

Commission Meeting

11:00 a.m.

November 15, 2023

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, November 15, 2023, with Mayor Brinkman presiding and Commissioners Giefer, Harter, and Smith present. Commissioner Sauder was present via phone. Also present were City Manager Cocking, Assistant City Manager Detter, City Clerk Sull and City Attorney Montgomery.

**CITY COMMISSION
(Public Comment)**

This is the time for the public to make comments.

The public is invited to make comments at this time. Please limit comments to two (2) minutes each. Please state your name and address prior to making comments.

No comments were made at this time.

**FIRE DEPARTMENT
(Crossland Construction Co., Inc.)
(Fire Station Projects)**

Brandon Beck, Fire Chief, was recognized and addressed the Governing Body. He stated the Commission previously authorized staff to enter negotiations with Crossland Construction to finalize a contract for services for the Fire Station Projects. He stated the document to be considered for approval is the American Institute of Architects (AIA) Document A133, standard form of agreement between owner and construction manager as constructor. He stated this project will be paid for utilizing the bonding authority out of the Bond and Interest Fund based on the current mill levy. Staff recommends approval of Document A133 between the City of Emporia and Crossland Construction Co., Inc.

Commissioner Harter made a motion to approve Document A133 between the City of Emporia and Crossland Construction Co., Inc. Commissioner Giefer seconded the

motion. The vote follows: Commissioner Harter, aye; Commissioner Giefer, aye; Commissioner Sauder, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

**PLANNING AND DEVELOPMENT
(MAPC Excerpts of Regular Meeting Held 10-17-23)
(Application No. 2023-06 – Justin Hensley, Quik Lube, LLC)
(Rezone Properties Located at 513 and 519 Congress St.)**

The Planning Commission met in a regular session on Tuesday, September 19, 2023, with Chair Thomas presiding. Members Duncan, Barnes, Rogers, Weaver, Ogle, and Bucklinger were present.

City staff: Justin Givens was present.

Chair Thomas called the meeting to order.

2b. Consider an Application PC-2023-06 a Request for Rezoning Property Located at 513 & 519 Congress from R-3 High Density Residential to C-3 General Commercial.

Chair Thomas asked if proper notice had been given. **Givens** confirmed that proper notice was provided to the newspaper and the property owners within 200ft of the property.

Chair Thomas asked if any Commissioners needed to recuse themselves or report any ex-parte communications. No commissioners needed to recuse themselves due to a conflict of interest and no ex parte communications were reported.

Givens stated that since a public hearing was previously held on this matter there was no need to have another public hearing.

Givens provided the updated staff report:

**PLANNING COMMISSION / BOARD OF ZONING APPEALS
STAFF REPORT
SEPTEMBER 19, 2023
AGENDA ITEM NO. 2B**

Application #: PC 2023-06

Applicants: Justin Hensley – Quik Lube LLC

Requested Action: Consider a Request to Rezone Property Located at 513 & 519 Congress from Single-Family Attached Parcel Type to Flex Use High Parcel Types.

Purpose: The applicants desire a change in zoning to allow for the continued use of the property and the expansion of their automotive repair business and storage for Uhaul units.

Address: 513 & 519 Congress

Legal description: Lots 79 & 81 On Congress Street, Original Township

Lot Size: 13,000 sq. ft.

Existing Zoning: Single-Family Attached

Future Zoning in ELC Comp. Plan: Single-Family Attached

Surrounding Zoning:

North – Flex Use High

East – Flex Use High

South – Single-Family Attached

West – Flex Use High & Single-Family Attached

Surrounding Actual Uses:

North – Commercial Building / Church / Lowther North Building

East – Lowther South Office Complex

South – Single-Family Residential and Multi-Family Residential

West – Single-Family Residential / Multi-Family Residential / Commercial Cleaner & Laundromat

Updated Analysis: The applicant's request for rezoning was approved by the Commission under the former zoning code. Since there is not a "one-for-one" exchange of new parcel types from old zoning districts, staff is asking the Commission to reconsider the application and make a revised recommendation of approval under the new parcel types.

The property is adjacent to Flex-Use High parcel types and staff feels that this would be an appropriate parcel type to assign to the properties. Flex-Use High have the following key characteristics;

Flex-Use High Parcel Type allows for the flexible use of buildings, which provides a variety of spaces to meet changing needs and promotes adaptive reuse of existing buildings. Flex-Use High Parcel Type allows for higher intensity of uses in an area with higher density. The physical characteristics of buildings on this Parcel Type should remain consistent while allowing for a range of uses.

Permitted uses in Flex-Use High parcel types may be developed as Mixed-Use, Commercial, Multi-Family, or Single-Family Attached buildings, and therefore allow the

uses applicable to the respective Parcel Type, provided that they are compatible with the size and physical characteristics of the lot, the building, and the surrounding Parcel Types.

Motor Vehicle Repair/Maintenance is a Conditional Use in Flex-Use High so the expansion of the existing automotive repair facility the owner would need to apply for a conditional use in the future. The Uhaul rental aspect of the business would be an allowed use in the Flex-Use High parcel type.

None of the factors for the property have changed and staff would still recommend the Planning Commission forward on a recommendation to the City Commission for approval based on the new parcel types.

Original Analysis: The applicant is requesting the rezoning after inquiring about expanding the existing business at 301 W 6th Ave. At that time, it was determined, that the properties addressed on Congress Street, where not in fact zoned commercial. The previous business owners have used the property exclusively for the storage of vehicles and other miscellaneous items for the automotive repair business as well as storing Uhauls, which are available for rent on the property.

For the building to expand to the south, the properties would need to be rezoned for commercial use and the applicant has chosen to pursue such rezoning. Additionally, staff would have to address the commercial uses of the property in a residential area if a rezoning was not granted.

Considerations: Factors to be Considered in a Rezoning:

When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based using the following guidelines: **Staff Commentary in Bold**

1. Whether the change in classification would be consistent with the intent and purpose of these regulations; **Staff feels that the change in zoning would be consistent with the intent and purpose of the regulations. The property has been used without compliant in a commercial nature since at least 2012. The rezoning would allow for the expansion of the building that fronts 6th Street.**

2. The character and condition of the surrounding neighborhood and its effect on the proposed change; **The property has been used in a commercial nature without any negative effect on the surrounding property. If approved, the Commission should recommend that proper screening be put in place to ensure a harmonious continuance within the existing neighborhood.**

3. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions; **The change in ownership and the new owners desire to expand the building brought forth the realization that the property, while used in a commercial nature, was in fact not zoned commercially.**
4. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification; **Staff does not anticipate any detrimental impact on any neighboring property. The property has been used in a commercial nature since at least 2012. Granting the change in zoning would allow for requirement of screening that would minimize any negative impact that may be felt from the expansion of the building and business.**
5. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity; **The current uses are as intense as what would be allowed on the property now. Staff feels that any other commercial use would not have a negative impact on the immediate vicinity.**
6. The suitability of the applicant's property for the uses to which it has been restricted; **The property, as demonstrated, is suitable to commercial uses.**
7. The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as allowing the land to be vacant or undeveloped; **Not Applicable.**
8. Whether adequate sewer and water facilities, and all other needed public services, including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified; **All public and private utilities are available in the area, and there would not be a negative impact on public services if the rezoning was granted.**
9. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development; **Commercial property in this area is built out, and there is a limited amount of commercial property available in the community overall. The rezoning would allow for the natural expansion of an existing building.**
10. The recommendations of professional staff; **Staff is supportive of the rezoning, and would recommend as a condition of approval, that sufficient screening be provided along the south and west property lines to minimize any potential impact on the neighboring property.**
11. Whether the proposed amendment would be in conformance to and further enhance the implementation of the City's Comprehensive Plan; **By promoting infill development,**

and allowing an existing building to expand to provide more services, this rezoning would be in conformance with the Comprehensive Plan.

12. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such reclassification; and, **Staff does not foresee any negative impacts on the public health, safety, or general welfare if the rezoning was granted, and allowing the rezoning would increase the value of the property.**

13. Such other factors as may be relevant from the facts and evidence presented in the application.

Neighborhood Communications: At the time of writing this report, staff has spoken with one neighboring property owner, who only asked general questions, and did not have any objections to the rezoning.

Recommendation: Staff recommends the Planning Commission forward a recommendation to approve the rezoning to the Governing Body based upon a finding that the request is consistent with the future land use map and guidelines for consideration on rezoning.

Attachments: Aerial Map / Current Zoning Map / Future Land Use Map

The Commission discussed the requirement for screening especially on the west side of the property that is adjacent to the alley. Following the discussion;

Commissioner Duncan made a motion to recommend approval of the Rezoning Request to the City Commission subject to the following;

- 1. Sufficient screening being installed between the commercial and residential property on the south property line within 90 days of the rezoning being approved; and**
- 2. Equipment be parked on appropriate surfacing only.**

Commissioner Barnes seconded the motion. Motion carried 5-0.

Justin Givens, Planning and Zoning Administrator, was recognized and addressed the Governing Body. He stated the owner of 513 and 519 Congress Street has requested that the property be rezoned. The applicant also owns Quik Lube, located at 302 W. 6th Avenue, and eventually wants to expand the current building. The initial application and corresponding public hearing went before the Planning Commission prior to the updated zoning regulations being adopted. The proposed rezoning would allow the property owner to continue to use his property in a legal manner and eventually expand the existing

business. Based on conditions recommended by the Planning Commission, screening will be required between the applicant's property and the residential property to the south. He stated staff re-presented the application to the Planning Commission at the October 17, 2023, meeting and the Planning Commission made a unanimous recommendation to change the parcel type of the properties from Single-Family Attached to Flex-Use High.

PLANNING AND DEVELOPMENT
(Application No. 2023-06 – Justin Hensley, Quik Lube, LLC)
(Rezone Properties Located at 513 and 519 Congress St.)
(Ordinance Number 23-35)

AN ORDINANCE REZONING LAND IN THE CITY OF EMPORIA, KANSAS FROM SF-A SINGLE-FAMILY ATTACHED PARCEL TYPE TO FH FLEX-USE HIGH AND AMENDING THE OFFICIAL ZONING MAP TO CONFORM WITH SAID ZONING, to which the City Clerk assigned Ordinance Number 23-35 was presented to the Governing Body for their consideration.

Commissioner Smith made a motion to approve Ordinance Number 23-35, an ordinance to rezone properties located at 513 and 519 Congress Street from Single-Family Attached to Flex-Use High. Commissioner Giefer seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Harter, aye; Commissioner Sauder, aye; and Mayor Brinkman aye.

BONDS
(Authorize General Obligation Bonds, Series 2023 - \$9,925,000)
(Ratify the Award of the Bid)
(Ordinance Number 23-36)

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 2023, OF THE CITY OF EMPORIA, KANSAS; PROVIDING FOR THE LEVY AND COLLECTIONS OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN CONVENANTS WITH RESPECT THERETO, to which the City Clerk assigned Ordinance Number 23-36 was presented to the Governing Body for their consideration.

Assistant City Manager Detter was recognized and addressed the Governing Body. He stated the City of Emporia is working with Greg Vahrenberg, Municipal

Financial Advisor of Raymond James and Dominic Eck, Bond Counsel of Gilmore & Bell, on issuing \$9,925,000 Bank Qualified General Obligation Bonds. The projects identified in the Series 2023 General Obligation Bond issue include:

Water Tower Rehab	\$ 865,000
Replacement of Lift Station #1	\$2,800,000
Replacement of Lift Station #15	\$ 500,000
Water Meters	\$5,000,000
Replacement of Sewer Main from Logan Avenue to the south of Zoo Education Building	\$1,000.000

Greg Vahrenberg, Municipal Financial Advisor of Raymond James, was recognized and addressed the Governing Body. He stated a public sale of the City's General Obligation Bonds Series 2023 was held. He stated seven bids were received as follows:

Bidder	True Interest Cost:
<i>Robert W. Baird & Co., Inc.</i>	3.993883%
Piper Sandler & Co.	4.016413%
The Baker Group	4.035806%
Hilltop Securities	4.093502%
BOK Financial Securities, Inc.	4.103356%
Janney Montgomery Scott LLC	4.137199%
TD Securities	4.175714%

He stated it was determined the Bonds should be awarded to Robert W. Baird & Co., Inc. whose bid represented the lowest true interest costs to the city.

Dominic Eck, Bond Counsel of Gilmore & Bell, was recognized and addressed the Governing Body. He stated the actions that need to take place after the bond sale are to; Ratify the award of the bid; Approve the ordinance that authorizes and provides the issuance of the general obligation bonds, Series 2023; and approve the resolution that prescribes the form and details and directing the sale and delivery of general obligation bonds, Series 2023. He stated following the meeting they will finish compiling the

transcript of proceedings related to this bond issue, send it to the Attorney General's office for approval and then the bond issue will close, and the money will be deposited into the City's bank account at the end of the month as described.

Commissioner Harter made a motion to Ratify the Award of the Bid and approve Ordinance Number 23-36 authorizing and providing for the issuance of General Obligation Bonds, Series 2023. Commissioner Giefer seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Giefer, aye; Commissioner Sauder, aye; Commissioner Smith, aye; and Mayor Brinkman.

BONDS
(Authorize General Obligation Bonds, Series 2023 - \$9,925,000)
(Resolution Number 3712)

Assistant City Manager Detter was recognized and addressed the Governing Body. He stated the bond sale occurred the morning of November 14, 2023, and this resolution will prescribe the form and details of and authorize and direct the sale and delivery of General Obligation Bonds, Series 2023 and award the sale of the bonds to Robert W. Braid Co., Inc. at a true interest rate of 3.993883%.

Commissioner Harter made a motion to approve Resolution Number 3712 authorizing the sale and delivery of general obligation bonds, Series 2023 of the City of Emporia, Kansas and award the sale of the bonds to Robert W. Braid & Co., Inc. at a true interest rate of 3.993883%. Commissioner Giefer seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Giefer, aye; Commissioner Sauder, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

CITY MANAGER'S REPORT
(Financials & Building Permits)

This is the time for the City Manager to make comments and reports to the public.
The following is general information for the month of October 2023 for community:

1. Monthly Local Retail Sales Tax Receipts Update

	2022	2023	
	\$ 422,658.81	\$ 577,241.03	Increase of \$154,582.22 for the month, and
YTD	\$5,013,564.19	\$5,371,922.70	Overall increase of 7.15% from year 2022.

2. City Share from County Tax

	2022	2023	Increase of \$74,708.71 for the month, and
	\$ 222,718.48	\$ 297,427.19	Overall increase of 10.24% from year 2022.
YTD	\$2,560,620.40	\$2,822,895.85	

Building Permits issued from 10/1/2023 to 10/31/2023 for new construction, remodeling/repairs and demolition.

Total number of building permits issued through Code Services:	64
Total of valuations associated with those building permits:	\$ 1,257,999.00
Total number of dollars collected for Building Permit Fees:	\$ 9,123.25

Construct – Single-family dwellings	0
Demo – Single-family dwellings	1

Flint Hills Mall CID for October 2023	\$ 17,482.09
YTD	\$188,069.92

Pavilions CID for October 2023	\$ 17,966.96
CID #2	\$ 17,966.96
YTD	\$182,566.96

Consent Agenda

It was moved by Commissioner Harter, seconded by Commissioner Giefer that the Consent Agenda listed below be ratified as a whole:

- a. Approve minutes of the Regular Meeting held on November 1, 2023.

The vote follows: Commissioner Harter, aye; Commissioner Giefer, aye; Commissioner Harter, aye; Commissioner Sauder, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

**CITY COMMISSION
(City Manager's Report)**

This is an opportunity for the City Manager to present information to the public that may not be reported in other news accounts or City activities or to highlight accomplishments of the organization.

At the time this Agenda was prepared, the following items were in the works:

TENTATIVE AGENDA FOR DECEMBER 6, 2023, MEETING.

- Boundary Resolution.
- Award Sunset Lake.

Study Session:

- Discuss Utility Funds.
- Discuss Updates of City Park Rules.
- Discuss Approval of the New Bandstand in Fremont Park.
- Discussion Implementation of Rental registration and revisions of the current vacant property ordinance.
- Review RFQ for Water Treatment Plant Analysis.

**CITY COMMISSION
(Public Comment)**

This is the time for the Mayor and City Commissioners to make comments and reports to the public.

EXECUTIVE SESSION

Commissioner Harter made a motion to recess into Executive Session for consultation with the City Attorney regarding a legal matter resuming the open meeting in the City Commission Meeting Room, this same date, at 12:00 p.m. and inviting Tayler Wash, Special Projects Director and Dean Grant, Public Works Director. Commissioner Giefer seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Giefer, aye; Commissioner Sauder, aye; Commissioner Smith, aye; and Mayor Brinkman, aye.

Upon reconvening the meeting in Regular Session, at 12:00 p.m., this same date in the City Commission Meeting Room, Mayor Brinkman stated they had consultation with the City Attorney regarding a legal matter and no action was taken.

Commissioner Harter made a motion to recess the meeting until 12:20 p.m. to Conference Room 1AB. Commissioner Smith seconded the motion. The vote follows:

Commissioner Harter, aye Commissioner Smith, aye; Commissioner Giefer, aye; and Mayor Brinkman, aye.

The following items were discussed at Study Session:

1. Emporia REC Commission Presentation.
2. Discuss the Process of ERP.
3. Discuss Quaker Park.

Commissioner Giefer then made a motion to adjourn. Commissioner Smith seconded the motion. The vote follows: Commissioner Giefer, aye; Commissioner Smith, aye; Commissioner Harter, aye; Commissioner Sauder, aye; and Mayor Brinkman, aye.


Susan Brinkman, Mayor

ATTEST:


Kerry Sull, City Clerk

