

**SPRING HILL PLANNING COMMISSION
REGULAR MEETING AGENDA**

Thursday, June 2, 2011
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
May 5, 2011
2. Conditional Use Permit Review
USD 230
3. Conditional Use Permit Review
Spring Hill Cemetery

DISCUSSION

4. Update on Growth Area Meetings
5. Planning Commission Membership
Re: Miami Co, ETJ

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.

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* **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: May 26, 2011
Re: June 2, 2011 regular meeting

The following offers a brief explanation of items on the June 2, 2011 Planning Commission agenda. Please feel free to contact the Community Development Department 913-592-3664 if you have any questions.

1. **Approval of Minutes:** May 5, 2011 meeting
2. **Conditional Use Review, USD 230:** In June 2006 the Planning Commission recommended approval of Conditional Use CU-03-06 for the Elementary, Middle and High School of USD 230. This recommendation was approved by the City Council on June 22, 2006. The action combined individual conditional use permits into one permit covering all schools in the city limits and also required a five year review. Staff finds all schools to be in compliance with applicable regulations and will recommend a positive review and continuation of the CU-03-06. Included in this packet you will find the minutes from the June 1, 2006 PC minutes on this item.
3. **Conditional Use Review, Spring Hill Cemetery:** In June 2006 the Planning Commission recommended and the City Council approved a Conditional Use Permit for the City Cemetery with a condition of review every five years. The reason for the review was for equal treatment as compared to other conditional use permits and to make sure the cemetery is being maintained responsibly. Included with this packet you will find minutes from the June 2006 PC meeting along with the original staff report. The cemetery is operated by the Cemetery Board and maintenance of the property is of high standards. Staff will recommend a positive review and five year continuance of CU-01-06.
4. **Report on Miami County Growth Area:** Staff continues to meet monthly with representatives from Miami County and communities in Miami County regarding the current Growth Area and the process to return these areas to the jurisdiction of the County. Included with this packet you will find a flyer on Information Meetings scheduled for June 21 & 22. This information has also been posted on the Spring Hill website and information will be placed in the local newspaper.

5. Planning Commission Membership, Miami County Growth Area Representation: At the joint meeting of the Spring Hill Planning Commission and City Council earlier this year, a brief discussion was held concerning the makeup of the Planning Commission after the Miami County Growth Area is returned to county jurisdiction on September 1, 2011. The time has come to discuss this matter and determine what changes, if any, are to be made to the ordinances that determine membership qualifications and requirements of the Planning Commission.

The following provides information from the Kansas State Statutes and the Spring Hill Municipal Code on the current membership qualifications of the Spring Hill Planning Commission.

KSA 12-744 -"Any such Planning Commission shall be composed of not less than five members. The number of members of a planning commission may be determined by ordinance or resolution. If a city planning commission plans, zones or administers subdivision regulations outside the city limits, at least two members of such commission shall reside outside of but within three miles of the corporate city limits".....

Section 1-902 of the Spring Hill Municipal Code: "A planning commission of the City of Spring Hill, is hereby established consisting of nine (9) members, except that the commission may contain more than nine members if necessary to conform with the provisions of KSA 12-744. The commission shall contain two (2) members from the area designated as the Spring Hill Growth Area in unincorporated Miami County".

Section 17-101 of the Spring Hill Municipal Code: "A planning commission of the City of Spring Hill is hereby established consisting of nine (9) members, except that the commission may contain more than nine members if necessary to conform with the provisions of KSA 12-744. The commission shall contain two (2) members from the area designated as the Spring Hill Growth Area in unincorporated Miami County and one member from unincorporated Johnson County".

It is staff's opinion that the provisions of KSA 12-744 remain applicable as the city continues to plan in the area outside the corporate city limits as evidenced by Future Land Use Map and other references to this area in the Comprehensive Plan. A point of confusion is that there are currently two sections in the City Code that establish the membership of the Planning Commission however 1-902 makes no reference to a member residing in unincorporated Johnson County as detailed in Section 17-101.

KSA 12-744 requires that at least two members of reside outside of but within three miles of the corporate city limits. As a result, our current membership complies with State Statute. Options to be considered include leaving the membership requirements as currently filled with two members from Miami County and one from Johnson County, changing the membership to two members residing outside the city limits with one being from Miami County and one from Johnson County, or allowing the county members to reside in either Miami or Johnson County with no requirement for individual representation. In any case, the conflict in Section 1-902 and 17-101 should be resolved.

Staff is looking for direction from the Planning Commission on developing a recommendation to the City Council as to the future membership qualifications for the Planning Commission.

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 questions concerning the agenda.

**SPRING HILL PLANNING COMMISSION
REGULAR MEETING
May 5, 2011**

Members Present: Tobi Bitner
Janet Harms
Brian Haupt
Valerie Houpt
Bill Kiesling
Troy Mitchell
Michael Newton
Cindy Squire (arrived @7:15)

Members absent: Steve Sly

Staff Present: Jim Hendershot, Community Development Director

CALL TO ORDER

Chairman Bitner called the meeting to order at 7:00 P.M.

ROLL CALL

Roll call by Jim Hendershot.

APPROVAL OF AGENDA

Motion by Brian Haupt to approve the agenda as amended.
Seconded by Bill Kiesling. Motion passed 7 yes 0 no 0 abstention

FORMAL COMMISSION ACTION

1. **Approval of Minutes:** January 6, 2011

Motion by Bill Kiesling to approve the minutes from January 6, 2011.
Seconded by Michael Newton . Motion passed 7 yes 0 no 0 abstention

2. **Election of Officers**

Chairman

Nominations Brian Haupt nominated Tobi Bitner
Second by Janet Harms

Vote 7,0,0

Vice Chairman

Nominations Valerie Houpt nominated Janet Harms
Second by Bill Kiesling

Vote 7,0,0

Secretary

Nominations Brian Haupt nominated Mary Nolen
Second by Bill Kiesling

Vote 7,0,0

Thanks for the honor, I'm really surprised!

3. Report on Miami County Growth Area.

Mr. Hendershot introduced Erik Pollum, the Planner for Miami County, who has been holding meetings for many months to determine the form of the new relationship between Miami County and the Cities that exist inside the county. Mr. Pollum presented updated information to the Planning Commission, looking for feedback prior to going to the general public for the public meetings that will occur at the end of June. Mr. Pollum discussed new maps and areas that will be created, and how they will interact between the County and City.

4. Quarterly Review of the Conditional Use Permit for Newcome Trucking.

The CUP approved for Newcome Trucking on Old KC Road requires quarterly inspections of the property for compliance with the CUP. Staff conducted the inspection in March, 2011 and found the property to be in compliance. Since this inspection staff was contacted by an area neighbor regarding the number of trucks being parked on the site and working on equipment in front of the garage building. Newcome Trucking was contacted and is once again in compliance.

ADJOURN

Motion by Bill Kiesling to adjourn.

Second by. Troy Mitchell. Motion passed unanimously.

Meeting adjourned at 8:15 PM.

Mary Nolen, Planning Secretary

7. Conditional Use Permit
Case No.: CU-3-06
Request: Proposed Conditional Use Permit for Schools, Elementary,
Middle and High School
Address: Webster and South Streets
Applicant: USD 230

Mr. Kiesling asked if any members had any contact or conflict of interest with the applicant. Ms. Squire stated that she is an employee of USD 230, and Mr. Rittgers said that his wife is an employee of USD 230, and he is also within the area of those notified of the CUP. The City Attorney did not feel these offered a conflict of interest. Mr. Kiesling asked Mr. Peterson to present his staff report.

Background:

The applicant, USD 230, has submitted a request for a conditional use permit for a school, elementary, middle and high school at Webster and South Streets. The legal description is attached. The site is currently being used for elementary, middle and high schools. The Spring Hill Zoning Ordinance allows for elementary, middle and high schools in the “R-1” Single-Family Residential District with a Conditional Use Permit.

This is a renewal of their conditional use permit CU-3-02 that was approved in January, 2003.

Golden Factors:

The review of the proposed conditional use permit is consistent with Golden v. City of Overland Park, 224 Kan. 591, 584 P. 2d 130 (1978).

1. **Neighborhood Character.** *The surrounding neighborhood is residential and commercial, as shown on the aerial map. Proposed uses for and design of the site will be compatible with the neighborhood.*



2. **Adjacent Zoning.** *Adjacent parcels are zoned for commercial and residential uses. Proposed conditional use permit for the site will be compatible with existing zoning.*
3. **Suitability for Current Zoning.** The site has been used in a manner consistent with “R-1” Single-Family Residential zoning for the past several years, i.e., elementary, middle and high schools.
4. **Detrimental Effect of Zoning Change.** *The proposed conditional use permit will not have a detrimental effect on the nearby properties, which are currently used as single-family residential and commercial. There is no indication that nearby properties have been detrimentally affected by the property being used for the elementary, middle and high schools.*
5. **Length of Time at Current Zoning.** *The site has been zoned “R-1” Single-Family Residential for many years, and has been used in a manner consistent with “R-1” Single-Family zoning for the past several years, i.e., elementary, middle and high schools.*
6. **Public Gain Balanced by Landowner Hardship.** *Public gain includes regulating the property with a Conditional Use Permit.*
7. **Conformance with Comprehensive Plan.** *The proposed conditional use permit would be in conformance with the Spring Hill Comprehensive Plan, which shows the parcel as public/semi-public.*

Recommendation:

Recommend to the City Council that they approve the conditional use request for school, elementary, middle and high school to be reviewed every five years thereafter.

Mr. Peterson stated that as a matter of record, this permit is a renewal and not for anything new or any changes in the existing school areas. This allows them to continue to operate as a school.

Mr. Kiesling opened the hearing for public comment. He asked if the applicant was present, and Dr. Bart Goering introduced himself. Dr. Goering asked if it will be required for the school to pay the fee every 5 years for the conditional use renewal. Mr. Peterson said no, this would be the last time they would have to pay the fee, and that every 5 years, they will review the use of the land and renew the permit.

Mr. Kiesling asked if this was a renewal or new. Mr. Peterson said there were 2 conditional use permits and this combines them and allows for the 5 year review, so it's considered a new permit.

Mr. Haupt asked about new ball fields on the north side of the land, were there any lighting issues? Dr. Goering said those fields were never built, the concession stand was built, but not the fields.

Mr. Rittgers asked if there are any plans for the south side of the football field. Dr. Goering said there were no plans.

Mr. Snively asked why the school needs to pay a fee for a conditional use permit. Mr. Peterson said it would be up to the City Council to change that requirement. With the 5 year renewal process, they won't have to pay for one again for this location.

Mr. Kiesling closed the public portion of the hearing.

Mr. Kiesling asked what conditions would be on the conditional use permit. Mr. Peterson stated that a school is not a permitted use in a residential area. There have never been any complaints of the use of the property, and unless something would change, the permit when reviewed would be continued.

Motion by Cindy Squire to recommend to the City Council that they approve the conditional use request C-3-06 for a school, elementary, middle and high school for a period of 5 years, to be reviewed every five years thereafter.

Seconded by Scott Snively. Motion passed 6 yes 0 no 0 abstention.

5. Conditional Use Permit

Case No.: CU-1-06
Request: Proposed Conditional Use Permit for a Cemetery
Address: West of Harrison & north of Nichols
Applicant: City of Spring Hill

Mr. Kiesling asked if any members had any contact or conflict of interest with the applicant, none being stated, he asked Mr. Peterson to present his staff report.

Mr. Peterson explained that last year we processed a preliminary plat for the new area of the cemetery that was recently purchased. At that time, Mr. Peterson realized that a cemetery would require a conditional use permit, so one is being processed now. He was going to recommend the permit last for 25 years, but now would like to change his recommendation to a five year period with a review in 5 years. He wants to treat everyone equally so does not want to treat the City in a different manner. The 5 year review will assure the cemetery is well maintained. It will not require another fee.

Background:

The applicant, City of Spring Hill, has submitted a request for a conditional use permit for a cemetery west of Harrison Street and north of Nichols Street. The legal description is attached. The site is currently being used as a cemetery. The Spring Hill Zoning Ordinance allows for a cemetery in the "R-R" Rural Residential and "R-1" Single-Family with a conditional use permit.

Even though this site is currently being used as a cemetery, it does not have a conditional use permit. Therefore, the City is applying for a conditional use permit to make the site conform with the Zoning Ordinance which requires a conditional use permit for cemeteries in the "R-R" and "R-1"

Golden Factors:

The review of the proposed conditional use permit is consistent with Golden v. City of Overland Park, 224 Kan. 591, 584 P. 2d 130 (1978).

- 1. Neighborhood Character.** *The surrounding neighborhood is residential and commercial, as shown on the aerial map. Proposed uses for and design of the site will be compatible with the neighborhood.*



2. **Adjacent Zoning.** *Adjacent parcels are zoned for residential uses. Proposed conditional use permit for the site will be compatible with existing zoning.*
3. **Suitability for Current Zoning.** *The site has is being used in a manner consistent with “R-R” Rural Residential and “R-1” Single-Family Residential zoning for the past several years, i.e., cemetery.*
4. **Detrimental Effect of Zoning Change.** *The proposed conditional use permit will not have a detrimental effect on the nearby properties, which are currently used as single-family residential. There is no indication that nearby properties have been detrimentally affected by the property being used as a cemetery.*
5. **Length of Time at Current Zoning.** *The site has been zoned “R-R” Rural Residential and “R-1” Single-Family Residential for many years, and has been used in a manner consistent with “R-R” Rural Residential and “R-1” Single-Family Residential zoning for the past several years, i.e., cemetery.*
6. **Public Gain Balanced by Landowner Hardship.** *Public gain includes regulating the property with a Conditional Use Permit.*
7. **Conformance with Comprehensive Plan.** *The proposed conditional use permit would be in conformance with the Spring Hill Comprehensive Plan, which shows the parcel as commercial.*

Recommendation:

Recommend to the City Council that they approve the conditional use request for a cemetery for a period of 5 years, to be reviewed every five years thereafter.

Dave Peters of 201 N. Harrison St. asked about the plan for an access road at N. Harrison. Mr. Peterson said the road is shown on the plat but is not expected to be built until the new area would be used. Mr. Peters property abuts the right-of-way and often has standing water. Will there be a culvert when the street is going in? Mr. Peterson said that the road would require curb and gutter, and be built to City standards.

Mr. Kiesling asked if there were any further questions from the audience, and there being none, he closed the public portion of the hearing.

Motion by Brian Haupt to recommend to the City Council that they approve the conditional use request C-1-06 for a cemetery for a period of 5 years, with a review every 5 years thereafter.

Seconded by Dan Rittgers. Motion passed 6 yes 0 no 0 abstention.