

THE CITY OF OSAGE BEACH, MISSOURI
PLANNING COMMISSION MINUTES OF THE REGULAR MEETING

January 14, 2020

Call to Order

Chairman Susan Ebling called the Planning Commission of the City of Osage Beach, Missouri, to order at the regular meeting on January 14, 2020 at 6:00 pm at City Hall.

Roll Call

The following Commissioners were present: Alan Blair, Nancy Viselli, Chairman Susan Ebling, Mayor John Olivarri, Don Chisholm, Tony Kirn, Kellie Schuman and Don Sturn. The Commissioners absent were Alderman Richard Ross and Michelle Myler. Also present: City Planner Cary Patterson, Planning Commission Secretary Pam Campbell, David Van Leer representing Cochran Engineering and City Attorney, Ed Rucker.

Minutes – 12-10-2019

Chairman Ebling asked if there were any corrections or comments regarding the December 10, 2019 minutes. There were none. *Commissioner Viselli made a motion to approve the December 10, 2019 minutes and Commissioner Chisholm seconded the motion which passes unanimously.*

New Business

Planner Patterson delivered the following report:

Applicant: Arapaho, LLC

Location: 2000' from Osage Beach Pkwy on Sunset Dr.
(Best way to view the property is from Backwater Jack's Parking Lot)

Petition: Rezoning from C-1b (Commercial Lodging) to C-1 (General Commercial) with an E-3 Overlay for an Amphitheater and accessory uses.

Existing Use: Vacant

Existing Zoning: C-1 (General Commercial) and C-1b (Commercial Lodging)

Tract Size: Approximately 14 acres

	<u>Surrounding Zoning:</u>	<u>Surrounding Land Use:</u>
<u>North:</u>	A-1	Vacant
<u>South:</u>	C-1 and R-3	Lake Front Restaurant and Entertainment Venue
<u>East:</u>	A-1	Vacant
<u>West:</u>	C-1 General Commercial	Commercial Restaurant Use

The Osage Beach Comprehensive Plan

Designates this area as appropriate for: Moderate Density Residential

Rezoning History

Date

399 A-1 to C-1b

9/17

Utilities

<u>Water:</u>	City	<u>Gas:</u>	Summit Gas
<u>Electricity:</u>	Ameren UE	<u>Sewer:</u>	City

Access: Property derives access via Sunset Drive or Beach Drive

Analysis:

1. The applicant is the owner of the 14-acre parcel in question. The applicant is requesting this rezoning in order to establish a two thousand (2000) seat amphitheater with customary accessory uses and parking on the property.
2. As you can see on the enclosed illustrations, the applicant is leaving a 185' buffer area around the property to protect both the existing corridor and their future investment. This buffer will remain zoned A-1 (Agriculture).

Department Comments and Recommendation:

The primary intent of E-zones is to regulate outdoor activities that could adversely affect adjacent properties, both commercial and residential. The character of this corridor is mixed, with the vast majority of the adjacent properties being undeveloped with a mixture of Commercial, Residential, and Agricultural zones. With the subject property's location on a large property surrounded by largely undeveloped property, it lends itself favorably to the type of use being requested, provided that the intensity of the uses such as live music and similar uses is mitigated as to not create a greater impact on the area. The applicant is requesting to rezone the property in order to establish an amphitheater and the additional parking facility that would be required to serve its patrons. The applicant and his family own the majority of the surrounding properties from the back of the cove up to Osage Beach Parkway, I have enclosed a map illustrating those properties.

As part of the request, the applicant has situated the proposed amphitheater in such a way that the stage and the sound system will be directed away from the Lake of the Ozarks and the sound will be directed into the wooded area and undeveloped valley that is owned by the applicant and his family. Operation of the facility will be required to conform with the city's regulations on noise and hours of operation. These conditions should ensure that there will be limited noise pollution to the area and should improve the noise impact on the properties fronting the lake in that cove with the stage and sound system pointing away from the lake itself. Uses customary to an amphitheater are what will be permitted.

My biggest concern as it pertains to the request, is the impact on the transportation system in the area. The City needs to make sure that the existing road infrastructure has the capacity to handle the additional trips that will be created by a capacity event at the proposed facility. The applicant's contract engineer provided a "Traffic Impact Statement" that provides a professional

opinion that the proposed will not negatively affect the existing road infrastructure. That document is part of the packet so that you can read their findings. Also, the City's contract engineers are reviewing the statement and will provide their opinion as to whether they agree that there will be no negative impact or if they have concerns that need to be addressed. My hope is that I will be able to provide that opinion at the meeting or before.

It is also worth noting that approval of this request would not increase the number of docking facilities or boat slips that will be allowed for the property.

Any additional customer base will come from the city via the roadways, as opposed to the lake, meaning additional impact to the cove in which the subject property is located should be minimal.

The property is recommended for Moderate Density Residential, which is defined by the Comprehensive Plan as 5-13 units per acre. This would allow more than 200 residential units to be built on the property if it were doable. The issue with this property and it ultimately being used for residential, is twofold. The first issue is developmental constraints from both topography and accessibility. Second is its relative location to Backwater Jack's. These issues make this property excessively difficult to establish single- or two-family homes because of relative cost and saleability.

This is a somewhat different request than we have been faced with in the past. It will undoubtedly provide the City with some positive economic impact by bringing more people into the community for the events. Fundamentally it should provide an expanded customer base for not only Backwater Jack's, but the City's other commercial facilities as well. But we must make sure that the benefit outweighs the impact, specifically by way of the road system. If the City's engineers come back with an opinion that our road system has plenty of capacity to handle the additional activity, I am confident that the proposed location for the facility is likely the best location in the community for it as the properties that will receive the majority of the impact are owned by the applicant and his family or are part of the Osage Beach Parkway commercial corridor.

With the subject property being zoned Commercial and located on a large lot surrounded largely by undeveloped agriculture or multifamily zoned property, the Planning Department would recommend that this request be approved subject to the following provisions and conditions:

Permitted Uses: The amphitheater and accessory uses requested as part of rezoning case 403 and illustrated on the submitted site plan. The subject property will now be governed by the regulations pertaining to E-3 overlays as specified in the Land Use Chapter of the City of Osage Beach Municipal Code and the submitted site development plan.

Construction Requirements: All construction will be in conformance with the codes that are adopted by the City at the time that a Building Permit is requested for any portion of the development that a permit is required.

Parking: A total of 300 additional parking spaces will be required for the proposed, if approved, along with both land and water spaces to be shared from existing Backwater Jack's parking facility. This is an attempt to limit the amount of land disturbed initially assuming a number of patrons will use existing parking facilities. If it is found that more spaces are needed, they will be required to be built to city design standards and paved with either concrete or asphalt. There will be absolutely no unimproved parking area.

Signage: The applicant will be required to get a sign permit for any additional signage.

Exterior Lighting: Any additional lighting, proposed as part of this activity, must be shielded to direct light inward and limit light intensity within adjoining properties or the Lake of the Ozarks.

Buffering and Landscaping: A wooded area is required to be maintained around the facility to mitigate the noise pollution to surrounding properties. A minimum of 5 percent of the areas devoted to parking must be left in open lawn or landscaped areas.

Final Development Plan: The site plan submitted with the application is sufficient for the final development plan, unless changes or additions are requested by the Board of Aldermen, as part of the approval of the request. In that case an amended site development plan will be submitted illustrating all of the required changes.

Planner Patterson explained that sound would be one of the biggest impacts and it will be monitored according to the Sound Levels by Receiving Land Use guidelines. The biggest concern is the traffic impact and road infrastructure. The advanced analysis is taking longer to be more thorough. It will be up to the Board of Aldermen to approve. Based on the engineer's impact, if it's manageable and the study comes back there will be options to look at.

Chairman Ebling asked if any commissioners had any questions.

Commissioner Sturn said the traffic study should've been completed before it was presented to the Commission and asked why we were here.

Planner Patterson stated he had the application and their engineer's report.

Commissioner Sturn said he called the owner of the engineering firm and asked how many of these have been prepared and they stated just this one. The person who did the report is not a certified traffic engineer and used to work for the Osage Beach Engineering Department and he felt this wasn't being objective. The primary supporting document doesn't hold up. This will adversely affect the property. He asked if there has been a study done that shows that 60 yards of trees will mitigate sounds from rock bands.

Planner Patterson replied no study has been done.

Commissioner Sturn stated there must be something and there have been numerous complaints to the Osage Beach Police Department. Look at how good a neighbor Backwater Jack's have been at the 17.5 mile marker of the no wake cove - they didn't support the no wake cove - it took 10 years to get 75% of the neighbors to approve the no wake cove and Backwater Jack's is the only business who didn't support the no wake cove with the Water Safety Committee for signage, buoys, lighting and for over 10 years they haven't donated a dollar to the cove association and that makes me jaded. Planner Patterson went over the request again and his concerns and Commissioner Sturn repeated why is the Planning Commission even discussing sending this to the Board of Aldermen without a traffic study.

Commissioner Schuman had a question regarding parking spaces with the 200 additional spaces, asking does Backwater Jack's have 200 spaces? Planner Patterson explained to conserve undeveloped property from the required 500 parking spaces, it was his attempt to limit unnecessary parking spaces by using the already existing 200 spaces, and the applicant understands this. Commissioner Schuman asked if Backwater Jack's was busy if this would be a sufficient amount of parking and Planner Patterson replied he believed it was, because he believed that many concert attendees would be people migrating from the restaurant, or that people would also be coming in boats, taxis or Ubers and he was trying to conserve a little bit of land. Commissioner Schuman asked if Cochran Engineering was using the same Traffic Master Plan (TMP) from 10 years ago, because the traffic has probably changed. David Van Leer from Cochran said they are trying to update counts which will be built into their analysis.

Planner Patterson stated our engineers will be updating the TMP in 2-4 years.

Chairman Ebling asked if we can vote tonight and pass on to the Board of Aldermen contingent on the traffic study.

Planner Patterson said yes, the Planning Commission can forward to the Board or wait for our engineers report.

Commissioner Chisholm said he had two concerns - what the land/docks were referring to and the number of parking spaces required.

Planner Patterson stated it is a shared land base with 200 parking spaces and 300 new spaces, plus using the existing docks stating no new docks were being added.

Commissioner Chisholm asked about ADA requirements.

Planner Patterson stated it meets the minimum 2% requirement.

Planner Patterson repeated he believes people will migrate over from Backwater Jack's to the amphitheater.

Mayor Olivarri repeated that many people will call a cab or Uber and not everyone will arrive in a personal car. He added especially with current DWI laws, and mentioned he used to work at a lakeside bar and found this to be true.

Commissioner Sturn said with the scope of Backwater Jack's, they should provide the Water Patrol with numbers regarding holiday weekend. Ten years ago, the volunteers counted 650-700 boats per day on a holiday weekend, it filled up the docks, they were in and out again and again.

Commissioner Kirn asked how many parking and boat spaces do they have now?

Planner Patterson said he thought there were 250 upper lot spaces and an additional 50 or so docking facilities, adding they would address parking if this was not correct.

Commissioner Kirn said he doesn't have a problem using the area on Beach Drive, and added the overflow capacity should have minimal impact on Sunset houses and apartments.

Planner Patterson said there will be no parking on Sunset and that the Beach Drive area could also be used as a shuttle area.

Commissioner Kirn stated without a specific plan covering an overload of cars and how to accommodate them, there is going to be a disaster with people exiting Osage Beach Parkway to go to the concert. He said if we don't weigh the risks now, we aren't doing our job.

Chairman Ebling asked again if we could table this until we get the traffic study.

Planner Patterson said yes, but added there is a 90-day timeframe for a decision to be made.

Planner Patterson said it could be brought back when the study is obtained. There will be eight to 12 events per year. The Police Department and the City will do sound tests for crowd noise and get readings after the event. If you want to wait for another public hearing or reschedule and postpone to wait for Cochran, it can be scheduled for next month.

The applicant, Andy Prewitt, said he would like to address two issues. He talked to the owner at Sunset Resort and they are in full support of this project and have offered to help on their behalf. He said he never received a mailing to help with the water safety cove association and he was the registered agent at that address and never received a mailing or request for a donation. He said they want to pay their share. There has been only one to two times that police have been involved and they checked out noise violations but found none. Andy added that there will be a 12:00 midnight end time for events.

Commissioner Sturn said the requests for donations have been sent out for 10 years.

Andy Prewitt replied he would like to see the letters and they would pay all arrears owed.

Chairman Ebling asked if 8-10 events would be in season only or some in the Spring and Fall.

Andy Prewitt said they would like to extend the season by holding concerts in the Spring and Fall.

Chairman Ebling then opened the Public Hearing portion and asked that people who would like to speak either for or against this project should come up, sign in and address the Commission, adding that we would only hear from a few and asked that comments be different from those already made.

A total of 10 people spoke - some for and some against - this project. Of those against the amphitheater, comments were made about increased traffic, traffic flow, kids playing, noise, damage to the roads, depravity with the boaters, increased boat traffic and damage to the cove, fire and emergency vehicles being able to get in and out, not enough parking spaces, need for accurate traffic counts especially since we are not in season now, comments from DNR about the watershed, the City's process for notifying the public for these types of projects, where food, ice and sound equipment trucks and extra employees will park, and the impact on water and sewer.

Planner Patterson addressed some of these concerns, mentioning that if it is approved, the City will be responsible for the maintenance of the roads, he mentioned that the extra parking for food, ice and sound equipment trucks and employee parking had already been addressed, he said that DNR would conduct their study once the applicant officially applied for a permit, and said that water and sewer would be reviewed and upgraded if necessary. Planner Patterson also said that they were looking at possible roads that would only be used by fire and emergency vehicles only during events.

Chairman Ebling closed the public hearing portion of the meeting.

Discussion followed regarding the traffic study and whether or not MoDOT would have some traffic numbers the City could use. Planner Patterson again stated this could be postponed to give us time to review the numbers.

Chairman Ebling asked if this would be a regular or special meeting.

City Attorney Ed Rucker said the Planning Commission could either approve or deny this project, but could not make it contingent on anything. Attorney Rucker said if the Planning Commission denies this request, the Board of Aldermen could overrule this or deny and then the applicant would have to wait a year before bringing it back to the City. At that time, Commissioner Chisholm made a motion to deny this request.

Planner Patterson said we don't want to rush this, but need efficient answers and could bring the information back in February at the regular meeting, or if we find we need more time, then the applicant could withdraw and submit a new application without having to wait a year if it were denied.

Commissioner Chisholm said we should wait 90 days and not rush it.

Planner Patterson said it can be brought back within 90 days - the applicant can make changes to the application or withdraw this one and submit a new application.

Commissioner Chisholm said the bulldozing of trees in this area has already started.

Planner Patterson said there have been no permits issued from the City, however, he said the property owners have the right to clear their property.

Chairman Ebling asked Commissioner Chisholm if he would like to amend his motion to table it until next month and he replied he did.

A roll call vote to table the Rezoning Case 403, Arapaho, LLC with the following responses: Mayor Olivarri - yes, Alderman Richard Ross - absent, Don Sturn - no, Chairman Ebling - yes, Don Chisholm - yes, Commissioner Viselli - yes, Michelle Myler - absent, Tony Kirn - yes, Alan Blair - yes and Kellie Schuman - yes. The majority passes.

Planner Patterson said if the application changes, it resets the process 90 days. The Board of Aldermen needs a 2/3 majority vote to approve this.

Mayor Olivarri said the next Planning Commission meeting will be the second Tuesday of February which will be February 11th at 6:00 p.m. in this location. He asked Planner Patterson to clarify the notification process which he did, adding that the information is also posted on the City's website, or anyone can call him for more information. He also encouraged citizens to sign up for "Notify Me" on the City's website for updates on all City matters, which would include items such as this.

Reports

Planner Patterson stated there were none.

Adjourn

Chairman Ebling adjourned the meeting at 7:54 p.m.

I, Pam Campbell, Planning Commission Secretary, for the City of Osage Beach, Missouri, do hereby certify that the above foregoing is a true and complete journal of proceedings of the regular meeting of the Planning Commission of the City of Osage Beach, Missouri, held on January 14, 2020.



Pam Campbell/Planning Commission Secretary



Nancy Viselli/Secretary