in the official city paper a notice of Public Hearing of said meeting at least twenty (20) days prior to the date of hearing, as provided by law.

ARTICLE VI
HEARING OF CASES

- A. All hearings of the Board and all official actions taken by the Board shall be public.
- B. The applicant should be present at the public hearing, either in person or by counsel or agent. The applicant, and persons appearing in his behalf, shall be heard first and thereafter the individuals appearing in opposition to the application shall be heard. In the event of the absence of the applicant, either in person or by his counsel or agent, the Board shall determine that said applicant was duly notified, and the Board may proceed to decide the application on the basis of the facts then available for consideration.
- C. The Board may summon witnesses.
- D. The Board may require persons testifying before it to be sworn in a manner and by an official as provided by law; provided, however, this provision shall not be applicable to members of the Board or administrative employees of the City of Haysville serving in an official or advisory capacity to the Board; or to legal counsel representing applicants in an application before the Board.

ARTICLE VII
FINAL DISPOSITION OF APPLICATION

- A. The final disposition of every application shall be in the form of a Resolution signed by the Chairperson and Secretary. Every application granted or denied by the Board shall be accompanied by written findings of fact and reasons for granting or denying the Appeal, Variance or Exception: and various conditions may be stipulated by the Board to be fulfilled before granting of the Appeal, Variance or Exception.
- B. In exercising its powers, the Board by its Resolution may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, and on all applications may attach appropriate conditions, and may issue or direct the issuance of a permit.
- C. An affirmative vote of the majority of those Board members present and voting shall be necessary for any action finally disposing of any application. In case of failure to reach a decision, the matter shall be presented at the next meeting.
- D. An applicant may withdraw his application at any time prior to the adoption of the Resolution which would cancel and close his case; but the filing fee shall not be remitted to him.
- E. The Secretary shall notify the applicant, in writing, of the final action of the Board.

ARTICLE VIII REHEARINGS

- A. Requests for rehearing shall be in writing and duly verified and shall be submitted to the Secretary of the Board within sixty (60) days of the date of the original hearing. The requests shall recite the reasons for the request. No request for rehearing shall be entertained unless new evidence is submitted which could not reasonably have been presented at the previous hearing. If the request is granted by the Board, the same procedure will be followed as was followed in consideration of the original application.
- B. The Secretary of the Board shall determine if a rehearing shall be allowed, however, the applicant shall have the right to appeal the Secretary's determination to the Board of Zoning Appeals.

ARTICLE IX AMENDMENTS

- A. Amendments to these rules may be introduced at any meeting of the Board and voted on at the same or any subsequent meeting; provided that notice of the consideration of any such amendment or passage, either in the form of a letter or official Agenda of the Board, is mailed to each member prior to its first introduction at a regular meeting. Changes to the bylaws must be approved by both the Planning Commission and the Board of Zoning Appeals.

ARTICLE X
RECORDS

- A. The records of all Board cases and hearings shall be kept on file in the office of the Secretary of the Board, in such manner as to be available for public inspection during the regular office hours of the City.
- B. The Secretary shall maintain a record of all applications, numbering said applications consecutively.

From: Daniel Benner <dnjbenner@sbcglobal.net>

Sent: Saturday, February 10, 2024 6:40 AM

To: tim.aziere@pec1.com; Jonathan Tardiff <jtardiff@haysville-ks.com>; Debbie Coleman <dcoleman@usd261.com>; Russ Kessler <rkessler@haysville-ks.com>; Georgie Carter <gcarter@haysville-ks.com>; Will Black <wblack@haysville-ks.com>

Subject: re-zoning request for Shook Addition

Just a note to say thank you for re-visiting the re-zoning request for the property in the Shook addition. From reading the minutes, I can tell it was a long and tedious process. The only reason I thought to send the issue back to PC, was Mr Boote's position that he was not able to speak in person and present his position adequately. I know this was an unusual circumstance. Anyway, I want to thank the Planning Commission for all your work and patience in re-visiting this issue. I appreciate this and all the work you all do all year long.

Dan Benner
dnjbenner@sbcglobal.net