

**LEAWOOD VILLAGE BOARD OF TRUSTEES**  
**Special Hearing**  
**December 8, 2011 – MINUTES**

**Trustees Present:**

Denny Desmond, Chairman  
Brad Long, Vice Chairman  
Caleb Head, Treasurer  
Fran Owen, Secretary  
Dale Owen, Clerk

**Visitor Present:**

List Attached

Prior to the call to order, Mr. David Powell handed out copies to Board of Trustee member of his "Request for Zoning Change" dated October 27, 2011 which contained a copy of his Leawood Zoning Survey, permission letter from Warren Deatherage to erect a sign on the property located at 44<sup>th</sup> & Connecticut, warranty deed, a computer drawn map, unsigned copy of the Comprehensive Plan dated 14 November 2000, and a Google map.

Denny Desmond, Chairman, called the meeting to order at 6:30 P.M. at the Calvary Baptist Church, 600 East 50<sup>th</sup> Street, Joplin, MO. Roll call was made with all members being present. Copies of the agenda were handed to board members. Motion made by Fran Owen and second by Caleb Head to approve the agenda as presented by Denny Desmond. In favor 5 Opposed 0. Motion passed.

Purpose of the meeting was to consider the request of David A. Powell and William R. Deatherage to rezone a tract of property (totaling 40 acres +/-) on the Northeast corner of 44<sup>th</sup> Street and Connecticut Avenue in the Village of Leawood, Missouri from A-1 Agricultural to C-3 Planned Shopping Center, and such other matters that may be presented at the meeting and determined to be appropriate for discussion at this time.

Kurt Higgins, Chairman Planning & Zoning Commission, reported on the public hearing held on December 1, 2011 before the Planning & Zoning Commission. Approximately 100 people attended the meeting with 59 speaking or raising their hands in opposition to the rezoning and three speaking in favor of rezoning. He reported that the committee had voted 6 to 0 not to approve the request to rezone this property based on concerns for public safety and well fare, and traffic 44<sup>th</sup> & Connecticut Streets; (the developer was not making any improvements to those roads). In addition to traffic the lights coming off the development affecting the local residents was a concern. A high concern was raised that the existing commercial property located east of this location remains undeveloped and therefore having an additional 40 acres to develop may be difficult for that property to be successful as commercial. Recommendation from Planning & Zoning Commission was to not rezone the property from A-1 to C-3.

Kurt Higgins presented the minutes and other attachments from the commission meeting. Each trustee had been given a copy of the minutes. The minutes are drafted and not approved as of this date by the Planning & Zoning Commission and are being submitted to the trustee. Trustees accepted the draft copy of the minutes.

Denny advised those attending that anyone wishing to speak in favor of the zoning change would be given five minutes to do so. They were to state their name, address and whether they were a resident of the village. The five minute limit did not apply to Mr. Powell. Trustees can make comments or ask questions after each speaker is done.

Mr. Powell was given an opportunity to present his reasons why this property should be rezoned to C-3 Planned Shopping Center. He began by stating that he saw a lot of faces that were there the previous meeting and that he would not give the full presentation. He stated that he was able to be non-argumentative during the two hours of harassment he took during the last week. His family members and church family felt pretty harmful and hurtful and asked not to come to tonight's meeting. He said he was making one comment about the vote that was taken as to who was in favor and who was against. The question he said was never asked of those against, where do you live? They only asked that of those who were in favor. He felt that those who attended that were in favor of the zoning change were intimidated by the harassment he took. He also felt that the written responses should never have been read to the crowd.

Mr. Powell questioned that information requested by the Planning & Zoning Commission stating that he had never seen that done. He believes that this property will take off as it is in line with the hospital. The reason he believes the property in the Silver Creek did not take off was because of price and the fact that it is in a flood plain. He believes that the reason for denying the zone change because he won't be successful is none of the committees concern that they were responding to friends and neighbors. Mr. Powell requested that the Board of Trustees send his request back to the Planning & Zoning Commission to work out a reasonable solution. Mr. Powell

believes that neither the Planning & Zoning Commission nor the Board of Trustees can stop progress for this property.

Mr. Powell reported that he sent out a survey to every household in Leawood (238 residents) and only accepted one response per household. Barbara Isgrigg, 1909 E 46<sup>th</sup> Street, wanted to know the number of surveys that were returned. Mr. Powell reported that he received 48 responses back with an additional 10 being returned as undeliverable. 71% of the surveys returned were in favor of a commercial development. He offered to show residents copies of the surveys with signatures, address and responses, although they were not presented at this meeting. Mr. Powell advised that he did not list residential as an item on this survey because he says it is not an option.

Denny Desmond felt that the survey was not valid (bogus) because it did not contain the choice for residential. Only 16% of the people answered residential. If he had put residential on there would probably have been significantly more who would have said that. Mr. Powell reported that he contacted 10 realtors and asked what is appropriate to spend on a home on a minimum \$100,000 one acre lot. He was told \$500,000 to \$700,000. They are not building any \$700,000 homes next to the highway. So it is not feasible to develop this as residential. When asked if this is based on the on the sale price of the property, Mr. Powell responded that is part of it.

Denny Desmond: What is the time frame for this project? Response: Mr. Powell responded he didn't anticipate any construction happening in the next 6 months. Probably 6 to 12 months. Similar construction time frame as the hospital. Mr. Powell doesn't believe all 40 acres will be developed before the hospital complete.

Are you purchasing any other property or have the potential to purchase other property in Leawood Village? Response: No not that he knows of.

When you found out about this property did you contact someone or did someone contact you? Response: contacted some realtors and Mark Gibson contacted him.

Why isn't Mr. Deathridge at this hearing? Response: he is here.

What direct experience do you have in commercial development and shopping centers? Response: I have a 14,000 square foot office on 32<sup>nd</sup> Street, own the Schlotzky's on Rangeline, and also property on North Rangeline, sold Timberline building one year ago which he built. That's just the Joplin experience. Nothing of this magnitude? No, I have not built at all at this point. Nothing as large as this.

Denny referenced the meeting on December 1 with the realtor of this property who indicated that Mr. Powell did not have the experience in this type of development. Mr. Powell advised that he would not be doing the building himself, just as a visionary and finance guy. Will you act as the developer? Response: He advised that he would not be running a bull dozer. Will you be hiring a developer? How will this work? Response: Mr. Powell will be working with each developer on each individual building site. I am sure they won't be the same.

What is your visionary idea on this, if approved, and how will this work and when will you start. Response: The goal is to have leases on the majority of the property and for those who say they will have to own their building will work out land purchases. Rather be a land lease holder so he can keep control of it.

Will you clear all the land? Response: Clear enough room for a sign. There are two planned entrances into the property one on 44<sup>th</sup> Street and one on Connecticut. Will use green belt and what will be visible for the most part will be green trees instead of brown trees. Will only clear what will be built on at that time.

Denny Desmond again asked about the one year time frame as reported in the *Joplin Globe*. Response: Mr. Powell didn't anticipate anything happening within 6 months. No clearing of land or removal of trees.

Have you received in any interest? Response Yes. Can you name names? Response: Can't elaborate but has received interest from grocery store, bank, and retail store.

Article in the *Joplin Globe* indicated Mr. Powell owned the property. Who owns the property? Response: Contract is in place. Mr. Deathridge and I have a contract in place. Are there any contingencies expected with buying the property. Response: No. It is a done deal. When was that deal done? Response: It is not complete yet. As of right now who owns the property? Response: Mr. Deathridge.

You indicated you had a commitment on financing and it is a financial institution? Response: Mr. Powell: Yes

If Zoning is approved to C-3 will you provide a copy of the finance commitment (reply no) as a contingency to approve zoning? Response: No then possibly.

Are you away of any existing or potential litigation with respect to legal ownership of this property? Response: No.

What do you envision where this property will go if zoning is not approved? Response: Mr. Powell I think it will go out of the village. Refused to clarify when asked to do so.

What will have to be done for the property to go out of the Village? Village of Leawood will have to approve the annexation and City of Joplin will have to request the annexation.

Dave Smith: almost a billion dollar development at our front door. You can't stop progress and this could be an opportunity. He hasn't made up his mind as he hasn't seen the plans.

Mr. Powell said he would consider multi family development but not single family development. Nice condo would work. Willing to consider all of that if willing to go back to Planning & Zoning and work on it together.

Janice Stephens: Lives in Deer Run Estates and just wanted to state that this not only affects Leawood residents but also the Joplin residents living around here.

Are you planning to develop this property and flip it like you did St. John's Hospital? Could you clarify this. Did you purchase property that you didn't develop that you flipped? Response: Purchased property where he thought St. Johns was going to build. Did you purchase property where the new hospital was going to be prior to where they were going to build and sell it back to them? Response: Something like that. Where was the inside information? Response: I am just a smart guy. That was my intent when I purchased that property. It was pure speculation where the hospital was going.

With all the devastation in Joplin, with all the vacant land, why did you choose this location? You're a developer, you built on Range line, and you built on 32<sup>nd</sup> Street. Why this location? Response: The next high traffic area is 44<sup>th</sup> & Connecticut.

Mr. Powell left the meeting at this point before the vote was taken.

Mark Gibson 421 Briarwood Ridge, Carl Junction, is the realtor involved in this project. He spoke in favor of developing this property. He said areas in Joplin are difficult to sell and this property is visible from I-44 and a prime area for development. Mr. Gibson said that 44<sup>th</sup> Street is going to be widened with an entrance from this street into St. John's. It will go to 5 lanes. Just watch. Mr. Gibson contacted Mr. Deathridge concerning the selling of this property because he could see the vision for this property. They are trying to give the village more economic growth. Mr. Gibson reported that property values in Leawood have gone up. He said it is difficult to develop as residential because of the infra structure and cost involved. Commercial development is less expensive.

Warren Deathridge, 1035 Papaya, Hollywood FL purchased the property from the estate of Susan Warren in 2005 for \$850,000 and is the current owner. He spoke in favor of changing the zoning on this property. He is not aware of any potential litigation on this property.

Request by Denny Desmond that those opposed to the zoning change that were in attendance at the Planning & Zoning Hearing and spoke at it not speak tonight as trustees had copies of the minutes from that meeting. No one present had any additional comments.

Denny Desmond closed the hearing at this point.

Denny Desmond asked for a motion to approve the zoning change from agricultural to commercial. None of the trustees made the motion.

Denny Desmond asked for a motion to deny the zoning change from agricultural to commercial. Motion made by Brad Long and second by Dale Owen to deny the zoning change. In favor 5 Opposed 0. Motion passed.

Motion made by Caleb Head and second by Brad Long to adjourn the meeting. In favor 5 opposed 0. Motion passed. Meeting adjourned at 7:47.

Minutes prepared by:

Minutes approved by:

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Fran Owen, Secretary Date

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Denny Desmond, Chairman