

City of Spring Hill, Kansas
Minutes of Planning Commission Regular Session
August 4, 2016

A Regular Session of the Planning Commission was held in the Spring Hill Civic Center, 401 N. Madison, Room 15, Spring Hill, Kansas on August 4, 2016. The meeting convened at 7:00 p.m. with Chairman Stephen Sly presiding, and Christie Campbell, Planning Secretary recording.

Commissioners in attendance: Stephen Sly
Troy Mitchell
Josh Nowlin
Janell Pollom
Tyler Vaughan

Commissioners absent: Paul Ray
Cindy Squire
Vacancy
Vacancy

Staff in attendance: Jim Hendershot, Community Development Director
Patrick Burton, Project Coordinator, Community Development Dept.
Christie Campbell, Planning Commission Secretary

Public in attendance:

- Mr. Matt Kelly, Representative for RP Automotive
- Mr. Curtis Holland, Shareholder with Polsinelli PC, Representing PV Investments, LLC
- Members of the public representing Spring Hill United Methodist Church (16 total public representatives), which included Dale Albers, Sheryl Alderson, Helen Hecke, Kay Lowrie, Mario Troust, and Skip Craft
- Property owners surrounding Dayton Creek Subdivision (5 total)

ROLL CALL

The secretary called the roll of the Planning Commissioners. With a quorum present, the meeting commenced.

APPROVAL OF THE AGENDA

Motion by Mr. Mitchell, seconded by Ms. Pollom, to approve the revised agenda.

Roll Call Vote: Nowlin-Aye, Mitchell-Aye, Sly-Aye, Pollom-Aye, Vaughan-Aye

Motion carried 5-0-0

FORMAL ACTION

1. Approval of Minutes from the July 7, 2016 PC Meeting

Motion by Mr. Nowlin, seconded by Ms. Pollom, to approve the minutes as presented.

Roll Call Vote: Nowlin-Aye, Mitchell-Aye, Sly-Aye, Pollom-Aye, Vaughan-Aye

Motion carried 5-0-0

2. Public Hearing – Conditional Use Permit (CU-2016-0002), RP Automotive – Matt Kelly (used car and truck dealership)

Beginning of Staff Report

**SPRING HILL PLANNING COMMISSION
CONDITIONAL USE STAFF REPORT**

Case #: CU-2016-0002

Meeting Date: August 4, 2016

Description: Proposed Conditional Use Permit for a used car and truck dealership

Location: 102 E. Nichols Street

Applicant: Matt Kelly dba RP Automotive

Engineer: A&D Allenbrand - Drews

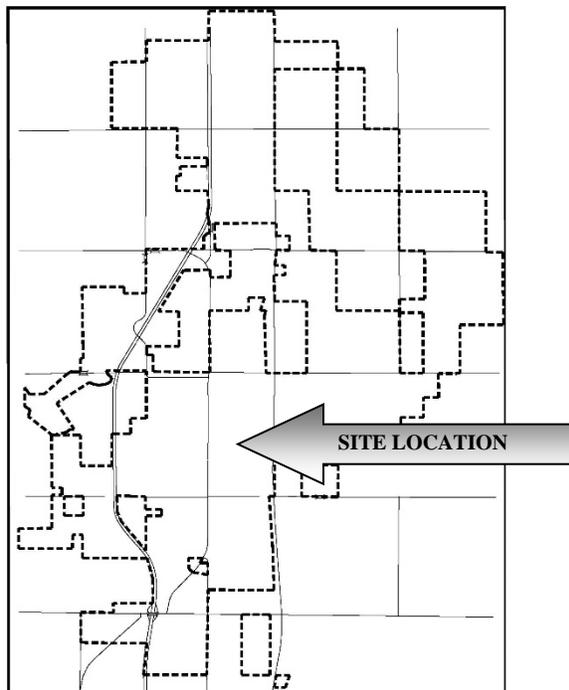
Current Zoning: C-2

Site Area: 43,560 Sq. Ft.

Number of Lots: 1

	Current Zoning	Existing Land Use	Future Land Use Map
Site:	C-2	Commercial	Mixed Use Comm.
North:	C-2	Commercial	Mixed Use Comm
South:	C-2	Commercial	Mixed Use Comm.
East:	C-2 / R-1	Commercial Residential	Mixed Use Comm. / Residential
West:	C-2	Commercial	Mixed Use Comm.

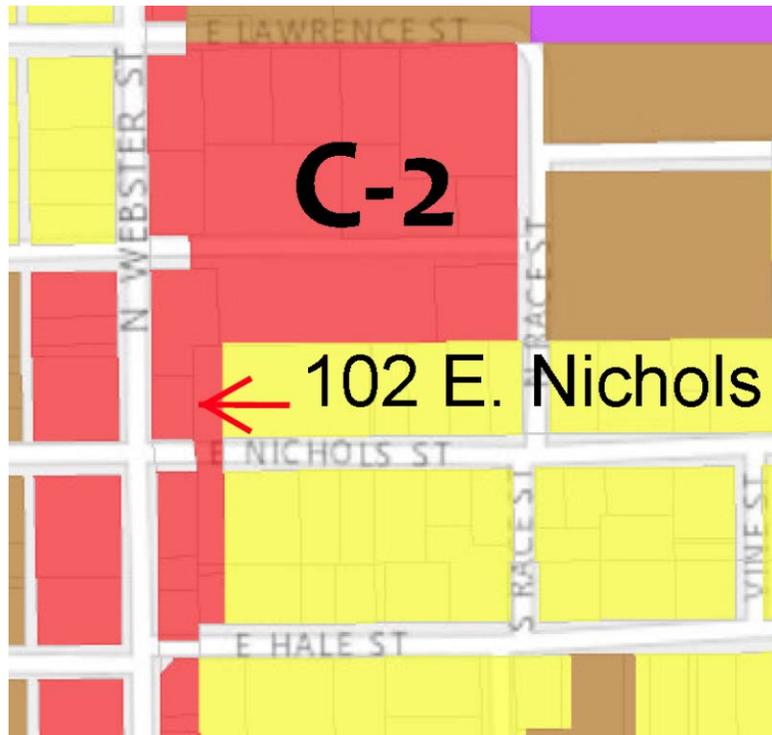
Related Applications:



AREA PHOTO



AREA ZONING



BACKGROUND:

The applicant, Matt Kelly dba RP Automotive, has submitted a request for a 'CUP' (Conditional Use Permit), CU-2016-0002, for a used car and truck sales dealership. At this time, he is anticipating approximately 23 vehicles will be on the lot for sale, as indicated on the site plan that is attached. The business will be operating Monday through Saturday between the hours of around 10:00 a.m. to 7:00 p.m. The lot will be illuminated with directional / shielded lights as to not affect the traffic or neighborhood. Staff will work with Mr. Kelly to assure the lighting is illuminating properly through the electrical permit process. For security reasons, the lot will have a low profile pipe fence with gates around the lot. All customer traffic will enter and exit on to Webster Street. There will be a gate going onto Nichols Street but it will be used for business operations only. All areas that are existing gravel will be replaced with hard surface materials.

The zoning of the site is 'C-2' (General Business). The Spring Hill Zoning Ordinance allows for the sale of vehicles in the "C-2" district by means of a Conditional Use Permit. Currently, the building is empty, and the last use was a restaurant type of business. The surrounding properties owners were notified by mail of this Public Hearing. A copy of the publication is attached.

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 adjacent properties are comprised of commercial zoning in all directions of the site. The properties to the north and east are religious centers with one in commercial zoning and the other in residential zoning. The proposed use and design of the site will be compatible within the area.
- 2. Adjacent Zoning.** Adjacent parcels are zoned for commercial uses. The proposed use under a conditional use permit will be compatible with existing zonings and uses.
- 3. Suitability for Current Zoning.** The site is zoned "C-2" which allows the sales of vehicles use by way of a conditional use permit. The parcel will comply with all site planning factors appropriate to its proposed use.
- 4. Detrimental Effect of Zoning Change.** The proposed conditional use permit will not have a detrimental effect on the nearby properties which are commercial uses. There is no indication that nearby properties will be adversely affected by the proposed use, nor does staff believe that the proposed use will create land use conflicts with existing or planned future uses.
- 5. Length of Time at Current Zoning.** The site has been zoned "C-2" for many years.
- 6. Public Gain Balanced by Landowner Hardship.** Public gain includes regulating the property with a Conditional Use Permit issuance and a review within a time frame set by the Governing Body. A change in tenants does not require action on a 'CUP', provided the use is operated in the same manner as the previous tenant and within the conditions established in the approved "CUP".
- 7. Adequacy of facilities:** All utilities are adequately available to the property and the property is sufficiently suited for the proposed use. They will be required to obtain the correct permits to insure the work that will take place conforms to all City codes and regulations.
- 8. Conformance with Comprehensive Plan.** The Comprehensive Plan and Future Land Use Map identifies this area as Mixed Use Commercial. This classification promotes a mixture of neighborhood-oriented uses, retail-commercial, institutional, civic, and medium to high density residential uses through compatible site planning, site design and in this case "CUP". The use of the property as a commercial

business / used car and truck sales dealership with the implementation of a ‘CUP’ is in compliance with the Comprehensive Plan.

Planning Commission Review and Action: Upon review of the conditional use permit application the Planning Commission shall determine if the plat conforms to the provisions of the Subdivision Regulations and Comprehensive Plan. The Planning Commission shall take action to:

- Approve the application, or
- Approve the application with modifications, or
- Table action on the application to a specific date and notify the applicant of such action
- Reject the application

RECOMMENDATION:

Staff recommends approval of Conditional Use Permit # CU-2016-0002, located at 102 E. Nichols Street, for use as a used car and truck sales dealership, with a review of the ‘CUP’ every year. The adopted “Conditional Use Permit Review / Renewal Guide, February 2014” was used as a matrix for a review timeframe. The category of “Vehicle Repair General”, within the guide shows a review period of once every year.

Suggested Motion: Motion to recommend approval of Conditional Use Permit # CU-2016-0002, located at 102 E. Nichols Street, for use as a used car and truck sales dealership, with a review of the ‘CUP’ every year.

Attachments:

- Site Plan
- Public Hearing Notice – MICO Republic Publication

End of Staff Report

With no conflicts of interest between the members of the Planning Commission and the applicant, Chairman Sly formally opened the public hearing at 7:06 p.m.

Mr. Hendershot, Community Development Director, presented the staff report to the Planning Commission (PC), as outlined above. He noted that Spring Hill United Methodist Church patrons have used the Webster Street ingress and egress for many years for access to the church parking lot. However, the Webster Street driveway technically belongs to the property owner of 102 E. Nichols Street. He also noted that the action recently taken by the Spring Hill City Council approved the vacation of a portion of city right-of-way that is located between 112 E. Nichols Street and 102 E. Nichols Street. In the process of property vacations, the land is divided in half between the two property owners. The applicant and members of the church have met to discuss how this property split will work for both parties involved. As a result, the two parties agreed that the church will deed all of the vacated city right-of-way to the applicant. In turn, the applicant will deed a northern portion of his property along Webster Street to the church for use as permanent ingress/egress to the church. Essentially, the parties are swapping land to accommodate business needs.

Commissioner Mitchell asked how wide the right-of-way on the north side of 102 E. Nichols Street will be. Mr. Hendershot stated that it is proposed at 20 feet, which is ample for 2 lanes of traffic.

Commissioner Vaughan expressed concerns with the sustainability of a used car sales business in Spring Hill, as he has seen many come and go since his time living in the community. He asked how the applicant sees Spring Hill as a business opportunity for used car/truck sales. He wants to know how the applicant sees his business as different from the other used car/truck sales that have failed in Spring Hill. Mr. Hendershot stated that the previous used car dealership in this same location was in business for several years. He also noted that he cannot

answer as to the success of other used car dealerships, as he is not familiar with their management practices. He stated the applicant's intentions are to have approximately 20 vehicles on the lot for sale, and not focus solely on internet sales, like his predecessors may have done. This could be why some of those businesses did not last long in Spring Hill. Commissioner Vaughan asked if the applicant's inventory has already been accounted for. Mr. Hendershot explained that the applicant has other dealerships in the area, so it is his assumption the inventory is accounted for now.

Commissioner Mitchell indicated that he did not see any trash dumpsters on the site plan. Mr. Hendershot stated that is correct, as there will be no exterior dumpsters.

Commissioner Nowlin asked if there would be any type of barrier along the right-of-way with regards to parking lot spaces 20 through 23. Mr. Hendershot stated that the pipe rail fence would extend around his property creating a barrier. This fence will protect the applicant's inventory, as well as close off the right-of-way entrance for public use along East Nichols Street. Customers will use the Webster Street as entrance/exit to the business.

Commissioner Mitchell asked if the fence would be around three or four sides of the property.

The applicant, Mr. Matt Kelly addressed the Planning Commission, and stated that he would like the fence to extend around four sides. He further explained that he has been in the used car sales business for a number of years, and he currently has two dealerships in the Merriam area. He stated that business model includes cars that are in the \$5,000 to \$15,000 price range that are aesthetically pleasing. Mr. Kelly stated that the low-lying fence around the property is to serve as a deterrent from theft. He also explained that he is open to helping the church with enlarging the entrance/exit along Nichols Street. Mr. Kelly referred to Spring Hill as his "last resting place", as he lives in a small community close by and would like to expand his business closer to his home.

Commissioner Vaughan asked what his plans are for the existing building. Mr. Kelly stated that his intentions for the interior is to make sure everything is compliant with building codes and apply for building permits with the City for structural changes as necessary.

Commissioner Nowlin asked the applicant if there are any plans for revamping the exterior part of the building. Mr. Kelly stated that he plans to paint the exterior building and clean up the property. He also stated that this dealership would be for sales only, so no servicing of vehicles will take place on this property.

Commissioner Vaughan asked for clarification on the lighting to be used on the lot, as well as signage for the business. Mr. Kelly stated the lot will be low lighting and the sign will be in compliance with zoning regulations. He will contact City Staff for proper permits and requirements for these items.

Commissioner Nowlin asked Mr. Kelly if he plans to continue the hard surface with asphalt, along with striping in the parking lot. Mr. Kelly stated that striping is definitely important to the layout of the sales lot, so it would definitely be done. Mr. Hendershot added that the parking lot for car sales is required to be paved and dust-free, in which asphalt is acceptable.

Commissioner Sly asked Mr. Kelly if he anticipates more than 23 cars/trucks on the lot for sale. Mr. Kelly stated that he feels 23 cars/trucks is ample and allows enough space for flow of traffic.

Commissioner Sly inquired about hours of operation. Mr. Kelly's plan is to be open daily from 10:00 a.m. to 7:00 p.m.

Commissioner Nowlin inquired about the timeframe for property improvements and upgrades. Mr. Kelly tentatively plans to have the property improvements completed later this Fall.

Ms. Aleta Lawrence, representative for Spring Hill United Methodist Church, addressed the Planning Commission. She expressed her concerns with the used car sales lot in this location, which is close to both the church and preschool. Activities take place at the church and preschool during multiple days and times during the week, not just evenings and weekends. She stated that there is potential for conflict of traffic going in and out of business

and church area. She acknowledged that her questions were previously answered regarding staff and customer parking for the dealership. Ms. Lawrence stated that she is somewhat concerned about fire safety, as there is only one main access in and out of the business. She explained that she does realize this is a small space with a low fence, but she is concerned about the age of the building and vehicles on the lot. She further explained that the church board considered purchasing the property years ago, but decided against it. Ms. Lawrence asked for clarification on landscaping and wanted to know if there would be sod placed. She stated that landscaping is softening, especially for businesses like a car lot; she suggested sod, trees and shrubs. She noted that the building is presently an eye sore and would like to see improvements if not removed. She asked the question, "Does Spring Hill need a used car lot, and does it need one here?" She requested that the Planning Commission vote no on the Conditional Use Permit.

With no questions or comments from the public, Chairman Sly formally closed the public hearing at 7:35 p.m.

Commissioner Vaughan thanked Ms. Lawrence for speaking. With regards to the building, he asked if there have been any inspections of the building within the last few years and/or when the applicant purchased the building. Mr. Kelly clarified that the purchase of the property will be finalized pending the approval of the Conditional Use Permit and right-of-way vacation. The anticipated closing date is the end of August 2016.

Mr. Hendershot added that the City inspected the building for the previous tenant for use as a restaurant.

Mr. Kelly stated that he performed a preliminary inspection before he officially placed an offer to buy the property. There are additional inspections to be completed, which is required for the sale of the property. Again, the anticipated closing date is the end of August 2016.

Commissioner Vaughan stated that the safety of the children attending the church preschool is important, and inquired where the entrance is for the preschool. Mr. Kelly stated that they currently enter from the gravel area that goes through his potential property, but with the northern portion of land that he would deed to the church, access to the preschool would be moved to the new entrance off of Webster Street. Mr. Kelly further explained that usage of his potential property as a driveway over the years has taken a toll on the condition of the black top. He stated that he is working with the church to accommodate for their needs and his.

Chairman Sly stated that the Conditional Use Permit sets specific conditions on a business and is reviewed annually for compliance.

Commissioner Vaughan asked Mr. Hendershot how long the building at 102 E. Nichols Street has been vacant. Mr. Hendershot stated that it has been vacant at least 2 to 3 years.

Commissioner Mitchell stated that the property was previously used as a car dealership.

Chairman Sly asked if there were any issues with overflow customer parking on the street when it was a car dealership in the past. Commissioner Mitchell stated that he did not recall any parking issues.

Commissioner Vaughan indicated that he definitely understands the concerns presented by church patrons, but he also sees that the property has been vacant for a few years. He believes it would be nice to have a business occupying the building and clean it up.

Commissioner Pollom asked those in attendance representing the church if it was the entire congregation's recommendation to deny the Conditional Use Permit or an independent opinion. Ms. Lawrence stated that it was her opinion, but others interjected saying that it's not just her opinion.

Chairman Sly asked those representing the church if they had any issues with the previous car dealership in that location. They indicated that that did not as there was no fence and only had about five cars in the lot.

Commissioner Pollom asked those representing the church how the fence causes hardship, as she feels having the fence helps delineate the boundaries, especially with the preschool being close by. It was expressed by a church patron that the fence is more of an eye sore issue.

Motion by Mr. Mitchell, seconded by Mr. Nowlin, to recommend approval of Conditional Use Permit # CU-2016-0002, located at 102 E. Nichols Street, for use as a used car and truck sales dealership, with a review of the CUP every year.

Roll Call Vote: Nowlin-Aye, Mitchell-Aye, Sly-Aye, Pollom-Aye, Vaughan-Aye

Motion carried 5-0-0

The Conditional Use Permit application (CU-2016-0002) for RP Automotive will be forwarded to the City Council for consideration on August 25, 2016.

3. **Withdraw Request of Final Plat Application (FP-03-16) – Dayton Creek Subdivision**

Beginning of Staff Report



6201 College Boulevard, Suite 500, Overland Park, KS, 66211 - 913.451.8788

June 8, 2016

Curtis M. Holland
(913) 234-7411
(913) 451-6205 Fax
cholland@polsinelli.com

Jim Hendershot
Community Development
City of Spring Hill
401 N Madison St.
Spring Hill, KS 66083

Re: Dayton Creek/Final Plat Application (FP-03-16)

Dear Mr. Hendershot

As discussed, on behalf of the landowner, PV Investments, LLC, we hereby withdraw Final Plat Application (FP-03-16) from any further consideration by the City. Instead, PV Investments, LLC, has decided to pursue rezoning of the subject property to R-1, and will submit a final plat application consistent with that zoning designation at a later date.

Please advise if you have any questions or need any additional information.

Sincerely,

A handwritten signature in blue ink that reads "Curtis M. Holland".

Curtis M. Holland

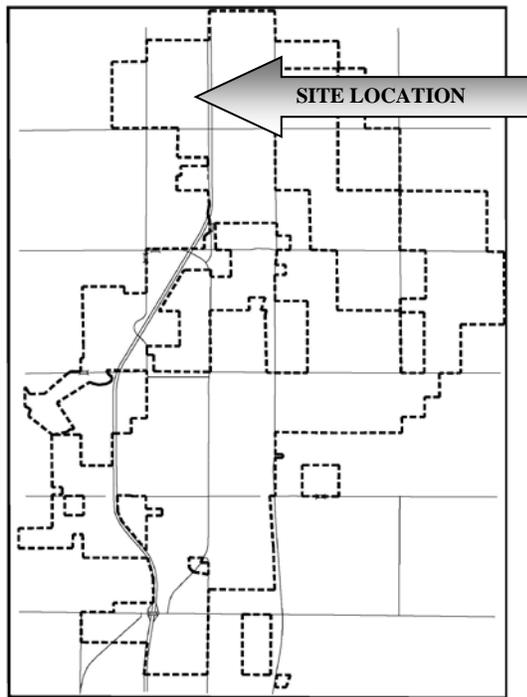
Cc: Dr. Brad Vince

polsinelli.com

Atlanta Chattanooga Chicago Dallas Denver Edwardsville Jefferson City Kansas City Los Angeles New York
Overland Park Phoenix San Francisco St. Joseph St. Louis Springfield Topeka Washington, DC Wilmington
Polsinelli PC, Polsinelli LLP in California

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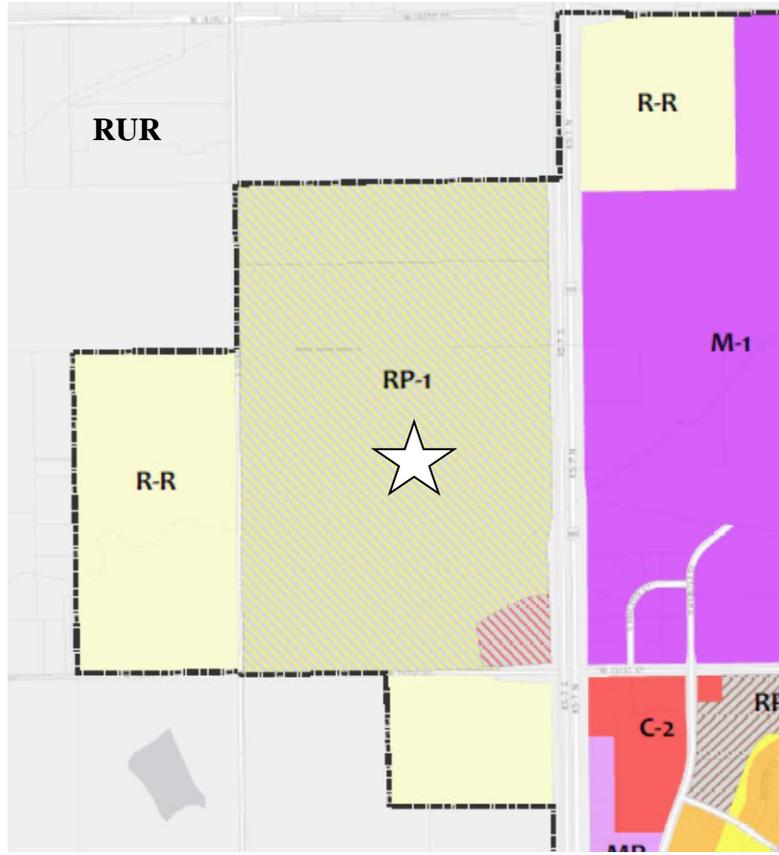
End of Staff Report



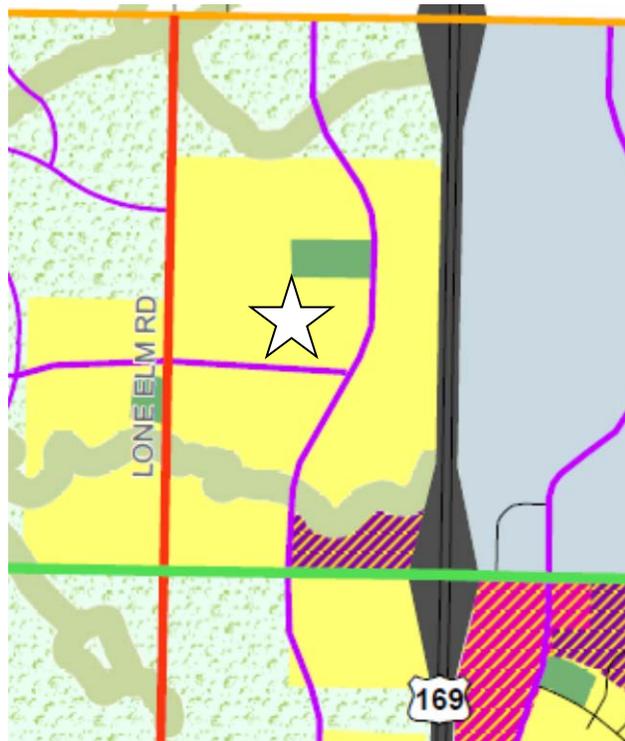
AREA PHOTO



AREA ZONING



FUTURE LAND USE



BACKGROUND: An application has been received for rezoning a 225.77 acre tract located at the northwest corner of 191st & US169 Highway. The property is currently zoned RP-1 (Planned Single Family Residential) with requested zoning to R-1 (Single Family Residential). The property was rezoned to RP-1 approximately 10 years ago as a part of a planned residential development. Changes in the ownership structure and market conditions have resulted in this current rezoning application.

REZONING:

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

1. **Consistent with purposes of the regulations and intent and purpose of the proposed district:** The proposed rezoning is consistent with the purpose and intent of the regulations regarding R-1 district. Single family residential subdivisions are an allowed use in the R-1 district.
2. **Neighborhood Character:** As shown on the aerial photo above, the surrounding area is primarily agricultural / rural residential with KDOT highway right-of-way to the east.
3. **Zoning and uses of nearby parcels:** As shown on the area zoning map above, the properties to the south and west are a combination of Rural Residential (R-R city district) and unincorporated Johnson County, Rural Residential (RUR). The area to the north is also unincorporated Johnson County, RUR District. The area to the east is General Industrial (M-1) but is separated from the subject property by KDOT right-of-way. All uses within the adjoining district are compatible with their respective districts, with most being vacant ground and agricultural in uses.
4. **Requested because of changing conditions:** Request is based on a business opportunity as determined by the applicant.
5. **Suitability of parcel for uses restricted by the current zone:** Property adjacent to highway right-of-way is suitable for many land use opportunities. However, because of the floodplain that dissects the property from east to west, developments other than residential would be limited.
6. **Suitability of parcel for uses permitted by the proposed district:** The proposed subdivision of Dayton Creek is single family residential and permitted within the R-1 district. With the change in zoning from RP-1, the density will be substantially decreased due to larger lots required in the R-1 district.
7. **Detrimental Effect of Zoning Change:** No detrimental effects are anticipated.
8. **Proposed amendment corrects an error:** No error is being corrected.
9. **Length of time property has been vacant:** This property is undeveloped and has been vacant ground with limited agricultural in use for many years.
10. **Adequacy of current facilities:** All utilities are adequate and available to the property with extensions as determined by the development plan.
11. **Conformance with Comprehensive Plan.** As shown on the Future Land Use map above, the Comprehensive Plan identifies this area as Residential. The requested zoning district of R-1 and the proposed use are in conformance with the Comprehensive Plan.

12. Hardship if application is denied: The issue of hardship can be better addressed by the applicant and owner.

ADDITIONAL REVIEW COMMENTS:

Staff distributed the rezoning application to various consultants and city staff for comment. Any applicable comments have been addressed by the applicant. As required, area property owners were notified of the hearing by mail and a newspaper publication was completed 20 days prior to the hearing date. In addition, signs advertising the public hearing date for this application were posted on the property as required. To date, no written public comments have been received.

ALTERNATIVE ACTION: Alternatives for action by Planning Commission include;

- *Approval of application* with final action by the Governing Body on August 25, 2016, subject to the protest period and petition as provided by Section 17.364.I of the Spring Hill Zoning Regulations, or
- *Denial of application* (application would be forwarded to Governing Body) on August 25, 2016, subject to the protest period and petition as provided by Section 17.364.I of the Spring Hill Zoning Regulations, or
- *Continuance* of item to future meeting identifying specific issues to be reviewed by staff and/or the applicant.

RECOMMENDATION: Staff recommends approval of rezoning application Z-01-16 from RP-1 (Planned Single Family Residential) to R-1 (Single Family Residential).

Suggested Motion: Motion to recommend approval to the Spring Hill Governing Body for rezoning application Z-01-16 as presented by staff.

End of Staff Report

With no conflicts of interest between the members of the Planning Commission and the applicant, Chairman Sly formally opened the public hearing at 7:51 p.m.

Mr. Hendershot, Community Development Director, presented the staff report to the Planning Commission (PC), as outlined above. He explained that staff has been in communication with that applicant over the past several months regarding the types of houses they want to build. The applicant feels that the lot sizes in the existing RP-1 zoning (Planned Single Family Home) are too small to accommodate the style of home they want to build. As a result, the applicant has requested this property to be rezoned from RP-1 to R-1 (Single Family Residential), which would increase the lot sizes.

Commissioner Vaughan expressed concerns that the rezoning request is a way for the applicant to avoid the requirement of submitting house styles and elevation plans. Mr. Hendershot clarified that this is not the intention of applicant. He further clarified that the reason for the rezoning is so that the applicant can build a larger, higher quality of home that is more aesthetically pleasing, without the size restrictions of a planned zoning district like RP-1.

Chairman Sly asked if there was any other reason, aside from wanting larger lot sizes, for the applicant to request rezoning. Mr. Hendershot noted that the housing market has changed from ten years ago when it was originally zoned as RP-1. It is a business decision on the applicant's part to develop a more marketable product.

Mr. Hendershot added that one of the greatest benefits of the rezoning would be a tremendous reduction in density of the subdivision.

Commissioner Nowlin noted that he knows this topic is about land use, but has questions about earlier comments. He asked if the applicant would be building slab homes. Mr. Curtis Holland, attorney and representative for the owner/applicant of Dayton Creek Subdivision, stated that he is not sure where the term slab homes came from. Chairman Sly clarified that the homes looked like slab homes from previous elevation samples and price points that they were provided at an earlier meeting. Mr. Holland explained that the price point of a home is not part of the land use application and should not be discussed at this time. Commissioner Nowlin stated that he did not want to approve anything without knowing the types of houses to be built.

Chairman Sly interjected reminding everyone that the Preliminary Plat would be presented to the Planning Commission (PC) pending the approval of the rezoning. He stated that the Commissioners should focus on the land use matter of rezoning at this time, and that anything they plan to build has to be approved before any development takes place. He asked Mr. Hendershot if that was correct.

Mr. Hendershot clarified that through the R-1 zoning district, the individual house plans and elevations would not come before the Planning Commission; that is only required in a planned development. He reminded the Planning Commission that R-1 districts are the zoning of the vast majority of Spring Hill subdivisions.

Commissioner Vaughan noted that he has the same concerns that Commissioner Nowlin discussed earlier. He also said that the only thing new that he sees being presented tonight are the traffic studies, and that doesn't address any of the concerns that they had initially.

Chairman Sly asked for clarification as to why the land was rezoned to a RP-1 district ten years ago, as they are all trying to understand the reasoning behind the past rezoning. Mr. Hendershot indicated that he was also not working with the City ten years ago, so is unable to speak to that question. However, he offered an explanation that zoning districts are market driven, and the housing market then and now are different. Thus, the team of developers at that time had a different business plan than today's marketing plan.

Chairman Sly asked Mr. Hendershot if the only way to build a bigger house and increase the lot size is by rezoning the land from RP-1 to R-1. Mr. Hendershot stated that is correct; the rezoning must take place to do that.

Mr. Hendershot added that he does not see the matter of rezoning as a loop hole or anything other than a developer making a business plan decision on a product that they see as necessary or successful in Spring Hill.

Commissioner Vaughan stated that they are trying to make a decision on a business plan, in which they have no idea what the business plan is. Commissioner Mitchell and Mr. Hendershot stated that is not the job of the PC. Commissioner Mitchell clarified that their job was to decide if the property being presented to them is appropriate to be zoned as residential.

Chairman Sly asked for further clarification. If they did not approve the rezoning request, then would the owner and applicant have to build smaller homes on smaller lots, and come up with a plan that they agree upon? He continued by stating that the alternative would be to approve the rezoning request, then developer will have bigger lots, less density, less traffic, and probably build nicer homes.

Mr. Hendershot stated the number of houses would decrease from 711 to 488, if rezoned to R-1. This would decrease the density of the subdivision.

Commissioner Pollom expressed concerns regarding the current density of the subdivision.

Commissioner Vaughan stated that he still has concerns with rezoning from an RP-1 to R-1 when considering lot sizes. Mr. Hendershot noted a few differences in RP-1 and R-1 lots. He said that the lots in an R-1 are approximately ten feet wider. In an RP-1, the separation of homes is smaller, as is the lot sizes.

Mr. Curtis Holland, attorney with Polsinelli Law Firm and representing the owner of the property, addressed the Planning Commission. The idea is to create a very nice, quality, single family development. He referenced a list of subdivisions currently in Spring Hill stating that the vast majority are zoned R-1, with the exception of one, which

is The Estates Wolf Creek. He provided a copy of this list to the Planning Secretary. He further explained that what the applicant is trying to do is no different from what has already been done over the course of years in Spring Hill. They want to compete with other development in Spring Hill, so it is not to their benefit to build slab or barrack style homes; it is to build quality homes. He stated that as they met with potential builders, they were given feedback by builders that they can't build the style of home they wanted on the existing lot sizes. He stated that this is not in any way an attempt to avoid building quality homes. They are sensitive to the housing market, and want to provide a quality development that is affordable and compliant with building codes and requirements. Mr. Holland stated he understands there is some pause over the matter, but does not fully appreciate it.

Commissioner Vaughan interjected by explaining to Mr. Holland that the Planning Commission was presented with house elevation plans about three months ago by a representative for Dayton Creek, in which the PC voiced questions and concerns at that time. As a result, the matter was tabled pending further details on the elevation plans. He further stated that they are now presented with a rezoning application, which would eliminate reviewing the house plans if rezoned to RP-1, and seems like the applicant is trying to avoid providing those details to the PC. That is why the PC is expressing concern over the matter now.

Mr. Holland stated that he does not mean to be critical of their concerns, but from a legal standpoint it is somewhat inappropriate to delve into those types of discussions during a rezoning hearing (referring to the house plans). He referenced a court case, Golden vs. City of Overland Park, which set the precedent for criteria to be considered for land use considerations. With the information that has been provided, it is his opinion that this rezoning be granted.

Chairman Sly asked Mr. Holland if he was involved in the rezoning of this land ten years ago. He stated that he was not involved.

Commissioner Vaughan asked Mr. Holland if he was involved in the rezoning of this land three months ago. He stated that his firm did represent the owner of the property at that time.

Mr. Holland clarified that they did not have true house plans three months ago. He also reiterated that contractors don't like building houses on smaller lot sizes; thus, making it difficult to find builders to work with them on the development. They are currently working with a builder that is willing to build for them as long as the lot sizes are larger.

Commissioner Vaughan asked if there has been a change in their plans over the past three months. Mr. Holland stated that they were trying to develop a product that is allowed in an RP-1, but were restricted on lot sizes, and a lack of builders that would work with them due to the restrictions. As a result, the owner decided to request rezoning of the land in order to provide a product that can be successful in Spring Hill.

Commissioner Pollom added that the only reason her peers may seem combative is due to the fact that the person presenting the plans to them a few months ago provided price points that seemed unrealistic for a quality built home. Mr. Holland apologized, as he did not attend that meeting.

Mr. Holland explained that it is not possible to build a cheap house with the cost of infrastructure that goes into this development; they would never make any profit. He also added that this is a land use issue, and he feels that they have addressed and met all of the criteria required for rezoning.

The property owner to the west of Dayton Creek, Mr. Tom Ewing, addressed the PC. He stated that he is not real clear on the zoning change. He wants to know if the zoning is changed, will it guarantee that the lot sizes will be bigger. Staff confirmed that yes, the lot sizes in an R-1 district are larger. The number of lots would go from 711 to 488 residential lots. It was also noted by Mr. Hendershot that the required minimum lot size in an R-1 district is 75' wide and 9,000 sqft lots.

Another surrounding property owner, Mr. Scott McDade, addressed the PC. He is confused about reference to a 500 Year Floodplain on the document and the location of houses in reference to floodplain areas. Mr. Holland clarified that it is defined as a 100 Year Floodplain. Mr. McDade asked what consideration has been taken with

regards to the concrete and streets in the development, as he's concerned about flooding and washing out the roads. He also wants to know what they have proposed to prevent flooding on the surrounding properties. Mr. Hendershot interjected stating that these are all excellent questions that will be addressed with the next agenda item, when he presents the storm water studies.

With no further questions or comments from the public, Chairman Sly formally closed the public hearing at 8:30 p.m.

Commissioner Sly asked if the land use is tied to the applicant or stays with the property. Mr. Hendershot confirmed that the land use stays with the property, not the applicant.

Motion by Mr. Mitchell, seconded by Mr. Nowlin, to recommend approval of rezoning application Z-01-16 from RP-1 (Planned Single Family Residential) to R-1 (Single Family Residential).

Roll Call Vote: Nowlin-Aye, Mitchell-Aye, Sly-Aye, Pollom-Aye, Vaughan-Aye

Motion carried 5-0-0

The rezoning application (Z-01-16) will be forwarded to the City Council for consideration on August 25, 2016.

5. Preliminary Plat (PP-02-16) – Dayton Creek Subdivision

Beginning of Staff Report

**SPRING HILL PLANNING COMMISSION
PRELIMINARY PLAT STAFF REPORT**

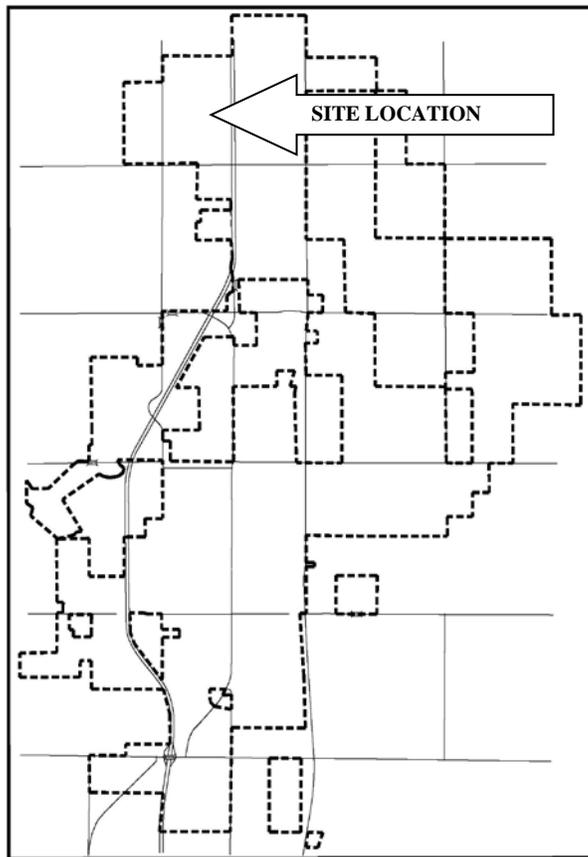
Case #:	PP-02-16	Meeting Date:	August 04, 2016
Description:	Proposed Preliminary Plat (Dayton Creek Subdivision)		
Location:	North of 191 th Street, between U.S. 169 and Lone Elm Road		
Applicant:	Polsinelli PC	Owner:	PV Investments, LLC.
Engineer:	Shafer, Kline & Warren, Inc.		
Site Area:	233.35 acres / R-1 = 225.77 CP-2 = 7.58		

Minimum Lot Area:	9,000 sq. ft.	Number of Lots:	488 / R-1
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Lot Area CP-2:	330,185 sq. ft.	Number of Lots:	1 / CP-2
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Current Zoning:	“R-1” / “CP-2”	Proposed Use:	Residential/ Commercial
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Related Applications: PP-7-06, Z-01-16



BACKGROUND:

The applicant, Polsinelli PC, and owner, PV Investments, LLC, has submitted an application for a new Preliminary Plat of Dayton Creek. (A copy of the proposed new preliminary plat is included with this staff report.)

In 2007, the Planning Commission approved a Preliminary Plat of Dayton Creek. The plat was reflective to “RP-1” / “CP-2” zoning. A change in the market conditions shows a need for larger lots that will accommodate the houses in demand. The applicant has submitted a new Preliminary Plat that conforms to “R-1” / “CP-2” zoning. The Preliminary Plat was submitted simultaneously with the rezoning request.

STAFF COMMENT:

The rezoning of the property to “R-1” was to increase the lot sizes; thus, decrease the density of the subdivision greatly. There are 489 proposed lots in the new Preliminary Plat of Dayton Creek. In the “R-1” district there are 488 lots and 1 lot in the “CP-2” district. The current approved Preliminary Plat has 712 platted lots with one of those lots being commercial.

The review comments from the government agencies, consultants and utility providers have been implemented as applicable on the new Preliminary Plat. The applicant and their engineer have addressed all of the provided comments.

The new plat has been reviewed by the City’s Traffic Engineer and their comments have been addressed. The plat and related information was sent to KDOT for review and comment. A new traffic study was conducted at the request of KDOT and is included in this packet. The items that KDOT requested to be changed have been addressed and changed on the Preliminary Plat. Again, the density of the newly revised plat has been greatly decreased.

There are 5 access points into this subdivision and 3 future street extensions toward the north.

The right-of-way and utility easements are shown with dimensions meeting the minimum requirements for the City and affected utility providers. Additional easement requirements will be looked at and maybe required on the Final Plats.

The plat conforms to the Property Development Standards addressed in Section 17.338.A, size of lots, and set-backs. Maximum height and building set-backs will be addressed during the building permit issuance process for approval.

The City will provide sewers, and WaterOne will provide water to the subdivision. This property is participating in the north sewer benefit district.

The subdivision layout provides 36.38 acres of open space / neighborhood parks and landscape easements. Therefore, if the preliminary plat is approved, the owner would not be subject to park impact fees if the open space / parks remain the same on the Final Plat. The pedestrian circulation system for each phase must be completed or the park impact fees will be assessed.

The excise tax will be calculated at the Final Plat phase. The amount of open space, KDOT road right-of-way, and certain road improvements will be used to off-set the excise tax. Due to these anticipated off-sets, the City does not anticipate there will be any excise tax assessed at this time.

Neighborhood park / pool area are shown on Tract L and Tract R. When these areas are built, a site plan will be required to accompany the building plans and permit applications.

The subdivision does comply with the Comprehensive Plan.

Planning Commission Review and Action: Upon review of the preliminary plat application the Planning Commission shall determine if the plat conforms to the provisions of the Subdivision Regulations and Comprehensive Plan. The Planning Commission shall take action to:

- Approve the application, or
- Approve the application with modifications, or
- Table action on the application to a specific date and notify the applicant of such action
- Reject the application

RECOMMENDATION:

Staff recommends approval of the Preliminary Plat (PP-02-16), Dayton Creek Subdivision of Spring Hill, KS, Johnson County, KS, Subject to:

- 1) A landscaping plan will need to be submitted and approved prior to the approval of a final plat. The landscape plan shall be in compliance with Section 17.358-Landscaping of the Spring Hill Unified Subdivision Regulations.
- 2) The applicant shall plant landscaping in accordance with the staff approved landscape plan. The trail systems shall be completed with each phase of development. The last building permit in that phase of development and building permits in next phase of development will not be issued until the above items are completed.
- 3) The trail system shall be open to the general public and an access easement to the trail system shall be shown on final plats.

- 4) Acceptance of the pedestrian circulation systems is subject to city sidewalks on both sides of all of Theden Street and both sides of West 186th Terrace that connects to South Lone Elm Road. In addition to those sidewalks, all local streets, terraces, lanes, and etcetera must have sidewalks on one side of the street in City right-of-way. The sidewalks and walking trails must be designed and constructed per the City Codes.
- 5) The owner shall be responsible for improving 191st Street between U.S. 169 Hwy and Lone Elm Road. Lone Elm Road must be improved from 191st Street to the north end of the subdivision. Lone Elm Road may be designed and constructed to meet chip and seal standards.
- 6) All areas and tracts shown to be dedicated to the City will not be accepted by the City by means of a Preliminary Plat. The areas to be dedicated are subject to a review and assessment by the City before acceptance at Final Platting stage.

Suggested Motion: Motion to recommend approval of Preliminary Plat application PP-02-16 for Dayton Creek Subdivision including conditions 1-6 as presented in the staff report.

- Attachments:
1. Preliminary Plat
 2. Traffic Study Report, July 2016, provided by Shafer, Kline & Warren
 3. Traffic Study Review, July 28, 2016, provided by BHC Rhodes

End of Staff Report

Mr. Hendershot, Community Development Director, clarified to all in attendance that the Planning Commission's motion to recommend approval of the rezoning must be presented to the City Council on August 25, 2016, for official approval. He added that staff is presenting the Preliminary Plat piece in an effort to keep the project moving forward, with the understanding that the rezoning must be approved by the City Council. He continued with presenting the staff report to the Planning Commission, as outlined above.

Mr. Hendershot stated that a storm water study was conducted with the original plat that was significantly more dense in concrete and houses, than with the new Preliminary Plat. Mr. Hendershot noted that storm water management practices dictate that this subdivision cannot release water onto surrounding property in greater quantities or lesser quality than what already exists.

Motion by Mr. Nowlin, seconded by Mr. Mitchell, to recommend approval of Preliminary Plat application PP-02-16 for Dayton Creek Subdivision including conditions 1 through 6 as presented in the staff report.

Roll Call Vote: Nowlin-Aye, Mitchell-Aye, Sly-Aye, Pollom-Aye, Vaughan-Aye

Motion carried 5-0-0

6. Election of Planning Commission Vice-Chairman

Due to the fact that the current Vice-Chairman's position on the Planning Commission is vacant, it is recommended that a replacement be elected in the event that the Chairman is unable to attend a meeting.

Motion by Ms. Pollom, seconded by Mr. Nowlin, nominated Commissioner Troy Mitchell as the Vice-Chairman for the Planning Commission.

Roll Call Vote: Nowlin-Aye, Mitchell-Abstain, Sly-Aye, Pollom-Aye, Vaughan-Aye

Motion carried 5-0-1

7. Establish an alternate date for the November 3, 2016 Planning Commission Meeting

Mr. Hendershot, Community Development Director, noted that November 3, 2016, is the Spring Hill Chamber of Commerce Annual Banquet, which creates an attendance conflict for many members of the Planning Commission and City Staff. As a result, it is recommended that an alternate meeting date be established.

Motion by Ms. Pollom, seconded by Mr. Nowlin, to recommend that the regular meeting on Thursday, November 3, 2016, be canceled and rescheduled for Tuesday, November 1, 2016.

Roll Call Vote: Nowlin-Aye, Mitchell-Abstain, Sly-Aye, Pollom-Aye, Vaughan-Aye

Motion carried 5-0-1

DISCUSSION

REPORTS

8. Staff provided a report of subdivisions and available lots within the city limits of Spring Hill.

9. Staff provided a building permit summary report.

ANNOUNCEMENTS FROM PLANNING COMMISSIONERS AND STAFF

ADJOURN

Motion by Mr. Mitchell, seconded by Ms. Pollom, to adjourn.

Roll Call Vote: Nowlin-Aye, Mitchell-Aye, Sly-Aye, Pollom-Aye, Vaughan-Aye

Motion carried 5-0-0

The meeting adjourned at 9:25 p.m.

The August 4, 2016 meeting minutes were approved by the Planning Commission on September 1, 2016, as presented.



Christie Campbell
Planning Commission Secretary