

**SPRING HILL PLANNING COMMISSION
REGULAR MEETING AGENDA**

Thursday, November 4, 2010
7:00 p.m.
Spring Hill Civic Center
401 N. Madison St.

CALL TO ORDER

ROLL CALL

Tobi Bitner
Janet Harms
Brian Haupt
Valerie Houpt

Bill Kiesling
Troy Mitchell
Michael Newton
Stephen Sly
Cindy Squire

APPROVAL OF AGENDA

FORMAL COMMISSION ACTION

1. Approval of Minutes

October 7, 2010

2. Preliminary Plat

Case No.: PP-01-10
Address: 110 E. Wilson St.
Spring Hill Plaza
Applicant: Steve Smyth

3. Final Plant

Case No. FP-02-10
Address: 110 E. Wilson St.
Spring Hill Plaza
Applicant: Steve Smyth

DISCUSSION

4. Training Update

5. Joint meeting, Planning Commission and Governing Body

ADJOURN

PUBLIC HEARING PROCEDURE

1. Chairperson opens the public hearing.
2. Commission members describe what, if any, ex-party contacts they might have had regarding this case; indicating the nature of the communication and *whom* it was with.
3. Commission members describe what, if any, conflicts of interest they may have and dismiss themselves from the hearing.
4. Staff presents a report and comments regarding the case.
5. Applicant or agent of the applicant makes brief presentation of the case or request.
6. Commission members ask for any needed clarification of the applicant or agent.
7. Public comments are solicited from the audience. Each member of the audience must fill out a Citizen Participation/Comment Form.
8. Commission members ask for any further clarifications from applicant or staff.
9. Public Hearing is closed.
10. Members deliberate the request.
11. 14-day Protest Period begins after the Planning Commission Public Hearing is closed.
*

* **Protest Petitions:** Any protest petition must be filed in the Office of the Spring Hill City Clerk within 14 days from the conclusion of the public hearing held by the Planning Commission. Sample copies of protest petitions may be obtained from the City Clerk Office at 401 N. Madison, Spring Hill, KS 66083 (913-592-3664).

Memo

To: Spring Hill Planning Commission
From: Jim Hendershot, Community Development Director
CC: file
Date: October 27, 2010
Re: November 4, 2010 regular meeting

The following offers a brief explanation of items on the November 4, 2010 Planning Commission agenda. Please feel free to contact the Community Development Department 913-592-3664 if you have any questions.

1. **Approval of Minutes:** October 7, 2010 meeting
2. **Preliminary Plat, Spring Hill Plaza, PP-01-10:** Included with this packet you will find a preliminary plat and staff report for a replat of the area commonly known as Spring Hill Plaza. The property is subject to sale and the owners have submitted a replat that divides the area into 10 parcels. Staff recommends approval of the preliminary plat subject to the conditions noted in the recommendation section of the staff report. If approved, the final plat will be considered immediately following approval of the preliminary plat.
3. **Final Plat, Spring Hill Plaza, FP-02-10:** Included with this packet you will find a final plat and staff report for a replat of the area commonly known as Spring Hill Plaza. The property is subject to sale and the owners have submitted a replat that divides the area into 10 parcels. Staff recommends approval of the final plat subject to the conditions noted in the recommendation section of the staff report. If approved, the final plat will be forwarded to the Governing Body on November 18, 2010.
4. **Training:** A review of the training topics ranking sheets submitted by several members of the Planning Commission on 10/7/10 reveals the top five topics as follows:
 1. Ethical Principles of Planning & Code of Conduct
 2. The Planning Process - An Overview
 3. Role of the Planning Commission, City Council and BZA
 4. Spring Hill Zoning Regulations - An Overview
 5. Conducting a Successful Public Meeting

Training will be offered on the topics noted above during regular Planning Commission meetings depending on the length of the business agendas.

5. **Joint meeting with Governing Body:** January 20, 2011 has been set as the date for a joint meeting of the Planning Commission and Governing Body. If you have suggestions for topics of discussion at this meeting please contact Mary or myself at 913-592-3664 or at hendershotj@springhillks.com.

I look forward to meeting with you and please contact Mary Nolen or myself at 592-3664 if you are unable to attend the meeting or if you have question concerning the agenda.

The following minutes are subject to modification
and are not official minutes
until approved by the Planning Commission

**SPRING HILL PLANNING COMMISSION
REGULAR MEETING
October 7, 2010**

Members Present: Janet Harms
Brian Haupt
Valerie Houpt
Bill Kiesling
Troy Mitchell
Michael Newton
Cindy Squire

Members absent: Tobi Bitner
Stephen Sly

Staff Present: Jim Hendershot, Community Development Director
Frank Jenkins, City Attorney
Mary Nolen, Planning Commission Secretary

CALL TO ORDER

Vice-Chairman Harms called the meeting to order at 7:03 P.M.

ROLL CALL

Roll call by Mary Nolen.

APPROVAL OF AGENDA

Motion by Bill Kiesling to approve the agenda.

Seconded by Cindy Squire . Motion passed 7 yes 0 no 0 abstention

FORMAL COMMISSION ACTION

1. Approval of Minutes: September 22, 2010

Motion by Valerie Houpt to approve the September 22, 2010, minutes.

Seconded by Bill Kiesling. Motion passed 6 yes 0 no 1 abstention

DISCUSSION

2. Nonconforming Zoning Issues

Vice-Chair Harms introduced the discussion item, and Mr. Hendershot presented the following items.

Webster Street Property Inventory Nonconforming vs. Conforming Uses

Inventory of properties adjacent to Webster St. from North St. to 223rd reveals the following:

<u>Properties</u>	<u>Johnson Co.</u>	<u>Miami Co.</u>		
86	60	26		
<u>Zoning Dist.</u>	<u>Total</u>	<u>Nonconforming Use*</u>	<u>Conforming Use*</u>	
C-2 (Gen. Bus.)	51	13	38	
C-1 (Office Bus.)	2	2	0	
R-1 (Single-Fam. Resid.)	31	2	29	
AG (Agricultural)	2	0	2	

*Information for property use was derived from Johnson and Miami County tax records and Spring Hill utility records.

"The Spring Hill Comprehensive Plan provides a long-term directive for change. The real and perceived image of the community is often the result of incremental changes, therefore, the planning process must incorporate the Plan into the decision making process. Without this incorporation, the long-term vision of Spring Hill cannot be realized". (Page 2-2 Spring Hill Comprehensive Plan)

The Vision Plan as detailed in Section 3-1 of the Comprehensive Plan identifies the Webster Street Corridor from 207th to Sycamore as the Urban Center Zone. Webster St. from approximately Lawrence St. to Spring St. is identified as Urban Core Zone. These zones are associated with commercial development along with dense residential development such as apartments. The downtown Main Street area is also identified as being within the Urban Core Zone. Both the Urban Center Zone and Urban Core Zone are considered the most appropriate areas for commercial development.

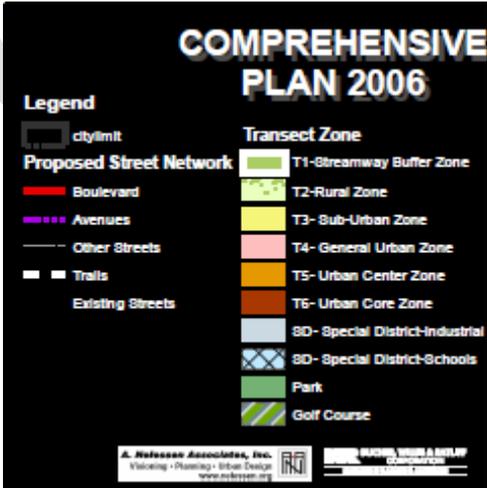
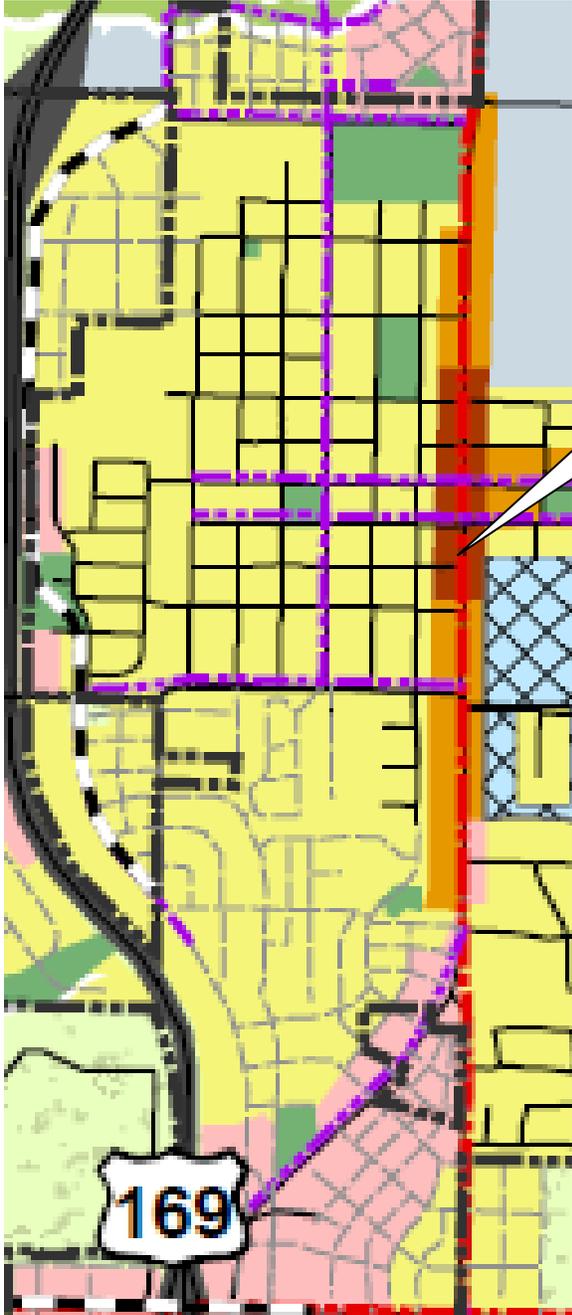
The Future Land Use Map identifies all of Webster St. from 207th Street to 223rd St. (and beyond) as being Mixed Use Commercial. Mixed Use Commercial promotes a mixture of neighborhood-oriented office, retail-commercial, institutional, civic, and medium to higher density residential uses.

In short, both the Vision Plan and Future Land Use Map identify Webster Street as being an area for future commercial growth. Inserts from the Vision Plan Map and Future Land Use Map are included with this packet.

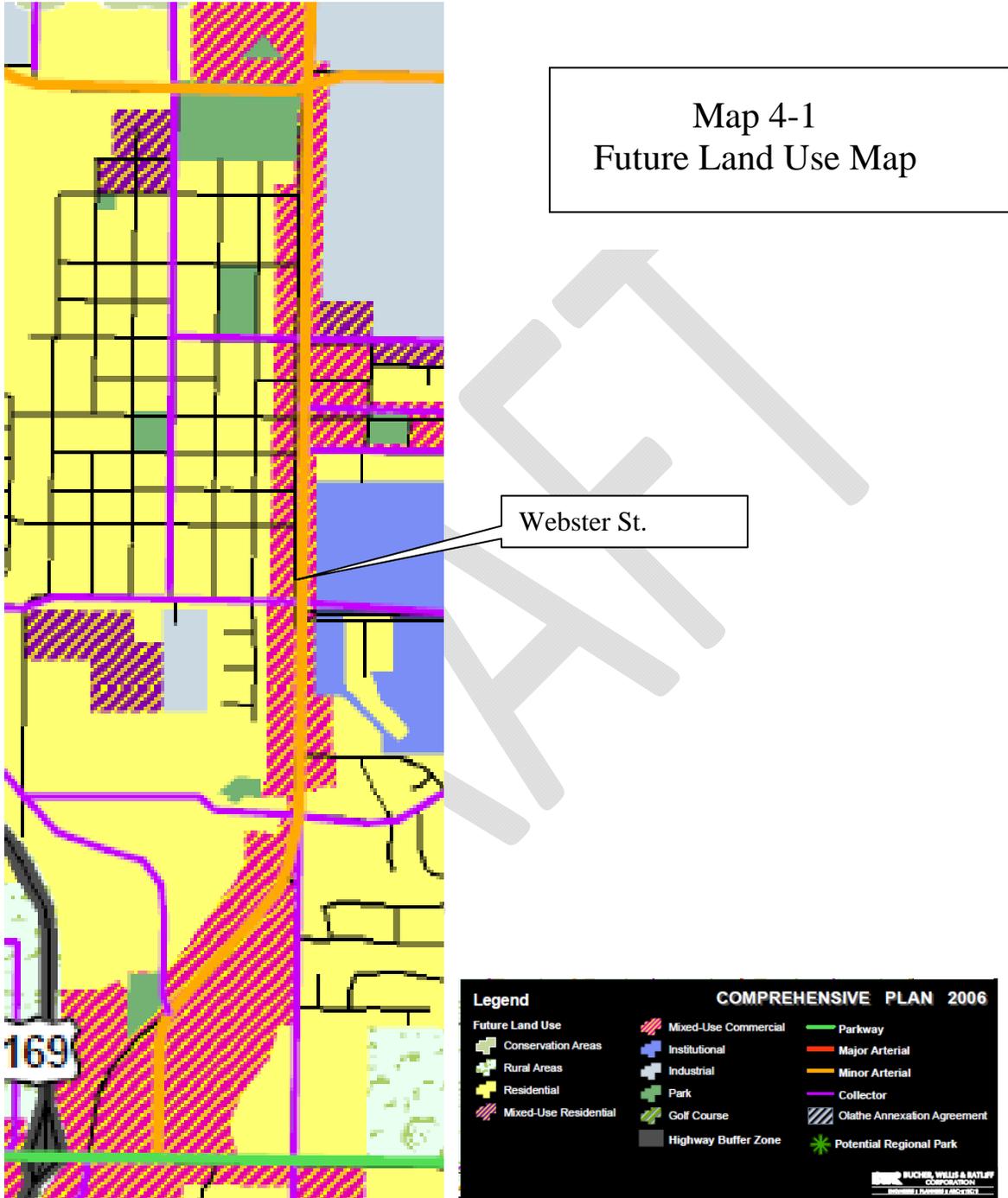
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Map 3-1
Vision Plan Map

Webster St.



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Spring Hill
Zoning Map

Webster St.

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ELDON L. ELLIS, D.C.
CARMEN S. ELLIS, PRACTICE MANAGER

September 27, 2010

Planning Commission Members
Mr. Jim Hendershot, Community Development Director

Recent articles in our local newspapers tell of the discussions involving rezoning of the property at 701 N Webster, and whether it should remain commercial or revert back to residential. Allow me to give a business perspective concerning this property.

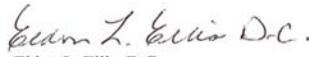
When 701 was residential, it was never owner-occupied in the 34 years our office has been at 703 N Webster. Common problems with this property included our office parking lot being used as a personal driveway, parking lot, oil changing area, skateboard park and general playground during business hours for residential occupants of 701 N Webster.

It was not uncommon to have to ask the former tenants to have their visitors move their cars that were blocking our front entrance. Over the years we have attempted to communicate with the various tenants as well as having tried using fences (first a chain link fence, and then a 6' wooden fence) to discourage use of our property; however, these steps failed to stop the improper use. When a business occupied 701, none of these problems existed.

Currently with our patients and our law office tenant's staff and clients coming and going throughout the day, I would think that safety, if nothing else, would be a valid reason for not allowing residential to coexist in a commercial zone once the zoning is changed. If safety is not a sufficient enough reason, then we must look at consistency. How can we promote the planning objectives of our community if we are unwilling to offer potential new businesses any degree of predictability as to the nature and character of the properties surrounding their business?

Additionally, it is important to note that the property at 807 N Webster, also formerly a rental home, was converted to commercial. Though that property, too, remained vacant for a period of time, a new retail store has moved in – a store that brings rental income to the property owner, jobs, shoppers to Spring Hill, and sales tax revenue. This would have been an opportunity lost had we adopted a policy of waffling on zoning.

Lastly, living at 707 N Webster, I, too, will one day have to make a decision to change my zoning from residential to commercial. When I change my property from residential to commercial, it will be a fact-based, learned decision – and one that I expect would remain unchanged by the City once made.


Eldon L. Ellis, D.C.

703 N WEBSTER STREET • SPRING HILL, KS 66083 • 913.592.2116 • FAX: 913.592.2117
ELLISCHIRO@EMBARQMAIL.COM



September 29, 2010

Ellis Chiropractic & Laser Center
Eldon L. Ellis, D.C.
703 N. Webster St.
Spring Hill, KS 66083

Re: 701 N. Webster

Mr. Ellis,

I have received your letter dated September 27, 2010 regarding the rezoning of 701 N. Webster Street and offer the following information.

The Planning Commission recently recommended denial of the rezoning request to change the zoning of the property to residential. This recommendation was confirmed by the Governing Body and the request was denied. At the meeting of the Governing Body, staff was directed to meet with the applicant to discuss options for the property and to discuss the relationship of the request to the Comprehensive Plan and the future of the Webster Street corridor. I met with the applicant followed by a discussion with the Planning Commission.

While understanding of the viewpoint of the applicant to restore the residential use of the property, the Planning Commission remained solid with their commitment to uphold the goals of the Comprehensive Plan to further commercial development along Webster Street. At the request of the Planning Commission I am preparing an inventory of all properties along Webster Street to determine zoning classification, actual use, and nonconforming status of each property. This inventory will be forwarded to the Planning Commission at their October, 7 2010 meeting as a discussion topic.

I will forward your letter to the Planning Commission along with this letter of response. I thank you for your interest and comments and please feel free to contact me if I can be of further assistance.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jim Hendershot".

Jim Hendershot
Community Development Director
City of Spring Hill

Mr. Hendershot talked about the case of 701 N. Webster St., a house that is in a commercial zone, and has been vacant for some time, and that has to maintain a commercial use instead of a residential use. Steve Smyth was part of the conversation, as a result of the City Council asking the Planning Commission to consider the rules related to nonconforming property uses and how the property is zoned. Earlier this year, both the City Council and Planning Commission denied Mr. Smyth's application to rezone the property to residential.

The Community Development Department prepared an analysis of the properties on Webster St. from North St. to 223rd. St. Records as to the use of the property from each county were viewed, and utility records were used to determine use of the property between residential and commercial. The summation of that analysis was presented and discussed by the Commissioners.

Mr. Hendershot related the statistics to the maps of the current zoning map, and the future land use map. He discussed the Comprehensive Plan and the Vision Statement related to the urban core and the urban center zones, and the plan for Webster St. Mr. Hendershot believes the Comp plan, the Vision Statement and the Zoning Regulations all match in their intent which is a mixed commercial zone for this area of Webster St.

Mr. Haupt concludes that we'll have more issues with the nonconforming zoning in the future based on the number of mostly residents that are nonconforming now.

Mr. Smyth suggested that the Commission needs to be flexible and keep the Comprehensive Plan updated to relate to the current trends. Mr. Kiesling noted that when you consider zoning issues, you want to always go for the highest and best use as you can for a property, which in this case would be for it to remain commercial. Ms. Houpt talked about some of the rules on how long a building is vacant or making changes in conforming uses might be something to look at. They discussed the use of a Conditional Use Permit as a possible way to maintain control of the property, but others thought it would be difficult to end the CUP if a resident was living in the house for years and years. Mr. Hendershot suggested he do some further research as to how other Cities are dealing with this common problem for small towns, and the Commissioners would discuss at the time of approval of the Comprehensive Plan, which occurs yearly.

3. Training

Mr. Jenkins provided training on conflict of interest, KOMA and KORA. Reference was made to Golden vs Overland Park and other similar cases related to Planning Commissions.

After a general discussion of the training material,

4. Joint meeting with The Governing Body:

The Commissioners agreed that November 18, 2010, would be a good date to set a joint meeting with the City Council.

ADJOURN

Motion by Bill Kiesling to adjourn.

Second by Troy Mitchell. Motion passed unanimously.

Meeting adjourned at 9:03 PM.

Mary Nolen, Planning Secretary



BACKGROUND:

Steve Smyth has submitted an application on behalf of Spring Hill Plaza, LLC for consideration of a preliminary plat for property located east of N. Webster St, south of Lawrence Ave, west of N. Race St, and north of E. Nichols Street; also known as the Spring Hill Plaza with a primary address of 110 E. Wilson St. A copy of the preliminary plat is included with this staff report for your review.

Staff Comments:

The preliminary plat subdivides the existing four parcels into ten parcels. The property is under contract for sale (except the parcel on the NW corner of the plat) with the former grocery store building planned for conversion into a place of worship. The east wing of the plaza will continue to serve the current tenants with vacant areas being used for additional tenants or church purposes. The remaining lots will be marketed for future development. All existing and planned parcels are zoned C-2, General Business.

Copies of the plat have been distributed to various city departments as well as consultants and utility providers to submit comments on the plat. Comments from these firms and individuals have been considered by staff and implemented into the plat as applicable.

The applicant provided the required ownership list of property located within 200 feet of the proposed plat and staff notified those on the list of the date for the Planning

Commission review of the preliminary plat. To date, staff has received two phone inquiries of general nature about the plat with no objection being voiced.

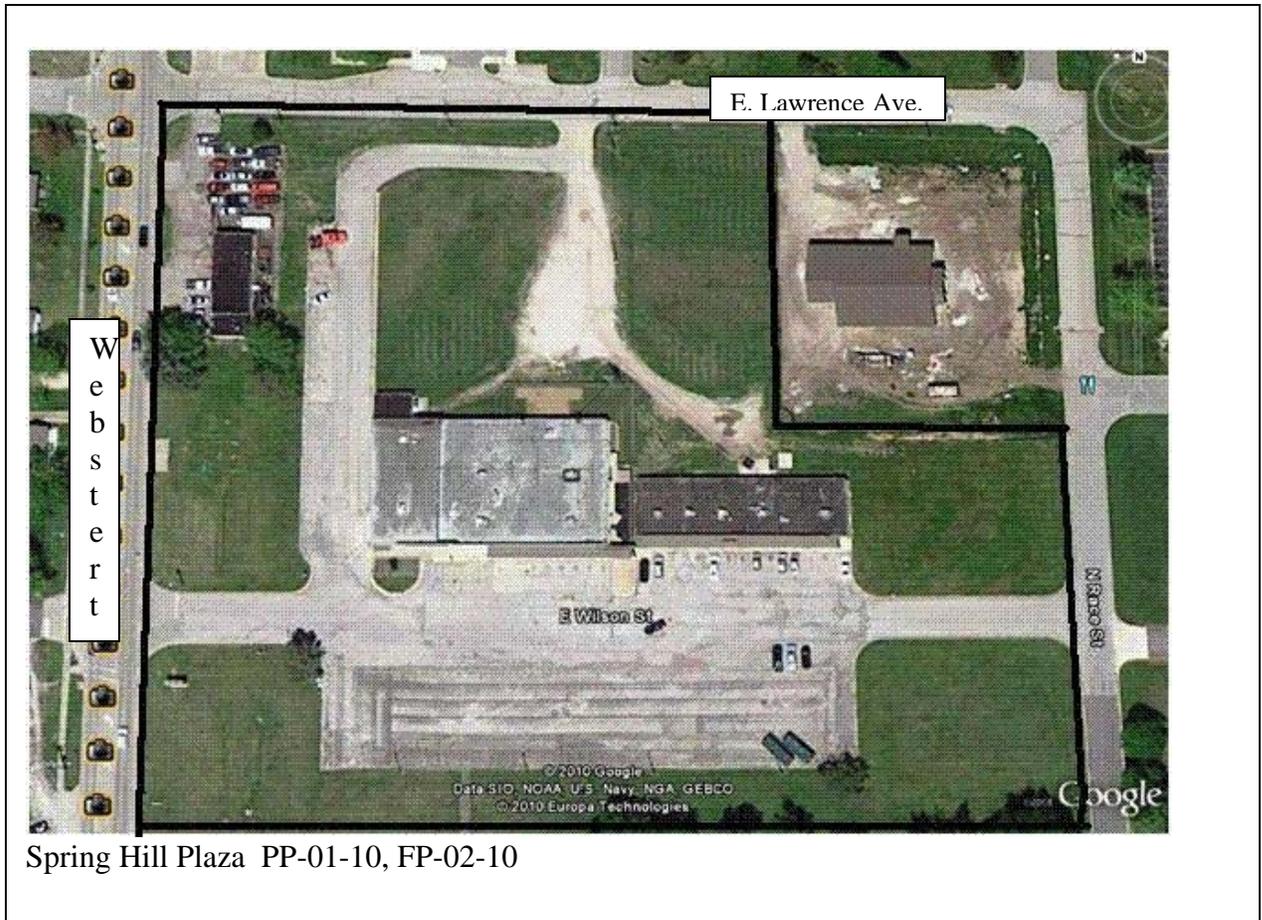
ADDITIONAL STAFF COMMENTS:

1. All required and applicable information as required by Section 17.372.C.3 is included with the preliminary plat.
2. Traffic and storm water issues are addressed in the enclosed letter from McAfee Henderson Solutions.
3. All lots are required to have direct access to a public street. Because Wilson Street does not extend from Webster to Race Street, a cross access easement has been established through the platted area that provides access to Lot 7.
4. Sidewalks are identified and noted as being constructed with future development on each lot.
5. Traffic studies are noted as being required with future development on each lot.
6. Storm water and erosion control plans are noted as being required with future development on each lot.
7. Landscaping plans will be required with future development on each lot.

RECOMMENDATION:

Staff recommends approval of the preliminary plat PP-01-10 subject to the following conditions:

1. Construction of sidewalks on Lots 1-4, 8 & 9 will be required with future development of each lot.
2. Traffic studies, storm water & erosion control studies and landscaping plans will be required with future development of each lot.



BACKGROUND:

Steve Smyth has submitted an application on behalf of Spring Hill Plaza, LLC for consideration of a final plat for property located east of N. Webster St, south of Lawrence Ave, west of N. Race St, and north of E. Nichols Street; also known as the Spring Hill Plaza with a primary address of 110 E. Wilson St. A copy of the final plat is included with this staff report for your review.

STAFF COMMENT:

Site Layout and Design. The site layout complies with the approved preliminary plat.

Public facilities and Services. Fire, police and public services will be able to serve this subdivision adequately. All utility services are available to the site.

Transportation. Sidewalks are required on all subdivisions. Construction of sidewalks on Lots 1-4, 8 & 9 will be required with development of each lot. Traffic studies will also be required with the development of each lot.

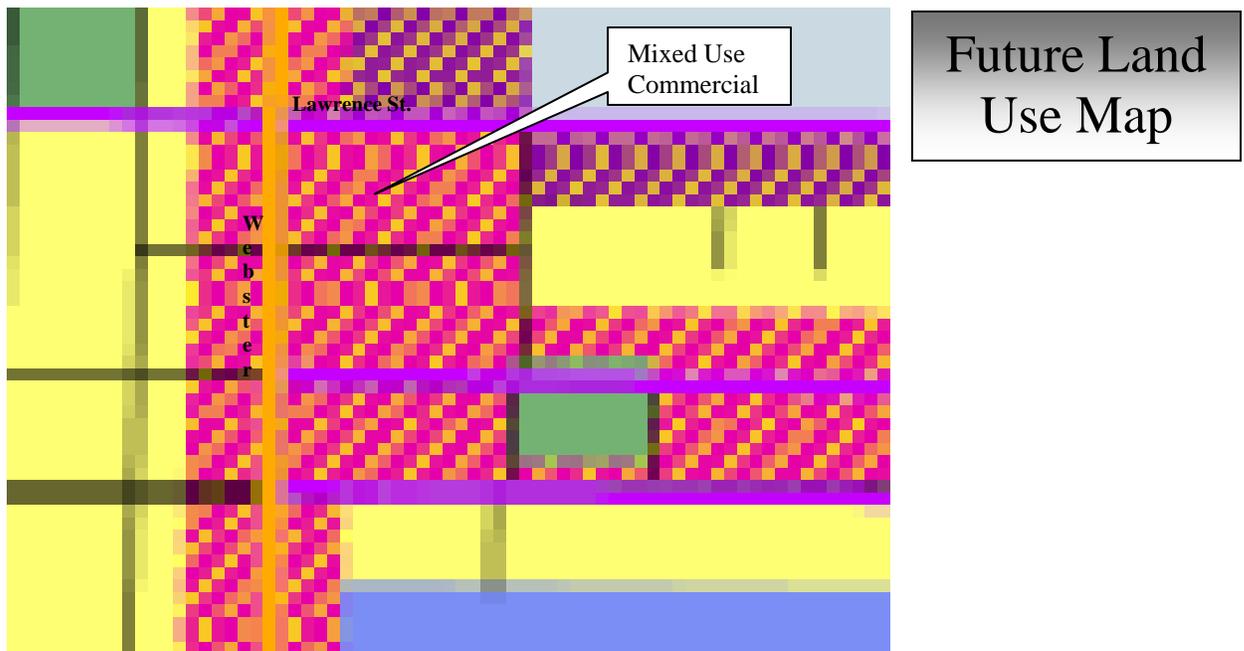
Drainage. The final plat under consideration is a replat of the area. There is no additional development currently proposed with the replat. As a result, storm water and erosion control studies will be required with future development of each lot. Existing drainage on the property is adequate for the platted area and will not be altered with the approval of this final plat.

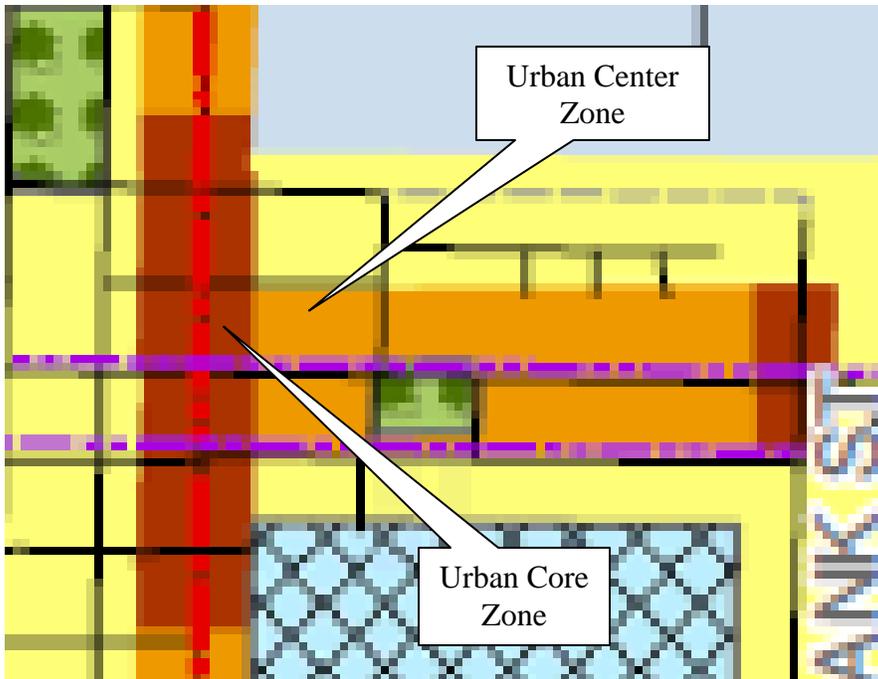
Neighborhood Character. The proposed plat is compatible with the surrounding area.

Public Improvements: There are no public improvements or dedications associated with this plat.

Improvement Agreement: An Improvement Agreement is not required for this plat as it is a replat and contains no public improvements or other work associated with an improvement agreement.

Impacts. The proposed plat is in compliance with the Spring Hill Comprehensive Plan as well as the Zoning and Subdivision Regulations. It provides for future commercial development in an area identified as Mixed Use Commercial on the Future Land Use Map. It also provides for development in areas identified on the Vision Plan Map as being both the Urban Center Zone and Urban Core Zone.





Vision
Plan
Map

Other Staff Comments.

1. All required and applicable information as required by Section 17.372.D is included with the final plat.
2. Traffic and storm water issues are addressed in the enclosed letter from McAfee Henderson Solutions.
3. All lots are required to have direct access to a public street. Because Wilson Street does not extend from Webster to Race Street, a cross access easement has been established through the platted area that provides access to Lot 7.
4. Sidewalks are identified and noted as being constructed with future development on each lot.
5. Traffic studies are noted as being required with future development on each lot.
6. Storm water and erosion control plans are noted as being required with future development on each lot.
7. Landscaping plans will be required with future development on each lot.

RECOMMENDATION:

Staff recommends approval of the Final Plat for the Spring Hill Plaza subject to the following:

1. Construction of sidewalks on Lots 1-4, 8 & 9 will be required with future development of each lot.
2. Traffic studies, storm water & erosion control studies and landscaping plans will be required with future development of each lot.