

Webster Groves Plan Commission

Meeting Minutes

July 30, 2018

Members Present	Charles Sindel	PLANNER
	Jeff Smith	Danny Jendusa
	Adam Field	DIRECTOR OF PLANNING & DEVELOPMENT
	Steve Hunkins	Mara Perry
	Scott Mueller	CITY ATTORNEY
	Annie Tierney	Nathan Nickolaus
	Anne Tolan	COUNCIL LIAISON
	Brandon Harp	Matt Armstrong
Members not Present	Christopher Michael	

REGULAR SESSION

1. Sindel opened the meeting at 7:30 p.m.
2. **APPROVAL OF MINUTES:**
Sindel asked for a motion to approve the minutes from the July 2, 2018 meeting. Smith made a motion to approve. Tolan seconded the motion. The motion passed 8-0.
3. **PUBLIC COMMENTS:**
There was none.
4. **PUBLIC HEARING:**
 - a) **18-PC-01 Zoning Code Text Amendment – Definitions and Uses:** Proposed amendments include changes to Definitions in Section 53.020 and Uses listed in 53.041; 53.051; 53.061; 53.071; 53.111; 53.141; 53.151; 53.251 and 53.282 of the Zoning Ordinance and adding new use tables in sections 53.100 and 53.159.

Perry reviewed key aspects about this topic that had been discussed at recent Plan Commission public hearings. Staff wants to make it clear that we do not want to remove any existing uses that are allowed in the existing code and are present in the city, in order to ensure that we do not create any non-conformities. Rather, staff is only seeking to update uses terminology and definitions from the 1950s to add those that were not previously identified in the code, apply modern Standard Planning Use language that is used today, and add and clarify definitions and uses that were not previously in the code to make it easier for staff interpretation. Key items staff looked at were definitions of uses and clarifying the uses that should be allowed in the “A1” through “A4” districts, “C”, “D”, and “E” district, and “B” Planned Districts. Staff wanted to consolidate these separate lists of uses that are currently located in each zoning district section in the city code into one chart in one section of the code to make them easier to understand for

property owners and potential business owners looking to move into the city.

Perry explained there were a few items that the Plan Commission had discussed during previous meetings which they had decided to re-visit at later dates, separate from these zoning code amendments and with their own public hearings if necessary. These items included potential future amendments to how the code may treat battery charging stations for electric vehicles, group residential facilities, and dog kennels.

Perry discussed the Plan Commission was also taking a closer look at the city's treatment of recreational type uses. This was prompted by residents' concerns about the impacts some of these types of uses are having on adjacent residential properties. Staff presented new definitions to provide greater clarification on these different types of uses, but recognized that there were some existing businesses that could be affected if changes were made to their code definitions or use classifications, making them nonconforming uses. This would restrict their ability to expand or impact their ability to sell their property in the future. Staff sent notification letters to all businesses who might be affected by changes to recreational type uses. In the staff report, staff identified all definitions regarding these type of uses, and went through the proposed use chart to make sure that what is allowed in the existing code will not be changed in the proposed amendments to make sure to not create any nonconformities.

New definitions included a definition for "amusement place" that was found in other municipalities in St. Louis County. "Amusement Place" could include different types of games, but in a smaller nature than what you would find in a sports or exercise type use.

"Athletic Facilities" was added during the Educational Campus zoning district changes, added to deal with the impacts of traffic and character of the neighborhood, from uses such as lit athletic fields, full sports complexes with multiple indoor or outdoor fields in a larger facility. This type of larger complex with lights could have impacts upon the surrounding neighborhood.

"Athletic Fields" was also added during the Educational Campus zoning district changes. It was supposed to mean something like a playground or other outdoor field without lights but allowed to have temporary bleachers and field equipment at a smaller level, such as at an elementary school. The distinction was that at some campuses, these types of uses are already present, but not lit and do not impact neighboring properties.

"Community building" did not have a definition in the code. Going back to the 1950s, this type of use would include something like the YMCA, needing a special use permit.

"Educational Facilities, School for the Arts" is a new definition. There had been previously "dance academy" in code, used to include other types of arts classes or activities that would gather larger groups of children or adults at specific times, which could impact area parking. The "D" district in the existing code identified "dance

academy” as a conditional use due to the potential impact upon parking in an area with shared parking facilities. The new definition for Educational Facilities could include all types of group and class activities for the arts as well as potentially other group/ class activities, such as karate, etc.

“Gymnasium” was added as a definition during the Education Campus changes to include gymnasiums as an accessory use at a larger permitted use like a school. “Recreation Facility” is also a new definition. We do not propose a definition for parks and playgrounds.

Staff looked at how existing businesses in the community fit under these definitions in the context of their zoning district. For example, in the C district, recreation building or structure was an allowed use and does not require a conditional use permit. In the D district, a dance academy would need a conditional use permit. In the E district, there were no restrictions on recreation building or structure. Only the PC and D districts had any Performance Standards regarding noise, light, etc. in the existing code.

To take into account the impact of some of these recreational type uses on adjacent properties, staff is recommending that in the future, the Plan Commission considers adding or updating Performance Standards in the C, D and E districts in a separate amendment. At this time, if a neighbor has a concern about these type of impacts next to the C and E districts, they can only call the police and report a Peace Disturbance, because there are no formal Performance Standards in those districts. Next to the D district, there are existing standards on noise and lighting that can be restricted.

Sindel asked for further clarification on the issue of creating nonconforming uses.

Perry explained that a past amendment to the zoning uses in the D district in the 1980s removed certain previously permitted uses like automotive repair from the permitted uses and made them conditional uses. The city had to inform all existing uses that were being removed from the list of permitted uses to notify them of the proposed amendments which would make them legal, nonconforming uses. Being a legal, nonconforming use meant they could continue to operate because their use type was legally permitted when they opened, but they would not be able to physically expand their facilities without a conditional use permit and if they were to close or cease operations, then another business of the same type of use would have to open within 12 months at that location, or their use could no longer continue in that location without a conditional use permit.

Sindel asked if there are any existing businesses which would be impacted in this way by the proposed amendments.

Perry answered no, staff’s proposed amendments would not cause any existing businesses in the city to become nonconforming.

Sindel asked if the addition of Performance Standards in the future would create nonconformities.

Perry answered no, new Performance Standards would not make anyone a nonconforming use. If their sound or light levels are exceeding what is allowed in the district, they will receive a letter notifying them to address their sound or light levels to meet the code requirements or receive a court summons. It would not make their use itself nonconforming.

Harp asked if these Performance Standards are already in effect for all properties in other parts of the city code like the nuisance regulations.

Perry answered that these impacts are only covered by what is generally known as "Peace Disturbance", which only the police can enforce, but not the Planning and Code Enforcement staff. The Peace Disturbance limits do not have metrics that can be measured, like decibel levels or light output. The Performance Standards can include measurable standards which the Planning and Code Enforcement staff has tools and meters to measure during work hours. Our existing Nuisance codes thus far have been insufficient for dealing with residents' concerns about impacts from neighboring uses.

Tolan asked whether traffic impact would be included in the Performance Standards.

Perry answered that traffic is typically addressed through parking standards in the districts based on use or reviewed when a conditional use permit is required. At this time, we haven't received complaints about parking in reference to the specific changes proposed in these amendments.

Tolan asked about concerns of insufficient parking supply at the Soccerdome in the Kirkham industrial area.

Perry answered that her department has not received formal complaints about parking at the soccerdome. Many of the businesses in that industrial area have informal shared parking arrangements.

Tolan asked whether lighting should be included in the definition for Athletic Fields, because it is mentioned in Athletic Facilities. Lit fields are specifically allowed at Athletic Facilities. Should the definition for Athletic Fields state only un-lit fields are allowed?

Perry answered that because it is explicitly stated that lit fields are allowed at Athletic Facilities, then it would be assumed that because they are not explicitly stated as allowed at Athletic Fields, then staff would interpret that they are not allowed at Athletic Fields. We could look at it though.

Tolan asked if the YMCA were to open in Webster Groves today, what would it go in as?

Perry answered staff would likely determine it to be a Community building, which would require a CUP in a residential district, because of its recreational programs and social activities. If we implement Performance Standards in the future, then those standards would apply. If it were to go in a residential district, it would require a CUP, which would require review of parking and the impact upon the five factors. There are some uses types that could potentially fit into multiple definitions, and staff will have to make that interpretation and determination.

Sindel asked for example of amusement place.

Perry answered it could include the trend of bars & restaurants adding game areas as an accessory use, not just an arcade.

Nickolas stated there is a specific designation for amusement place in the state liquor license requirements for a place like a Dave & Busters or pool hall.

Field asked if factors such as “outdoor” and “unlit” and traffic impact should be added to the definition of Athletic Fields to more clearly distinguish it from Athletic Facilities.

Perry answered that staff would likely implicitly interpret these distinctions because they are mentioned in one definition but not the other, but the Plan Commission can add them to state outdoor and unlit area.

Tolan asked if a new Vetta sports complex were to want to open in the E district today, could they come in without any restrictions on parking?

Perry answered that if a new facility were to go in, they would be required to provide the parking required in the E district. Vetta came in before the implementation of the current parking requirements in the E district, but a new facility would be required to follow the parking requirements. Adding Performance Standards in the future could also address other impacts.

Mueller asked for clarification about the intent of implementing performance standards.

Perry answered that adding Performance Standards in the C and E district and updating those in the D district would allow the Planning and Development staff to enforce measurable standards to limit the external impacts of all uses in these districts. At this time, only the police department is able to enforce against general Peace Disturbance if they witness it, but there are no metrics. Performance Standards would be in effect for all commercial districts, not just for new or expanded businesses that would be determined to require new conditional use permits.

Sindel asked for public comment.

Pete Spanos, 220 East Ave., is the owner of the Soccerdome in Kirkham Industrial area. He stated that the Soccerdome has been operating with indoor soccer league games until 1am for 40 years with no complaints from neighbors. He is concerned that new Performance Standards with Hours of Operation limitations could restrict his business from operating as it has for 40 years without creating problems for neighbors and without causing complaints.

Perry stated that staff is not recommending hours of operation be included in the Performance Standards at this time.

Nikolas stated that if there are complaints about a specific establishment's hours of operation creating disturbances for neighbors or other issues, an option instead of establishing general hours of operation limitations on all businesses through Performance Standards, the City Council may individually address a specific business's license. This could take place outside of this process.

Mark Regina, 306 Clark Ave., said he and his family have repeatedly experienced disturbances from 6am outdoor exercise classes at a gym located in the industrial area near his home. The police have responded to calls, but have not been able to stop the activity for three years because they have not personally witnessed it. The E district needs restrictions on noise and hours of operation.

Harp asked how Performance Standards could be enforced to address this type of issue.

Perry stated that Code Enforcement officers have tools to measure light and sound levels and can be called to on to measure these activities when we know they're reoccurring. The city can also work with the police department to utilize these tools when appropriate. When these violations are witnessed by the code enforcement officers, we will send them a violation notice to abate the issue or receive a court summons.

Nikolas added that the City Council may set limited hours of operation on specific businesses which would require enforcement by the city.

Ben Ellerman, 7601 Big Bend Blvd., stated that the definition for Athletic Facilities should include that mention that they are permanent installations and are open-air rather than outdoors. He additionally expressed concern that it appears there are definitions missing from the residential code sections that are in the existing code.

Sindel asked for a motion to close the public hearing. Smith made a motion to close the public hearing on 18-PC-01. Harp seconded the motion. All voted in favor. The motion was approved 8-0.

- b) **18-PC-14 Zoning Code Text Amendment – Zoning of Public Property and Rights-of-Way and Map Amendments:** Proposed amendments include the deletion of Section 53.033 Vacation of Street, Alley, Public Way; addition of a new Section 53.033 Zoning of Public Property and Rights-of-Way; and changes to the Zoning Map of City property and certain rights-of-way within the City that are adjacent to or nearby residentially zoned or used property to “A4” Seventy-Five Hundred Square Foot Residence District to address recent changes in law regarding use of the rights-of-way.

Perry said this amendment has been brought to the Plan Commission to send to the City Council in an expeditious manner due to a legal change at the state level which will remove the legal authority for municipal governments in Missouri to regulate utility installations in the City right of way after August 28, 2018. In response to this change, other municipalities in the state have zoned the city right of way as single family residential to allow them to continue to regulate utility installations as a use within a single family residentially-zoned district. Perry reviewed the current city definition of right of way in Section 10.1000. The proposed amendment will repeal section 53.033 which explains the city’s process for vacating a right of way and will enact a new Section 53.033 to zone all right of way adjacent to existing residential districts and uses to “A4” Seventy Five Hundred Square Foot Residential District.

Nickolas stated that municipalities used to be able to regulate all activities of utilities in city right of way. Those restrictions have been whithered away over the years, but the new state law says that municipalities may not restrict any utilities in the right of way unless they are zoned single family residential.

Harp asked about how existing utilities in residential districts will be affected.

Perry stated that the new rules will not apply to utilities already located in residential zoned districts.

Hunkins asked how changing the right of way to A4 residential will affect the zoning of an adjacent property in another zoning district.

Perry stated that it will not affect the zoning of adjacent properties.

Sindel asked for public comment.

Mark Regina, 306 Clark Ave., asked whether the change will impact businesses operating in the right of way, such as an exercise program. Will they still be allowed to operate their exercise program in the right of way.

Nickolas answered that existing uses will be allowed to continue.

Tolan asked whether right of way in commercial districts would be zoned in the future to allow for regulation of utility installations in the right of way in commercial districts.

Perry stated that the priority is on single family residential districts. As it is not, the city does not have the ability to regulate utilities in much of our commercial areas, such as on Watson Rd. and Big Bend, because they are County roads. The priority is zoning right of way in single family residence areas.

Mueller stated that he would like to recuse himself from the vote on this item.

Sindel asked for a motion to close the public hearing on 18-PC-14. Smith made a motion to close the public hearing. Tolan seconded the motion. A voice vote was taken. The Commission voted 7-0 to close the public hearing, with Mueller recusing himself.

5. **ADJOURNMENT OF REGULAR SESSION**

Sindel asked for a motion to close the regular session. Smith made a motion. Tolan seconded the motion. All voted in favor. The motion was approved 8-0.

EXECUTIVE SESSION:

6. **VOTES:**

a) 18-PC-01 Zoning Code Text Amendment – Definitions and Uses: Proposed amendments include changes to Definitions in Section 53.020 and Uses listed in 53.041; 53.051; 53.061; 53.071; 53.111; 53.141; 53.151; 53.251 and 53.282 of the Zoning Ordinance and adding new use tables in sections 53.100 and 53.159.

Sindel asked whether the definition of Athletic Fields should be amended per the earlier discussion to specify that Athletic Fields are “outdoor” and “unlit”.

Perry said she could amend these definitions with these clarifications.

Sindel asked for a motion on the item.

Field made a motion to approve 18-PC-04 with changes to the definition of “Athletic Fields” to state that the use is outdoors and unlit. Tolan seconded the motion. A voice vote was taken. All voted in favor. The motion was approved 8-0.

b) 18-PC-14 Zoning Code Text Amendment – Zoning of Public Property and Rights-of-Way and Map Amendments: Proposed amendments include the deletion of Section 53.033 Vacation of Street, Alley, Public Way; addition of a new Section 53.033 Zoning of Public Property and Rights-of-Way; and changes to the Zoning Map of City property and certain rights-of-way within the City that are adjacent to or nearby residentially zoned or used property to “A4” Seventy-Five Hundred Square Foot Residence District to address recent changes in law regarding use of the rights-of-way.

Sindel stated he believes we should move this forward to City Council.

Smith made a motion to approve item 18-PC-14 as proposed. Tolan seconded the motion. A voice vote was taken. All voted in favor, with Mueller recusing himself. The motion was approved 7-0.

7. OTHER BUSINESS:

a) Plan Commission meeting time

Perry stated that the staff has discussed moving the regular Plan Commission meeting time to 7:00pm. The Plan Commission may discuss in the upcoming meetings.

b) Development and new business activity

Perry provided updates to the Commission about new business and development activity in the City.

c) Upcoming staff items

Next staff items will be Group Residential Facilities and later, discussing Performance Standards.

8. NEXT REGULAR MEETING: September 10, 2018.

9. ADJOURNMENT OF THE EXECUTIVE

Sindel asked for a motion to adjourn. Smith made a motion. Tolan seconded the motion. All in favor motion passed 8-0. The meeting adjourned at 9:01 PM.