

## PLANNING COMMISSION

February 5, 2019  
7:00 PM  
Municipal Courtroom

### CALL TO ORDER

### ROLL CALL

Commissioners Present: Commissioners Howden, Nichols, Richards, Romine, Vice-Chairperson Pinkley and Chairperson Harris

Commissioners Absent: Commissioners Burney, Loyd, O'Day and Skairis

Staff Present:

Joel Hornickel	Director of Planning & Development
Perry Eckhardt	Senior Planner
Amy Jackson	Planner
Chris Lebeck	Assistant City Attorney
Kendall Powell	Utilities Operations & Development Manager
Randy Fogle	Division Chief of Technical Services
Matt Filice	Assistant City Engineer

### PUBLIC COMMENTS

None.

### REGULAR AGENDA ITEMS

#### 1. Approve Minutes

- a) December 4, 2018 Study Session
- b) December 4, 2018 Regular Meeting

#### MOTION:

Motion by Commissioner Richards and seconded by Commissioner Romine to approve the December 4, 2018 minutes as presented by staff. Motion unanimously carried.

### OLD BUSINESS

None.

**PUBLIC HEARING AGENDA ITEMS**

- 2. Request for Low Density Residential (LDR) Zoning for the Property Located at 192 Barkley Lane, Branson, Missouri.  
Project No. 18-2.4 (18-00200004)  
Owner/Applicant: Douglas A. and Rebecca A. Stearns/Jon Hulsizer**
  
- 3. Request for Low Density Residential (LDR) Zoning for the Property Located at 200 Barkley Lane, Branson, Missouri.  
Project No. 18-2.5 (18-00200005)  
Owner/Applicant: The Building Group LLC/Jon Hulsizer**

Commissioner Richards asked to recuse himself due to his personal involvement with the project, including the next agenda item.

Mr. Hornickel stated there was no longer be a quorum due to Commissioner Richards' departure. He asked if the Commission would consider postponing items #2 and #3 at least until the end of the meeting in hopes of other Commissioners joining the meeting.

Chairperson Harris asked if any of the Commissioners had any questions or comments; there was no response. He then entertained a motion.

**MOTION:**

Motion by Commissioner Nichols and seconded by Commissioner Howden to postpone agenda items #2 and #3 until the end of the meeting.

- AYES:** Commissioners Howden, Nichols, Richards, Romine, Vice-Chairperson Pinkley and Chairperson Harris
- NOES:** None.
- ABSTAIN:** None
- ABSENT:** Commissioners Burney, Loyd, O'Day and Skains

Motion to postpone agenda items #2 and #3 until the end of the meeting carried with a 6-0 vote.

- 4. Request for Amend the Approved Site Plan To Include an Entertainment Structure within the Property Located at 2115 W. State Highway 76, Branson, Missouri.  
Project No. 19-1.1 (19-00100001)  
Owner/Applicant: 2115 – Branson, LLC/Charles V. Engram**

Mr. Hornickel presented the staff report as filed with the Planning and Development Department.

Chairperson Harris asked if the Commissioners had any questions for staff.

Commissioner Howden asked staff if more similar structures were anticipated in the future.

Mr. Hornickel stated there were no current requests for similar structures within the Highway 76 corridor. He stated those previously developed had been evenly spaced, but the Commission or Board of Aldermen could request additional regulations in the future if there was any concern about their development in the future.

Commissioner Howden asked what guidelines the Federal Aviation Administration had established for such structures.

Mr. Hornickel stated it had been suggested to require any structure in excess of 100 feet in height to submit their request to the Federal Aviation Administration so it could be included on their mapping for purposes of known landmarks. He stated there were additional requirements for development if proposed within a specific cone originating from the ends of the runway.

Chairperson Harris asked is the proposed structure would affect the property's parking requirements.

Mr. Hornickel stated there was greater flexibility now because the city had recently adopted parking maximum standards. He stated the amount of parking would be up to the applicant to determine, but they had already added more parking since the opening of the coaster.

Chairperson Harris asked if any of the Commissioners had any other questions for staff; there was no response. He then asked if the applicant or their representative was present.

Mr. Charlie Engram approached and stated he represented the owner. He stated the company felt the new ride would attract more families than the originally proposed ride.

Vice-Chairperson Pinkley asked if they had considered widening the public sidewalk with the ride's footprint being smaller.

Mr. Engram stated the company was very willing to work with the city on the Highway 76 Renovation Project.

Commissioner Nichols asked which phase of the Highway 76 project the property would fall under.

Mr. Hornickel stated he was not exactly sure. He stated the current effort was to expand the existing Community Improvement District by annexing all properties between Shepherd of the Hills Expressway and Fall Creek Road.

Commissioner Nichols stated he was familiar with the project and was in support of it moving forward.

Chairperson Harris asked if there was anyone else present who wished to make a comment or ask a question in regards to the request; there was no response. He then asked if any of the Commissioners had any other questions; there was no response. He entertained a motion.

MOTION:

Motion by Commissioner Nichols and seconded by Commissioner Howden to approve Resolution 19-1.1 as presented.

- AYES: Commissioners Howden, Nichols, Richards, Romine, Vice-Chairperson Pinkley and Chairperson Harris
- NOES: None.
- ABSTAIN: None
- ABSENT: Commissioners Burney, Loyd, O’Day and Skains

Motion to approve Resolution 19-1.1 carried with a 6-0 vote.

**5. Request for a Municipal Code Amendment to Chapter 94. – Zoning, Pertaining to Allowable Building Types within the Mixed-Use (MU) Zoning District.  
Project No. 19-12.1 (19-01200001)  
Applicant: City of Branson**

Mr. Hornickel presented the staff report as filed with the Planning and Development Department.

Chairperson Harris asked if the Commissioners had any questions for staff.

Commissioner Nichols asked what the downside of the request was.

Mr. Hornickel stated the Mixed-Use districts will take time to develop and attract more development interest. He stated the downside was to allow a less dense development type in an area originally intended to have higher density development.

Chairperson Harris stated the Mixed-Use districts are attractive for housing because they have good access and availability to more offerings.

Commissioner Nichols asked if there were any current applicants or interest for this request.

Mr. Hornickel stated there was a gentleman very interested in this type of development within a specific Mixed-Use district, but he had not submitted any formal request yet.

Commissioner Richards asked if there were any existing homes in the Mixed-Use districts.

Mr. Hornickel stated there were four areas within the community currently zoned Mixed-Use. He stated the area along Gretna Road between Highway 248 and Roark Valley Road was the most notable.

Chairperson Harris asked if any of the Commissioners had any other questions; there was no response. He then asked if there was anyone present who wished to make a comment or ask a question in regards to the request; there was no response. He entertained a motion.

MOTION:

Motion by Commissioner Nichols and seconded by Commissioner Howden to approve Resolution 19-12.1 as presented.

AYES: Commissioners Howden, Nichols, Richards, Romine, Vice-Chairperson Pinkley and Chairperson Harris  
NOES: None.  
ABSTAIN: None  
ABSENT: Commissioners Burney, Loyd, O'Day and Skains

Motion to approve Resolution 19-12.1 carried with a 6-0 vote.

**6. Request for a Municipal Code Amendment to Chapter 94. – Zoning, Pertaining to Small Wireless Facilities.**

**Project No. 19-12.2 (19-01200002)**

**Applicant: City of Branson**

Mr. Hornickel stated the request would be presented by the City's Assistant Attorney.

Mr. Lebeck presented the staff report as filed with the Planning and Development Department.

Chairperson Harris asked who owned the poles that the devices would be placed on.

Mr. Lebeck stated the ownership depended on whether the pole was existing or if there was a request for a new pole to be installed for the sole purpose of a small cell.

Chairperson Harris asked if utility companies could decline new devices being added to their poles.

Mr. Lebeck stated wireless companies do have the option to install new poles.

Chairperson Harris asked where the required volume measurements came from.

Mr. Lebeck stated the measurements were dictated by state statute.

Commissioner Howden asked how poles along Highway 76 would be affected if wireless companies located on them and then the poles are removed as part of the project to underground utilities.

Mr. Lebeck stated the wireless companies would have to meet our conditions as described in code which is why the City was trying to get ahead of the issue and get conditions in place. He stated the federal government had cleared the path for this technology to exist without interference from state or local governments. He stated cities did have the ability to regulate the aesthetics of future devices and their placement.

Commissioner Romine asked if there was a timeline for when the technology could be placed.

Mr. Lebeck stated the statute will sunset in 2021, but once the city is notified by a company, it is on the clock for 60 days to allow device implementation. He stated the technology's purpose is to help clear data and signal congestion.

Commissioner Nichols asked if the device placement on poles would be at the expense of the City.

Mr. Lebeck stated the ordinance requires wireless companies to carry the cost and it establishes the City's fee it will collect for the necessary application and pole placement.

Chairperson Harris asked if any of the Commissioners had any other questions for staff; there was no response. He then asked if there was anyone present who wished to make a comment or ask a question in regards to the request.

Mr. Steven Titus approached and asked if upgrading to 5G technology would cause any health or safety concerns. He asked if the city was rushing into this without first doing the proper research.

Mr. Lebeck stated the federal government was not allowing cities to put the brakes on to prevent this technology from happening.

Commissioner Howden stated he had researched the topic and looked into whether the rays from wireless devices were harmful. He stated he felt the small cell devices were basically harmless.

Mr. Lebeck stated the devices would not be placed at eye level, but higher up instead.

Chairperson Harris asked if there was anyone else present who wished to make a comment or ask a question in regards to the request; there was no response. He then asked if any of the Commissioners had any other questions.

Commissioner Richards asked if there were other cities that have dealt with this topic.

Mr. Lebeck stated that Illinois, Colorado and Utah were considered as models and the city was looking to them for direction concerning the ordinance.

Commissioner Howden asked for clarification on where these devices could be placed.

Mr. Lebeck stated the amendment being proposed would not allow them to be installed within the public right-of-way nor within the Low Density Residential districts.

Chairperson Harris asked if any of the Commissioners had any other questions; there was no response. He entertained a motion.

MOTION:

Motion by Vice-Chairperson Pinkley and seconded by Commissioner Howden to approve Resolution 19-12.2 as presented.

AYES: Commissioners Howden, Nichols, Richards, Romine, Vice-Chairperson Pinkley and Chairperson Harris

NOES: None.

ABSTAIN: None

ABSENT: Commissioners Burney, Loyd, O'Day and Skains

Motion to approve Resolution 19-12.2 carried with a 6-0 vote.

**7. Request for a Municipal Code Amendment to Chapter 94. – Zoning, Pertaining to Tattoo Parlors.**  
**Project No. 19-12.3 (19-01200003)**  
**Applicant: City of Branson**

Mr. Hornickel presented the staff report as filed with the Planning and Development Department.

Chairperson Harris asked if staff had reached out to the Downtown Branson Betterment Association regarding the request.

Mr. Hornickel stated staff followed the required notification requirements which did not include a specific request to the Downtown Branson Betterment Association for comment. He stated staff did not receive any comments pertaining to the request.

Chairperson Harris asked if the Commissioners had any other questions for staff; there was no response. He then asked if there was anyone present who wished to make a comment or ask a question in regards to the request.

Ms. Tammy Thurman approached and stated she was the owner of a building within the downtown where a tattoo parlor was currently located. She stated she was in support of the amendment to include tattoo parlors in the downtown district. She stated her tenant was exceptional and then asked the Commissioners to vote in favor of the amendment.

Chairperson Harris asked if there was anyone else present who wished to make a comment or ask a question in regards to the request; there was no response. He then asked if the Commissioners had any other questions.

Commissioner Howden asked if there should be any limitations on tattoo parlors within the downtown similarly to vaping.

Mr. Hornickel stated there were currently no supplementary use standards for tattoo parlors, but it was something the Planning Commission or Board of Aldermen could request if there was a need or a desire.

Ms. Thurman stated their building, and therefore the existing tattoo parlor, was non-smoking and non-vaping. She stated the only retail provided within the tattoo parlor were tattoos, piercing and some clothing.

Commissioner Nichols stated he was voting for approval of the request and urged the Commissioners to move quickly on its approval to help the local tenant and the downtown to be more successful.

Chairperson Harris asked if any of the Commissioners had any other questions; there was no response. He then entertained a motion.

MOTION:

Motion by Commissioner Nichols and seconded by Commissioner Richards to approve Resolution 19-12.3 as presented.

AYES: Commissioners Howden, Nichols, Richards, Romine, Vice-Chairperson Pinkley and Chairperson Harris

NOES: None.

ABSTAIN: None

ABSENT: Commissioners Burney, Loyd, O'Day and Skains

Motion to approve Resolution 19-12.3 carried with a 6-0 vote.

Mr. Hornickel stated no additional Commissioners had been able to join the meeting. He requested for both items #2 and #3 to be postponed until the March 5, 2019 Planning Commission meeting.

Chairperson Harris entertained a motion to postpone items #2 and #3 until the next meeting.

MOTION:

Motion by Commissioner Richards and seconded by Commissioner Howden to postpone items 18-2.4 and 18-2.5 until the March 5, 2019 Planning Commission meeting.



- AYES: Commissioners Howden, Nichols, Richards, Romine, Vice-Chairperson Pinkley and Chairperson Harris
- NOES: None.
- ABSTAIN: None
- ABSENT: Commissioners Burney, Loyd, O'Day and Skains

Motion to postpone agenda items 18-2.4 and 18-2.5 carried with a 6-0 vote.

**COMMISSIONER & STAFF REPORTS**

Chairperson Harris asked if any of the Commissioners had anything else they would like to add before adjourning.

Commissioner Howden stated he was happy to see the sign code moving forward. He stated he was particularly interested in a free market principal and hoped the new sign code would reflect this principal.

Commissioner Harris thanked staff for all of the good work so far and looked forward to all of the open creativity the new sign code would bring.

Mr. Hornickel updated the commissioners on the progress of the draft sign code. He stated they had met with several stakeholder groups and felt they were making good progress. He handed out a summary of the comments collected from the stakeholders. He stated they hoped to present the draft sign code to the Board of Aldermen during the March 21, 2019 Study Session for final direction.

Chairperson Harris asked the Commissioners to continue to review the draft sign code and send any specific feedback to Mr. Hornickel.

**ADJOURN**

Motion by Commissioner Howden, seconded by Vice-Chairperson Pinkley, and unanimously carried to adjourn the meeting at 8:16 PM.



Clark Harris, Chairperson

3-5-19

Date



Joel Hornickel, Director of Planning & Development

3/5/2019

Date