

MINUTES OF THE REGULAR MEETING
OF THE PLANNING AND ZONING COMMISSION
OF THE CITY OF SUNSET HILLS, MISSOURI
HELD ON WEDNESDAY, AUGUST 4, 2021

BE IT REMEMBERED that the Planning and Zoning Commission of the City of Sunset Hills, Missouri met in regular session in the Robert C. Jones Chambers of City Hall, 3939 S. Lindbergh Blvd., in said City on Wednesday, August 4, 2021. The meeting convened at 6:00 P.M.

The meeting began with those present standing for the reciting of the Pledge of Allegiance.



ROLL CALL

Present:	Terry Beiter	-Chairman
	Mike Svoboda	-Member
	Steve Young	-Member
	Rich Gau	-Member
	Michael Hopfinger	-Member
	Frank Pellegrini	-Member
	Bryson Baker	-City Engineer
	Robert E. Jones	-City Attorney
	Lynn Sprick	-City Planner

Absent:	Todd Powers	-Member
	Roger Kaiser	-Member
	Brian VanCardo	-Member

APPROVAL OF THE MINUTES



Copies of the minutes of the July 7, 2021 Planning and Zoning Commission meeting were distributed to the members for their review. Mr. Gau made a motion to approve the minutes as submitted. Mr. Svoboda seconded the motion, and it was unanimously approved.

NEW BUSINESS:



P-11-21 Petition for an Amended Development Plan, submitted by Sunset Transportation, Inc., for site changes at 10877 Watson Road.

-This Petition was deemed unnecessary and removed from the agenda.



P-12-21 Petition for a Boundary Adjustment, submitted by HR Sheevam, to adjust property lines between 3650 & 3660 South Lindbergh Boulevard.

-This Petition has been postponed.



P-13-21 Petition for a Conditional Use Permit, submitted by UA Sunset Hills, LLC, for an indoor amusement center at 10990 Sunset Hills Plaza.

Ms. Sprick stated the building was previously Borders Bookstore and then Steinmart. It is a 32,000 square foot space. Indoor amusement centers are considered a conditional use, which must be recommended by the Planning and Zoning Commission and approved by the Board of Aldermen.

Mark Kornfeld, of 11011 Rambling Oaks Drive, was present, on behalf of the landlord. He stated in order to complete the lease agreement, Urban Air had to receive approval from several tenants in the shopping center and they all approved.

Joe Van Deusen, owner of Urban Air, was present and played a video showing information on the company. State of the art, new attractions will be brought in. They currently have 144 parks open in the United States, one in Canada, and one overseas. They project having 200 locations in the United States by the end of the year. They are a top franchise in indoor entertainment. During the school year, they are open after school, close by 9:00 P.M., and they are open on weekends. Their summer hours are 10:00 A.M. to around 9:00 P.M. or 10:00 P.M. They do provide special times for toddlers, as well. Eventually, they would like to apply for a liquor license.

Mr. Beiter asked what kind of revenue it generates.

Mr. Van Deusen predicts they will generate in the 3.5 million dollar range annually.

Mr. Beiter asked how this is taxed.

Mr. Van Deusen stated there are taxes on most of their revenue. Things like the lockers and massage chairs are services, but everything else is taxable.

Mr. Baker asked what type of food is served.

Mr. Van Deusen stated they serve fast, casual concessions. Birthday parties have food included with upgrades. Whatever the party wants, they can get. It is not a sit down restaurant, but better than most. They are talking about upgrading their food options.

Ms. Sprick asked if there will be go karts.

Mr. Van Deusen stated no, the building is not big enough, but there will be bumper cars.

Ms. Sprick asked if there are other locations in strip malls and how the noise is dealt with.

Mr. Van Deusen replied yes, there have never been complaints from neighboring tenants.

Mr. Hopfinger asked what the process for adding a kitchen to the building would be.

Mr. Van Deusen stated their kitchen does not require a grease trap and they will work within the Code when obtaining permits. Not all locations require a hood.

Mr. Baker stated the City contracts with St. Louis County for all inspections, so they will handle that.

Mr. Van Deusen stated the engineer and architects are working with the County.

Mr. Svoboda asked about the restrooms.

Mr. Van Deusen stated there are existing regular restrooms in place and they will be adding family restrooms.



Mr. Gau made a motion that P-13-21 Petition for a Conditional Use Permit, submitted by UA Sunset Hills, LLC, for an indoor amusement center at 10990 Sunset Hills Plaza be recommended to the Board of Aldermen for approval. Mr. Young seconded the motion, and it was unanimously approved.



P-14-21 Petition for acceptance of streets in The Manors of Tapawingo for City maintenance.

Mr. Baker stated the neighborhood trustees applied to the City based on the Ordinance which lays out the procedure for the City to take over street maintenance.

There are certain procedures that must be followed. The City must do a deficiency report and that has been completed. This lists all of the City's concerns and issues with the streets. The applicant submitted a response with reasons they feel they can overcome the deficiencies or ways around them. Once that is complete, the Public Works Committee reviews the material. They made a negative recommendation for taking over the streets. The next step is for the Planning and Zoning Commission to consider and recommend approval or denial to the Board of Aldermen. The Board will make the final decision.

Bob Flynn, of the Manors of Tapawingo, and Colleen Ruiz, attorney at Lathrop Gage, representing Tapawingo, were present.

Mr. Flynn stated he is representing 117 property owners, as applicants. He showed a map of the streets requesting maintenance. The original application had more streets, but they have taken some of them out. Slabs are sealed every three or four years. Using a Pavement Surface Evaluation and Rating (PASER) scale, only 33 pads need to be replaced. There has been little deterioration and they are in better condition than most City streets. 92% of them are at a 9 or 10 on the PASER scale. They feel they are paying for maintenance of roads that are no longer private because the roads are often used by the public. Some of the streets that were dropped off of the application for maintenance were Maple Drive, Sunny Dawn Court, and Kahlia Way Court. They have replaced slabs and signage to City standards.

Ms. Ruiz stated, the Public Works Committee recommended denial, but it was not because the concerns were not addressed. There were unknowns because of the age of the roads. Public Works prepared a report for annual maintenance costs to the City for roads. For the year 2020, the report calculated the cost being 1.6 million dollars on 48.25 miles. The average cost per mile is \$34,000. For 2021, the cost for taking over the maintenance of Tapawingo streets would be \$34,000 per mile. On the chart, the actual price was \$1,127,000. Some of the expenses shown are things that do not apply to street maintenance and there are items that would be paid for by the County Road Fund. The total number budgeted does not reflect street maintenance. The City's number does not take into consideration that every slab would be fixed at the expense of Tapawingo. The City has never accepted any roads under the Ordinance. Tapawingo has applied three times and met all requirements given, but they have never been able to get the recommendation for approval. The City reported that the grade of five of the slabs is over the required grade. The roads were completed in 2006. The escrow taken by the City for the roads was released and Wes Searcy stated the Manors roads were in compliance with City standards. This would have been the time to raise that concern. The arguments are without merit.

Mr. Flynn stated the general public regularly uses the roads for the golf club and banquet center.

Ms. Ruiz stated the Manors have met all of the criteria for acceptance. There is no reasonable basis for why they have not been approved for street maintenance. They request that the City accept the streets. They will cooperate in seeking a variance for the five slabs and adding language to change the plats. They have offered to give the City a certain dollar amount for them to take over the road repairs and they still got denied. Now, they agree to replace every slab, sign, and Americans with Disability Act (ADA) sidewalk.

Mr. Young asked if they have fixed all items on the noncompliance list.

Mr. Baker stated they have. There are over 200 slabs that appear to have cracking based on age, though.

Mr. Flynn stated there are only 12.

Mr. Baker stated the slabs that are showing signs of D-cracking are more.

Mr. Flynn stated in Grandview Plaza there were 260 slabs. They paid the City for repairs and they were over 10 years old.

Ms. Ruiz stated Mr. Baker never gave any demand or requirement to have those fixed. When they were asked to have something fixed, they did it. The report was supposed to state all deficiencies.

Mr. Baker stated the deficiency report is a staff synopsis of all streets. Over 200 slabs are showing signs of D-cracking. Grandview and Tapawingo are different. Grandview was always supposed to be taken over by the City; Tapawingo was always supposed to be private.

Mr. Hopfinger asked about the Lindbergh School District facility, within Tapawingo.

Ms. Ruiz stated the City rezoned the property, so it could be used for purposes other than just residential.

Mr. Baker stated it has not been rezoned.

Ms. Ruiz stated there are signs on Rott Road stating to use Pagada Parkway.

Mr. Gau stated Pagada Parkway and Caddyshack are used as a thorough green. He helped write the Ordinance so that there is a process for taking over street maintenance. If you take a left turn onto Caddyshack, it ends in a cul de sac; that is not a public route.

Ms. Ruiz stated it has been 21 years since the original plats were filed and since that time the City has adopted an Ordinance to take over private roads and make them public.

Mr. Young stated he is only concerned if the streets are compliant and it is obvious that they are not, yet.

Mr. Flynn stated 63 slabs were replaced and the ADA sidewalks have been agreed on.

Ms. Ruiz stated a survey and PASER report were done.

Mr. Young stated he needs to hear from staff that everything has been completed.

Mr. Jones stated the purpose of the escrow was not to make sure the streets met City standards. The streets were always intended to be private.

Mr. Baker stated the process for the Ordinance is for staff to show concerns for the street. It is not saying that if these things are done, that the City will take over. They need to show how the concerns will be addressed. The City still has the choice on whether or not they want to take them over. The Ordinance was created to give a process. The biggest concern is the age of the slabs. The design life of a slab is 25 years. Some last longer; some last less. The City is concerned that they will have to replace a lot of them, which will use a large amount of money. They have to be cautious with tax payer money. D-cracking starts from bottom of the slab and works it's way up. They can deteriorate overnight, since it starts from the bottom.

Ms. Ruiz asked if even though the Ordinance does not list a time frame for the ages of slabs, the City can decide they do not feel like taking them over.

Mr. Baker stated it is up to the City's elected officials.

Mr. Flynn stated there are not 200 D-cracks.

Mr. Baker stated in the deficiency report, 200 D-cracks were reported, but they were not required to be replaced by City Ordinance.

Ms. Ruiz asked what the recommendation is for them to do with the D-cracking.

Mr. Baker stated this is information for the Board to take into consideration. The City would not replace them as of now, but if one breaks tomorrow, it would have to be replaced.

Mr. Svoboda stated the streets were not built to City standards.

Mr. Flynn stated Josh Foster, builder, sent a drawing of the structure of the streets and it shows they were built to city standards.

Mr. Baker stated 26 cores were taken in the middle third and they met City standards. The City has that information available.

Mr. Gau asked if Gary Player Drive would be part of this.

Mr. Flynn stated no.

Mr. Gau stated there are a substantial amount of slabs shown that are located on the section of Caddyshack that is to the left. This is really not part of public access.

Mr. Hopfinger asked what the situation with the sewers is.

Mr. Flynn stated Metropolitan Sewer District (MSD) manages the source and Ameren is taking care of the lights.

Mr. Hopfinger asked when MSD took over them.

Mr. Flynn stated since the beginning.

Mr. Hopfinger asked if there has been anything, other than streets and sewers, which they have sought to take from private to public.

Mr. Flynn replied no.

Mr. Hopfinger stated he has issues with the claim that there is public use on Caddyshack.

Mr. Beiter agreed and asked about the sign at the beginning of Maple Drive.

Mr. Baker stated this is a City sign that was requested for the benefit of Tapawingo Drive.

Mr. Svoboda asked if Al Moore was contacted about taking down his gate blocking the drive.

Ms. Ruiz stated Mr. Moore will not help with anything that has to do with Sunset Hills. The left side of Maple Drive is City owned.

Mr. Gau stated the streets are in excellent shape. He recommended they come back with contributing costs for a certain amount of years to ease the City's concerns.

Ms. Ruiz stated there is not a mechanism in the Ordinance for a different process.

Mr. Gau stated it is up to elected officials to decide.

Tim Strege, of 4 Kahlia Way Court, stated the PASER scale ratings should be good evidence of the streets' conditions. They grade above 7% in some places. The development plans were accepted by the Board and when the escrow was released Wes Searcy's 2006 memo stated that all streets were according to plan and met subdivision regulations. Nothing was stated about the street grade. In 2013, the City of Sunset Hills allowed the Lindbergh School District to use the Paraclete property as public, which did require heavy duty vehicles to regularly use the roads.

Mr. Gau asked if there is a definition for a public street.

Mr. Jones stated no, but there are street standards for construction. The distinction is that some private streets are used by the public and enforce traffic regulations. With streets that are not used for public, these things cannot be enforced.

Mr. Jones stated the presentation in front of the Commission and Board stated the streets would remain private.

Mr. Pellegrini stated it is unclear with the Ordinance that anyone could ever comply, especially if the staff being fearful can influence decisions.

Mr. Gau stated the outcome was that any petitioner gets to go to the Board to plead their case. It was not written to be black and white.

Mr. Jones stated a set of factors for the Board to consider were written in.

Mr. Gau stated the applicant needs to come to the Board with a compelling case.

Don Hagen, of 13020 Sunny Dawn Court, stated he supports the request. The Trustees have been diligent with following up on requests made by the City. Wrongful facts have been spread over the issue. The Committee should consider that streets are in compliance with City Code and the PASER analysis. The Public Works Committee questioned the validity of the analysis. Public use of the streets occurs often.

Mr. Beiter asked about the PASER analysis.

Mr. Baker stated the City uses the PASER analysis on existing City streets to determine when slabs will be replaced. The applicants are using it to determine the condition of the streets. When the City is taking over streets, it is difficult to say that if they meet PASER, they are okay. D-cracking is not noticed in PASER. It is additional information used, but it is not a determining factor.

Robert Meiners, of 9355 Caddyshack Circle, stated streets have been accepted by the City that were not as nice as their streets. Some were courts and they were accepted, also.

Doug Neier, of 13037 Sunny Dawn Court, stated in 2013, the Paraclete property was donated to the Lindbergh School District. Al Moore put in a gate to block the street from being a through street. The City has put a sign up to direct traffic through the private streets of Tapawingo. Joe Boccardi's was approved to have public visitors, as well. Outside traffic has increased significantly and an agreement can be met.

Mr. Beiter asked if he suggested modifying the petition.

Mr. Jones stated the petitioner has not modified the request.

Mr. Gau asked if a private street, like Al Moore's is allowed to put up a gate, like he did.

Mr. Jones stated yes.

Mr. Gau asked if they wanted to put a gate up in Tapawingo, if they would need City approval.

Mr. Jones stated that is a possibility.

Mr. Gau stated gated communities happen.

William Craig, of 9395 Caddyshack Circle, stated the streets are used by the public and were built to City standards. There is a possibility of high maintenance costs of the streets. 15 years of rejection from the City has aged the streets. They are well maintained. The repair costs of the small amount of streets would be inconsequential. The Non-approval is based on half-truths and emotional arguments. The Moore property dedication to the City as a park was denied due to the fast tracking of Tapawingo streets into acceptance.

Mr. Svoboda stated the personal property tax to Sunset Hills is extremely minimal. Most of it goes to other entities.

Mr. Hopfinger stated there is more common ground that can be met. He recommends denial with conditions.

Mr. Beiter stated a condition should be made that staff continues to work to refine the issues that exist between the City and the Tapawingo Trustees. Problems such as the entire length of roadway being public, which it is not, and cost sharing need to be negotiated.

Mr. Gau stated cost sharing over a period of time to alleviate staff's concern is important.

Mr. Hopfinger stated potentially breaking it down and seeking a compromise on which streets are used for public use is critical.

Mr. Beiter stated signage that is negative for the City and Tapawingo should be addressed.

Mr. Baker stated all addresses on the sign are for Tapawingo. The City is telling the delivery drivers how to get to them.



Mr. Hopfinger made a motion that P-14-21 Petition for acceptance of streets in The Manors of Tapawingo for City maintenance be recommended to the Board of Aldermen for denial with the recommendation that City staff continues to work with the Trustees around cost sharing solutions, review of street maintenance for segments of the streets based on compromising as to what is used by the public, and signage. Mr. Gau seconded the motion, and it was unanimously denied.

ANY OTHER MATTERS DEEMED APPROPRIATE



ADJOURNMENT

Mr. Gau made a motion to adjourn the meeting at 7:54 P.M. Mr. Young seconded the motion, and it was unanimously approved.

Recording Secretary

A handwritten signature in blue ink that reads "Sarina Cape".

Sarina Cape