



**PLANNING COMMISSION
CITY HALL – COUNCIL CHAMBERS – 2101 JEFFCO BOULEVARD
TUESDAY, NOVEMBER 12, 2019**

MEMBERS: Andrew Sutton (Chair), Frank Kutilek (Second), Alan Bess (Secretary), Jeff Campbell, Justin Lurk, Christopher Ford, John Tucker, Del Williams, Phillip Hogan, Brian McArthur (Council Liaison). **STAFF:** Robert Sweeney (City Attorney), David Bookless (Community Development Director), Christie Hull-Bettale (Community Development Engineer), Sarah Turner (Community Development Planner).

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **APPROVAL OF AGENDA**
5. **APPROVAL OF MINUTES:** October 8, 2019
6. **PUBLIC COMMENT**
7. **PUBLIC HEARING(S):**
 - a. **2019-42 Mustard Seed Preschool (CUP):** A request for approval of a Conditional Use Permit within the "R-1" Residential Zoning District in order to operate a preschool in the lower level of St. Mark's Church at 1861 Missouri State Rd.
8. **OLD BUSINESS:** None
9. **NEW BUSINESS:**
 - b. **2019-42 Mustard Seed Preschool (CUP):** A request for approval of a Conditional Use Permit within the "R-1" Residential Zoning District in order to operate a preschool in the lower level of St. Mark's Church at 1861 Missouri State Rd.
 - a. **2019-43 Fence Variance:** A request for a variance to fence setback and height restrictions for a double-frontage lot located at 2113 Chelsea Ct. in order to construct a 6-foot privacy fence 2 ft. along the rear property line fronting on Richardson Rd.
10. **STAFF UPDATE**
11. **COMMISSIONERS UPDATE**
12. **COUNCIL LIAISON REPORT**
13. **NEXT SCHEDULED MEETING:** December 10, 2019
14. **ADJOURNMENT**

The Public is welcome to comment on any item on this agenda following presentations by the Staff and petitioner. Comments concerning items not on the agenda should be made during the Public Comment section of the agenda, near the beginning of the meeting. When you address the Planning Commission, please step to the podium and state your name and address into the microphone. Unless otherwise directed by the Chairperson, individuals may speak for three minutes, while those representing a group may speak for six minutes.



PLANNING COMMISSION MEETING CITY HALL COUNCIL CHAMBERS OCTOBER 8, 2019

MINUTES

The regular meeting of the Arnold Planning Commission was called to order by Chairman Andrew Sutton at 7:00 p.m. The Pledge of Allegiance was recited by those in attendance.

ROLL CALL OF COMMISSIONERS: Del Williams, John Tucker, Brian McArthur, Alan Bess, Frank Kutilek (excused), Jeff Campbell, Andrew Sutton, Chris Ford, Justin Lurk (excused), Phillip Hogan, David Bookless, Sarah Turner, Christie Hull-Bettale, and Bob Sweeney. 8 voting members present, 2 excused.

REVIEW AND APPROVAL OF AGENDA: Motion by Jeff Campbell to approve the agenda as presented. Second by Phil Hogan. Voice Vote – ***Unanimously Approved***.

APPROVAL OF MINUTES: Motion by Jeff Campbell to approve the minutes from the September 10, 2019 meeting as presented. Second by Del Williams. Voice Vote - ***Unanimously Approved***.

PUBLIC COMMENT: None

PUBLIC HEARINGS:

- a. **2019-38 Commercial Use Parking:** David Bookless presented this City-initiated request to amend Chapter 405 of the Zoning Ordinance to modify minimum parking requirements for various motor vehicle repair-related uses. The Zoning Ordinance has three (3) uses that relate to motor vehicle repair-related uses: Auto Filling Stations, Auto Repair, and Auto Sales. The City was approached by CarX about locating on a property that did not meet current parking requirements. Staff researched the requirement, found current regulations to be excessive, and is recommending revising the requirement for auto repair facilities by differentiating between general auto repair and auto body shops as follows:
- All references to *Gasoline Service Stations* are to be deleted.
 - The parking requirement for “Auto Repair” should be deleted and replaced as follows:
 - **Automotive Repair, general**
1 space for every employee on the maximum shift plus 3 spaces for every service bay plus 1 space for every vehicle customarily used in operation of the use.
 - **Automotive Repair, body and paint**
4 spaces plus 1 space for every employee on the maximum shift plus 1 space for every vehicle customarily used in operation of the use, all exclusive of screened outdoor storage areas as otherwise authorized by CUP.

The Director of Community Development finds that the proposed text amendments meet or exceed review criteria and further advances the intent of Chapter 405. Based on this finding, favorable consideration of the draft amendments is requested.

Brian McArthur commented that this amendment will give the opportunity for more landscaping in the future.

b. **2019-35 CarX:** Sarah Turner presented the request for a Conditional Use Permit to allow for a general automotive repair business at 1427 Jeffco Blvd. Sarah gave a brief history of this site stating that in the mid-1990's, Jeffco was widened from 3 lanes to 5 lanes which removed some of the paved area from the front of the property, which created setback nonconformities. The subject property which is the old Midas Muffler, predated any type of strict adherence to the code, therefore, was designated as a non-conforming use. When operations ceased in early 2019, this designation was lost. In order for CarX to move in to this location, the property must be brought up to compliance which includes obtaining a Conditional Use Permit. Staff finds that the proposed Conditional Use Permit meets the review criteria and is in compliance with the Zoning Ordinance and Comprehensive Plan, subject to the following conditions:

1. This Conditional Use Permit is null and void unless both of the following criteria are met:
 - a. The applicant successfully securing all required variances from the Board of Adjustment.
 - b. The successful modification of Chapter 405, Zoning, as it relates to minimum parking requirements of general automotive repair uses.
2. The rear access driveway and rear parking lot is restricted to employees only. Appropriate signage and mirrors shall be installed to ensure employee use and safety when using the rear access driveway, as directed by the Community Development Department.
3. Any vehicles used in the operation of this use or stored on the premises shall be stored in the rear parking lot.
4. The six (6) front parking spaces shall be reserved for customer use. All serviced vehicles shall be parked in the rear parking lot and retrieved by employees, unless the customer is present for immediate pick-up.
5. Any parking spaces in excess of the minimum requirement that have non-standard dimensions must have a sign installed to mark the space as compact.
6. No vehicle shall be left unattended in any drive aisle.
7. Plant material along the rear access drive aisle shall be properly maintained.
8. All work and storage of materials must be within the building.
9. Conditional Use Permit, Business License, and Occupancy Permit may be revoked if any nuisance is not mitigated to satisfaction of the City.
10. Approval for Conditional Use Permit does not supersede other local, state, or federal requirements

Brian McArthur questioned why the dumpster pad needed electric run to it. David Bookless stated that it doesn't serve the dumpster, it serves the building, and is being relocated to accommodate access by a trash truck.

c. **2019-37 Vapor Maven:** Christie Hull-Bettale presented this request for a Conditional Use Permit to operate a retail business to sell e-cigarettes, vapor products and other legal substances at 1783 Jeffco. Christie gave a brief description of the existing site conditions and a site history. The property is zoned "C-3" Commercial which allows for a retail "Tobacco, Nicotine, and other Legal Substance Establishment" on a conditional basis. Staff finds that the proposed Conditional Use Permit meets the review criteria and is in compliance with the Zoning Ordinance and Comprehensive Plan. Based on this finding, Staff requests consideration of the application based on the following conditions:

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1. Hours of operation shall be limited to 9:00 a.m. to 9:00 p.m., Monday thru Saturday and 11:00 a.m. to 7:00 p.m. on Sunday.
2. All business transactions and sampling use of product shall be limited to the interior of premise. Ongoing use in the interior or exterior of the premise shall not be permitted.
3. Minors under the age of 18 shall not be permitted to enter this establishment.
4. The retail sale of Medical Marijuana shall not be authorized by this permit.
5. No items identified as drug paraphernalia in Chapter 215 of the Municipal Code shall be displayed or made for sale at the establishment
6. Landscaping and buffering as delineated on the approved site (landscape) plan dated 9/2000 shall be restored and maintained at the direction of Staff.
7. Approval of this Conditional Use Permit shall not supersede other local, state, or federal requirements.
8. If, after the conditional use permit shall have been granted, it shall appear to the Council that the conditions imposed upon the holder of the conditional use permit, or any other ordinance of the City of Arnold, are being violated by such holder, the Council may hold a hearing and act to revoke this Conditional Use Permit.

Corey Strutten, 495 Agnes Dr., Springdale, AR, representing Vapor Maven introduced himself.

Brian McArthur referred to condition #5 and questioned what is considered drug paraphernalia. David Bookless stated that any item knowingly being used or sold for for drug use is considered drug paraphernalia by state statute.

- d. **2019-36 Old Highway 9:** Christie Hull-Bettale presented the request for the release of an existing right of way easement for a previously abandoned road known as Old Highway 9. Staff recommends approval of easement vacation request subject to the following conditions:
 1. Label the property line in-between 1905 and 1895 Richardson Rd.
 2. After City approval, it is the responsibility of the applicant to record the exhibit with Jefferson County Recorder of Deeds and provide 2 recorded copies to the City of Arnold.
 3. Future easements may be granted via separate plat to meet the needs of City or Utilities.

Lenny Meers with Grimes Consulting Engineers, 12300 Old Tesson Rd., introduced himself.

OLD BUSINESS: None

NEW BUSINESS:

- a. **2019-38 Commercial Use Parking:** Motion by Jeff Campbell to approve 2019-38, a City-initiated request to amend Chapter 405 Zoning of the Code of Ordinances to modify minimum parking requirements for various motor vehicle repair-related uses. Second by Chris Ford. Roll call vote: Chris Ford, yes; Brian McArthur, yes; Alan Bess, yes; John Tucker, yes; Jeff Campbell, yes; Del Williams, yes; Andrew Sutton, yes; Phil Hogan, yes. 8 yeas, 0 nays – ***Motion Approved.***

- b. **2019-35 CarX:** Motion by Jeff Campbell to approve 2019-35, Conditional Use Permit to allow for a general automotive repair business with the following 10 conditions:
1. This Conditional Use Permit is null and void unless both of the following criteria are met:
 - c. The applicant successfully securing all required variances from the Board of Adjustment.
 - d. The successful modification of Chapter 405, Zoning, as it relates to minimum parking requirements of general automotive repair uses.
 2. The rear access driveway and rear parking lot is restricted to employees only. Appropriate signage and mirrors shall be installed to ensure employee use and safety when using the rear access driveway, as directed by the Community Development Department.
 3. Any vehicles used in the operation of this use or stored on the premises shall be stored in the rear parking lot.
 4. The six (6) front parking spaces shall be reserved for customer use. All serviced vehicles shall be parked in the rear parking lot and retrieved by employees, unless the customer is present for immediate pick-up.
 5. Any parking spaces in excess of the minimum requirement that have non-standard dimensions must have a sign installed to mark the space as compact.
 6. No vehicle shall be left unattended in any drive aisle.
 7. Plant material along the rear access drive aisle shall be properly maintained.
 8. All work and storage of materials must be within the building.
 9. Conditional Use Permit, Business License, and Occupancy Permit may be revoked if any nuisance is not mitigated to satisfaction of the City.
 10. Approval for Conditional Use Permit does not supersede other local, state, or federal requirements

Second by Del Williams. Roll call vote: Chris Ford, yes; Brian McArthur, yes; Alan Bess, yes; John Tucker, yes; Jeff Campbell, yes; Del Williams, yes; Andrew Sutton, no; Phil Hogan, yes. 7 yeas, 1 nay – **Motion Approved.**

- c. **2019-37 Vapor Maven:** John Tucker provided articles talking about the health issues regarding vaping. Mr. Tucker is aware that Vapor shops are not illegal but feels they need to consider the community.

Del Williams agrees with Mr. Tucker and would like to vote no but realizes that this is a legitimate business and a legal substance. Voting against this would be a violation of their rights.

Brian McArthur agrees with both statements but cautioned the Commissioners to not make a decision based on what's good for the public. That would be a City Council decision.

John Tucker commented that there are some City Councils that have banned the flavored vapors.

Bob Sweeney commented that based on the Staff report and application, if the Commissioners feel this would be detrimental to the health and welfare of the community, they could vote against it.

Motion by Brian McArthur to approve 2019-37, Conditional Use Permit to operate a retail business to sell e-cigarettes, vapor products and other legal substances with the following 8 conditions:

1. Hours of operation shall be limited to 9:00 a.m. to 9:00 p.m., Monday thru Saturday and 11:00 a.m. to 7:00 p.m. on Sunday.
2. All business transactions and sampling use of product shall be limited to the interior of premise. Ongoing use in the interior or exterior of the premise shall not be permitted.
3. Minors under the age of 18 shall not be permitted to enter this establishment.
4. The retail sale of Medical Marijuana shall not be authorized by this permit.
5. No items identified as drug paraphernalia in Chapter 215 of the Municipal Code shall be displayed or made for sale at the establishment
6. Landscaping and buffering as delineated on the approved site (landscape) plan dated 9/2000 shall be restored and maintained at the direction of Staff.
7. Approval of this Conditional Use Permit shall not supersede other local, state, or federal requirements.
8. If, after the conditional use permit shall have been granted, it shall appear to the Council that the conditions imposed upon the holder of the conditional use permit, or any other ordinance of the City of Arnold, are being violated by such holder, the Council may hold a hearing and act to revoke this Conditional Use Permit.

Second by Chris Ford. Roll call vote: Chris Ford, yes; Brian McArthur, yes; Alan Bess, yes; John Tucker, no; Jeff Campbell, no; Del Williams, yes; Andrew Sutton, no; Phil Hogan, no. 4 yeas, 4 nays – Motion failed - the application will be moved onto the City Council for their decision.

- d. **2019-36 Old Highway 9:** Motion by Jeff Campbell to approve 2019-36, request for the vacation of right-of-way at Old Hwy. 9 at St. John's Rd. with the following 3 conditions:
 1. Label the property line in-between 1905 and 1895 Richardson Rd.
 2. After City approval, it is the responsibility of the applicant to record the exhibit with Jefferson County Recorder of Deeds and provide 2 recorded copies to the City of Arnold.
 3. Future easements may be granted via separate plat to meet the needs of City or Utilities.

Second by Del Williams. Roll call vote: Chris Ford, yes; Brian McArthur, yes; Alan Bess, yes; John Tucker, yes; Jeff Campbell, yes; Del Williams, yes; Andrew Sutton, yes; Phil Hogan, yes. 8 yeas, 0 nays – ***Motion Approved.***

- e. **2019-39 Arsenal Credit Union:** Christie Hull-Bettale presented Arsenal Credit Union's request for a proposed amendment to a Commercial Site Plan to allow for a 2-story building addition at their 3780 Vogel Rd. location. Christie suggested waiving the Tree Preservation Plan requirement because they are not removing trees; they are adding more in the proximity of the parking lot. Staff recommends the Planning Commission approve the Commercial Site Plan provided conditions identified in the report are addressed as part of the permit process.

Motion by Jeff Campbell to approve 2019-39, Commercial Site Plan to allow for a 2-story building addition at 3780 Vogel Rd. with the following 6 amended conditions:

1. Parking spaces will be brought into conformance with ADA requirements.
2. Add painted directional arrows at the entrance and exit to clarify the direction.
3. The STOP sign is to be remounted in concrete.
4. Dying landscape, removed shrubs and additional trees are to be planted.
5. Mitigate storm runoff by providing additional volume to the detention basin.
6. Waive Tree Preservation Plan requirement.

Second by Chris Ford. Roll call vote: Chris Ford, yes; Brian McArthur, yes; Alan Bess, yes; John Tucker, yes; Jeff Campbell, yes; Del Williams, yes; Andrew Sutton, yes; Phil Hogan, yes. 8 yeas, 0 nays – ***Motion Approved.***

STAFF UPDATE: David Bookless – explained the confusion a few weeks ago with calling the members to see if they would be in attendance. It was to verify there would be a quorum since there were a few that informed the City with short notice that they were going to be absent.

Christie Hull-Bettale – no report.

Sarah Turner – no report.

Bob Sweeney – no report.

COMMISSIONERS UPDATE:

Chris Ford - No report.

Alan Bess – No report.

John Tucker – No report.

Jeff Campbell – thanked Mr. Tucker for bringing in the articles about vaping.

Del Williams – No report.

Phil Hogan – No report.

Andrew Sutton – No report.

Council Liaison: Brian McArthur – No report.

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NEXT SCHEDULED MEETING: October 22, 2019

ADJOURNMENT: Meeting adjourned at 7:44 p.m.

Respectfully Submitted,

Alan Bess
Planning Commission Secretary

**PLANNING COMMISSION
ROLL CALL SHEET**

DATE:	10/08/2019							
CALLED TO ORDER:	7:00 P.M.							
ADJOURNED:	7:44 P.M.							
		ROLL CALL	2019-38 - APPROVED	2019-35 - APPROVED	2019-37 - TIE VOTE	2019-36 - APPROVED	2019-39 - APPROVED	
CHRIS FORD		P	Y	Y	Y	Y	Y	
JUSTIN LURK		EXCUSED						
BRIAN MCARTHUR		P	Y	Y	Y	Y	Y	
ALAN BESS		P	Y	Y	Y	Y	Y	
JOHN TUCKER		P	Y	Y	N	Y	Y	
FRANK KUTILEK		EXCUSED						
JEFF CAMPBELL		P	Y	Y	N	Y	Y	
DEL WILLIAMS		P	Y	Y	Y	Y	Y	
ANDREW SUTTON		P	Y	N	N	Y	Y	
PHIL HOGAN		P	Y	Y	N	Y	Y	
DAVID BOOKLESS		P	NO VOTE					
SARAH TURNER		P	NO VOTE					
CHRISTIE HULL-BETTALE		P	NO VOTE					
CITY ATTORNEY ROBERT SWEENEY		P	NO VOTE					