

**MINUTES**  
**ROLLA PLANNING AND ZONING COMMISSION MEETING**  
**ROLLA CITY HALL COUNCIL CHAMBERS**  
**TUESDAY, AUGUST 15, 2023**

**Presiding:** Russell Schmidt, Chairperson

**Commission Members Present:** Monty Jordan, Janece Martin, Kevin Crider, Nathan Chirban, Steve Davis

**Commission Members Absent:** Monte Shields, Robert Anderson

**I. APPROVE MINUTES:** Review of the Minutes from the Planning and Zoning Commission meeting held on Tuesday, July 11, 2023. **Chairperson Russell Schmidt approved the minutes as printed and distributed.**

**II. REPORT ON RECENT CITY COUNCIL ACTIONS:**

1. **SUB23-02:** Final Plat of Ozark Terrace, 3<sup>rd</sup> Addition, a minor subdivision to subdivide one residential lot into two lots at 514 Keeton Rd
2. **ZON23-05:** Rezoning of a portion of 514 Keeton Rd from the R-1, Single-family district to the R-2, Two-family district
3. **TXT23-01:** Amendment to Chapter 42, Sections 42.141 Definitions and 42.233.01-42.233.03, pertaining to zoning regulations of Marijuana businesses

**III. NEW BUSINESS:** NONE

**IV. PUBLIC HEARING:**

1. **ZON23-06:** Rezoning from the C-1, Neighborhood Commercial district to the C-3, Highway Commercial district at 708 N Main Street

**Coots** presents the staff report. He reminds the Commission this case is only to rezone the property and the applicant should not be considered.

**Chirban** asks why the C-3 property to the south was approved. Coots states since it borders 6<sup>th</sup> Street, which is a heavily traveled street, this rezoning was probably not inappropriate.

**Schmidt** asks if anyone representing the applicant would be willing to speak.

**Bryce Crowley**, located at 901 North Pine Street, suite 110, is legal counsel for the Rolla Mission. He approaches the Commission with an agreement letter with the Mission from the City. **Crowley** mentions there is a preexisting business on the property that is desiring to be rezoned to the C-3 district as it is a multi-use building. The Rolla Mission is located here, and does offer a case management program to help patrons gain employment. This function is a commercial use within the business structure.

He states the current ordinance allows for the C-3 district to have a Conditional Use Permit (CUP), while the R-3 district does not. The applicant chose to rezone to the C-3 District to eventually obtain a CUP to keep the City and the Mission from needless litigation. He presents the agreement letter with the City provided to the Mission. He mentions this request is the Mission acting in good faith to uphold this agreement.

**Schmidt** mentions that with the proposed zoning code, the C-3 district may not exist. **Crowley** states he understands this, as the C-3 district could be absorbed into the C-2 district, as well as the CUP being removed from all Commercial districts. However, the current code does allow the C-3 district to have a CUP. He states the proposed code has no bearing on this request, and the current code allows for this.

**Schmidt** comments that this request would need to pass through the City Council as well. In the meantime, the C-3 district may be eliminated before this rezoning could be approved. **Crowley** states he understands that, but the applicant is trying for an amicable solution to avoid litigation. Since the property is a current non-conforming use, the applicant understands this rezoning will not fix that use, and that issue would be resolved by the City Council.

**Chirban** comments that the applicant is requesting the C-3 zoning instead of the R-3, because the R-3 district does not allow for a CUP. **Crowley** confirms this. **Chirban** asks for clarification as he believes this to be incorrect. **Coots** states that both the current and proposed zoning code have conditional uses for overnight shelters in the R-3 district. **Crowley** states that the case management use in the Mission is a commercial use not fit for the R-3 district, as well as the parcel being adjacent to other C-3 zoned lots.

**Schmidt** mentions that the property does not abut a major thoroughfare, which is a requirement for the C-3 district. **Crowley** states if the proposed zoning code passes, the lot will be rezoned to the C-2 district, which does not have the major roadway restriction. **Schmidt** comments that if the request is approved, and both the church and the Mission relocated elsewhere, there is a property zoned highway commercial that is not adjacent to an arterial road. **Crowley** states that while the lot is zoned C-3 now, it may be changed to C-2, which does not have such requirements and restrictions.

**Schmidt** asks if a representative is present to those opposing.

**Joann Stiritz**, PO Box 242 in Rolla, expresses concern about issues about homeless shelters being pushed through. She comments the commercial zone being requested is for retail and the applicant is asking to rezone to a district that will be combined into the C-2 district if the proposed code passes. She questions why the zoning issue is being dealt with before other issues have been addressed.

**Schmidt** opens the public hearing.

**Stewart Baur**, resides at 925 Murry Lane in Rolla, and is also a representative from the Hope Lutheran Church at 612 North State Street. He asks why this rezoning request is being brought forward now, if the desired district is proposed to be eliminated. He also expresses concern about the long-term effects this may have on the area. He implores the Commission to table the case until the zoning code has passed.

**Dale Wands**, residing at 606 Penny Lane, asks the reasoning behind this rezoning. **Schmidt** states that an applicant has applied for a rezoning. **Wands** expresses concern about considering a rezoning request with no reasoning or correlation. He states there needs to be a purpose to rezone. **Schmidt** mentions the Commission has seen similar cases before. **Wands** states he would be opposed to a rezoning if he had no indication what the applicant plans to develop it for. He worries what use could go into the lot if it was zoned C-3.

**Davis** states the City will be granting a stay for the Mission to be operating as is, with the stipulation that the Mission rezone from C-1 to C-3 or R-3. **Wands** asks why the City would grant them a stay. **Davis** suggests it is because changes are still being made to the zoning code, and this agreement allows them to operate while this process continues. **Wands** comments that with this agreement letter, the City is stating the Mission does not meet code. **Schmidt** states these are legal issues the Commission cannot comment on at this time.

**Schmidt** closes the public hearing.

**Schmidt** states the Commission is at an impasse because the board does not know what the zoning will be if the code passes. The current C-3 regulations state the property needs to be on an arterial road and this lot does not meet that. **Martin** asks if the Commission can make a recommendation based upon what the future code may be. **Coots** states the Commission can only make a decision based upon the current code as it is written. **Jordan** asks if the new code passes and is in effect, will the City Council base their opinion on a recommendation presented to them under the old code. **Coots** states if the new code is in effect, the question would then be if the request is appropriate under the C-2 district, since the C-3 district would no longer exist.

**Chirban** states it is frequent that an applicant will apply to rezone and develop a property and then no changes happen. There is no guarantee that the entity that files for the application may be the one who develops the property. **Coots** states the office receives speculative rezoning requests often. **Chirban** comments the Commission should consider what zone best fits the property, not what entity intends to develop there. **Coots** confirms this. He also states that the C-3 district does not require a property to be next to an arterial road. This could be a reason to deny, but the Commission does not have to deny based solely upon this restriction.

**Schmidt** asks if there are R-3 functions that would not be compatible with the nearby uses, such as the existing daycare. **Coots** states that daycares are allowed in the R-3 district, so any use in this district would be compatible. **Martin** asks if this is the same for the C-3 district. **Coots** states a daycare center is a commercial use also allowed in the C-3 district. **Martin** asks if a C-3 development next to churches and other government buildings would cause traffic, safety and pedestrian issues. **Coots** mentions since a daycare could be allowed in the C-3 district, it is difficult to prohibit a use based solely upon traffic issues. He mentions there are some uses that have distance requirements from daycares, but any use that does not have this restriction, would be compatible.

**Chirban** asks at what level is it determined if a use allowed in the C-3 district, but had a distance limitation, could be approved in that lot. **Coots** states this would be enforced at a staff level, when applying for a building permit or business license. **Schmidt** asks how the distance requirement is enforced with preexisting buildings. **Coots** comments that any C-3 use that had a buffer requirement imposed upon it could not be allowed in the property simply because it is zoned C-3.

**Martin** comments that under the present code, the request is not appropriate, as the parcel is not on arterial roadway. She mentions she would not recommend approval for the R-3 district either. Her opinion is to deny or table the case to a later date. **Cridler** suggests the Commission vote on the C-3 zoning, which the applicant requested. **Martin** comments the request borders on spot zoning. **Schmidt** mentions that similar cases have been approved, and those properties have caused issues. He did not understand the need for the C-3 district, as the property is currently zoned C-1, for their commercial use. **Jordan** expresses concern that the only reason for this rezoning is to gain access to a CUP.

*A motion was made by Monty Jordan, seconded by Kevin Crider, to recommend the City Council deny the rezoning request from C-1 to C-3 due to the subject property not being adjacent to an arterial roadway, the concern that future uses of a C-3 development may not be appropriate in the neighborhood, and the request appears to be spot zoning. A roll call vote on the motion showed the following: Ayes: Chirban, Crider, Davis, Jordan, and Martin. Nays: None. The motion passes unanimously.*

**V. OLD BUSINESS: NONE**

**VI. OTHER BUSINESS / REPORTS FROM COMMITTEE OR STAFF: NONE**

**VII. CITIZEN COMMENTS: NONE**

**Meeting adjourned: 6:41 p.m.**

**Minutes prepared by: Sarah West**

**NEXT MEETING:**

**Tuesday, September 12, 2023**