



**ORIGINAL**

**PLANNING & ZONING MEETING  
Minutes of August 7, 2018**

Chairperson Dave Hart opened the regular meeting at 7:00 p.m. on the above date, with the Pledge of Allegiance and the following members answering roll call:

Present:	Dave Hart, Chair	Sonny Markus	Ron Johnson
	Tom Wheeler	Nick Reitman	Randy Nehus
Absent:	Steven Shinkle		

Also Present:	Jan Johannemann, Asst. City Clerk	Carol Hofstetter, Zoning Administrator
	Mike Duncan, City Attorney	Robert Seitzinger, City Engineer
	William T. Rachford, Jr., Mayor	

**APPROVAL OF MINUTES – July 17, 2018**

**MOTION:** Nick Reitman made a motion to approve the minutes of July 17, 2018, seconded by Randy Nehus. All in favor, the motion passed 5-0-1, with Mr. Hart abstaining.

**NEW BUSINESS** - None

**UNFINISHED BUSINESS**

**7010 Alexandria Pike - Continued discussion on Application of Nathan Atkinson**

**MOTION:** Sonny Markus made a motion to take off the table, the Application of Nathan Atkinson for a zoning map amendment, approval of a Development Plan, and approval of variances for 7010 Alexandria Pike to continue discussion. The motion was seconded by Tom Wheeler. All in favor, the motion passed 4-0-1 with Mr. Hart abstaining.

Mr. Duncan advised the commissioners the floor cannot be opened for continuation of the public hearing since it was not advertised as such. In other words, no new information will be taken, but if the commission has any questions that might be appropriate for someone in the audience, including the applicant and his representatives, please provide those answers. The application before the Commission is a combination of requests:

- Item #1 - rezone this property from R-1V to HC;**
- Item #2 - approve the development and site plans submitted, and**
- Item #3 - approve variances requested by the applicant.**

As pointed out, the development plan and site plan were not in compliance on a couple of grounds. Mr. Duncan suggested addressing the Item #3 - variances first because the plan cannot be approved if the variances are not granted.

**Item #3: Approval of any variances required to enable the car wash and related facilities to be constructed according to the Development Plan - The two variances are for:**

- (1) Proposed setback is 47.5 ft. from the right of way line to the closest portion of the building front. The zoning regulations require 50 ft.; and
- (2) They propose a 5 ft. buffer. A minimum of 10 ft. is required.

Mr. Atkinson questioned a statement made at the last meeting about the measurement from the pavement to the setback being greater than 5 ft. Mr. Seitzinger explained there is an area between the edge of the existing pavement and the edge of the proposed pavement for the development that is greater than 10 ft. However, the distance from the proposed pavement to the property line

is 5 ft. and the zoning ordinance states the buffer zone is from the property line to the proposed addition. The screening (buffer zone) must be on your property, necessitating the need for a variance.

Mr. Markus asked the applicant if there was any way to "shrink" the development to meet the regulations without asking for variances. Jeff Flaherty, Cardinal Engineering, stated the lot is an irregular shape. There is a large gas easement at the back of the property and Duke will not allow them to build anything within 7 ft. of the easement. Also, there were questions at the last meeting about who owns Cedar Lane. If the property is next to a commercial zone instead of a residential zone, there would be no need for this variance. Mr. Duncan confirmed the city does not own the property and it is zoned residential. If they shrink the building, then they would need a variance for their drive isles. The way the development is configured, the drive isles must be where they are in order to put the exit out onto Cedar Lane as dictated by the KDOT encroachment permit. Mr. Markus asked the city engineer for his opinion on whether or not things could be re-designed in any way. Mr. Seitzinger cannot state for certain, but believes going with the two requested variances would be better.

There was much discussion about the buffer zone, the noise that would be generated, and how it would affect the neighbors. Mr. Duncan said buffers are for noise and not having to look at a commercial property, which were the legitimate concerns of the homeowners that spoke at the public hearing. At some point, that property will be developed as Highway Commercial, and the question is whether this development is right for that property.

Mr. Duncan also interpreted Mr. Markus' question as: Could the one of the wash bays, vacuum bays, etc. be cut in order to shrink the building to make it fit. Mr. Flaherty explained they were restricted by the setback from the front of the road and by the size of the building to fit the equipment needed to be a car wash, and also by the amount of room for a car to make a turn. They are close and only asking for 2.5 feet.

Mr. Flaherty also explained the calculations of noise decibels the dryers would put out (68 decibels for all three dryers at the same time), comparing it to decibels vehicles along US27 would put out, or other noises (birds chirping, AC unit, etc.)

The buffer would consist of trees along Mr. Johnson's property line, as shown in the Landscape Plan already provided.

Mr. Duncan read the following requirements from KRS 100.243. The Commission must make a motion supported by findings of fact and by substantial evidence:

1. That the granting of the variance will not adversely affect the public, health, safety, or welfare;
2. Will not alter the essential character of the general vicinity;
3. Will not cause a hazard or a nuisance to the public; and
4. Will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the commission shall consider whether:
  - (a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone;
  - (b) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
  - (c) The circumstances are the result of the actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

**MOTION:** Sonny Markus made a motion to approve the two variances requested by the applicant (Item #3 - 47.5 ft. from the right of way line to the closest portion of the building; and the 5-ft. buffer area), based on the findings of fact as read by Mr. Duncan above, finding that the evidence supports those findings of fact. The motion was seconded by Nick Reitman. Roll call vote: Sonny Markus-Y, Tom Wheeler-N, Nick Reitman-Y, Randy Nehus-Y. The motion passed 3-1-1 with Mr. Hart abstaining.

**Item #2: Approval of Development Plan in order to construct automated car wash – KYTC** owns the roadway off US27 to Cedar Lane, which is on the KYTC right of way. Mr. Duncan explained it is a street in the state right of way, open to the public use. The rest of the road that runs behind the site (Cedar Lane) is private and will not be used by the car wash. KYTC has issued an encroachment permit for this area, and would not issue a permit to go directly onto US27.

Mr. Flaherty answered some questions from the commissioners regarding the building itself, the type of wall to be constructed, the elevation, and storm water drainage. Mr. Markus wanted to know if the vegetation/trees shown on the plan that border Mr. Johnson's property were the best type of material to use to cut the sound and to hide the business. Mr. Flaherty was not an expert on landscaping, they had hired a landscape architect. If need be, a privacy fence could also be built.

Mr. Atkinson agreed to additional screening. He also explained the dryers in the bays are not facing Mr. Johnson's property, and the vacuums are on the opposite side of the site so it shouldn't be as noisy as it could be.

Mr. Duncan pointed out the law does allow for conditions to be suggested by the Commission, and if agreed to by the applicant, they become part of the approval process.

Mr. Walsh owns the property at 328 Cedar Lane. His biggest concern is the noise that will affect both Mr. Johnson and his tenant. He would like some type of sound barrier with thicker, taller vegetation.

The hours of operation will be 24/7, and Mr. Atkinson can control the vacuums on a timer. If that is a concern, he will make sure they only work within a certain time frame.

Mr. Duncan followed up on a question at the last meeting about the ownership of Cedar Lane and who owned the subject property side of Cedar. Mr. Walsh had provided documents, plats, deeds, and legal description. He owns about 100 ft. of this property on the other side of Cedar. Without doing a title exam, Mr. Duncan is unsure who owns the first part of the property. He is satisfied that everyone who was affected by the Public Hearing had been notified.

Mr. Wheeler would like to see definite decisions on the type of shrubbery and walls to be used as a buffer instead of leaving it open ended. Mr. Flaherty said the applicant is willing to add a 6' high privacy fence, built according to the zoning ordinance, in both of the locations.

Also, the earthen wall design is going to require the intervention of a geotechnical engineer. Mr. Duncan advised approval of the development plan should include this as a condition.

**Item #1: Zoning Map Amendment to rezone 7010 Alexandria Pike from R-1V to HC – Mr. Duncan** explained the statute also addresses this. One or more of the following findings of fact are required for a zoning recommendation:

1. The map amendment agrees with the adopted Comprehensive Plan;
2. The existing zoning classification given to the property is inappropriate and the proposed zoning classification is appropriate;
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of the area.

There was testimony in the record that the future land use element of our Comprehensive Plan calls for this property and others along the US27 corridor within the study area to be commercial. This includes 200-250 feet on Cedar Lane.

**MOTION:** Nick Reitman made a motion to recommend to City Council a zoning change to Highway Commercial (HC), in accordance with the submitted Site Development Plan with the variances approved by Planning & Zoning, and with the following conditions which were agreed to by the applicant:

1. Privacy Fence, 6 ft. high and with vegetation of a substance to meet the Zoning Ordinance and would provide sound barrier;
2. Timers set on vacuums to only run between the hours of 8:00 a.m. – 10:00 p.m.
3. Use of a geotechnical engineer and following his recommendations for the earthen wall.

The motion was seconded by Randy Nehus. Roll call vote: Sonny Markus-Y, Tom Wheeler-Y, Nick Reitman-Y, Randy Nehus-Y. The motion passed 4-0-1 with Mr. Hart abstaining.

**INTERNAL BUSINESS**

**Correspondence:** Carol Hofstetter had distributed some educational correspondence to the Commissioners to read.

**Other:** Mr. Markus asked Mayor Rachford's opinion on what has been happening in the city with the loss of County Market and whether anything new is coming in. Mayor Rachford said several events have taken place quickly.

- Fran, the franchisee/owner of the Gold Star restaurant, has retired and closed her store. Gold Star will open a corporate restaurant at Viewpoint & US27 across from Walgreens.
- Planet Fitness is planning to go into a 27,000 sq. ft. space in the Village Green into the space between the Dollar Store and Supercuts.
- County Market has voluntarily decided to not renew their lease and will close effective September 30. Their suppliers want to do business with larger grocery chains. The day and age of a small local grocery store is gradually disappearing, and County Market is unfortunately a victim of that. There were a lot of incorrect speculations and rumors on the Facebook page, and Mayor Rachford emphasized this was County Market's decision and had nothing to do with what the shopping center ownership has done.
- Sonic has also closed.


A number of changes have happened recently, but the city has been working with Village Green Management. Businesses exists to make a profit. They will not come to an area where they will not make a profit. The Mayor would like to see more locally-owned, smaller sit-down restaurants come to Alexandria, but Gold Star and Southern Smoke about keeping good help. Carol Hofstetter and Planning & Zoning have worked diligently with businesses on variances and signage issues. If there is a way the City can make things work, we will. We are not here to run businesses off.

**ADJOURNMENT**

**MOTION:** Nick Reitman made a motion to adjourn, seconded by Sonny Markus. All in favor, the motion passed with a 5-0-1 vote with Mr. Hart abstaining. Meeting adjourned at 8:31 p.m.

Attested to and submitted by:

  
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 Karen M. Barto, City Clerk/Treasurer

  
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 Dave Hart, Chair

Dated 8-23-18

Dated 8/21/2018