



## PLANNING COMMISSION MEETING

City Hall – 131 N Main St

April 22, 2024 at 7:00 PM

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### AGENDA

#### CALL TO ORDER

#### ROLL CALL

B. Albers\_\_\_, Beavers\_\_\_, Block\_\_\_, Grandy\_\_\_, Henson\_\_\_, Ingram\_\_\_, Miller\_\_\_,  
Olthoff\_\_\_, Rich\_\_\_, Runnells\_\_\_, Scott\_\_\_, Williams\_\_\_,

#### OTHERS PRESENT

#### AGENDA ADDITIONS

#### APPROVAL OF MINUTES

1. Approval of Planning Commission Minutes from June 12, 2023 meeting.

#### CITIZEN COMMENTS

#### OLD BUSINESS

#### NEW BUSINESS

- 2. OATH OF OFFICE**

Swearing in of new Planning Commission members Nate Miller and Paul J Beavers.

#### Business Items

#### Open Public Hearing

- 3. PUBLIC HEARING REGARDING APPLICATION FOR SPECIAL USE PERMIT FOR 330 N MAIN**

The City of Cheney has received a Special Use permit request from Farm Supply LLC for property owned by Monte Viner. The legal description is as follows: Lot 1, 2, 3, Block 19, City of Cheney Blocks 1-36, City of Cheney, Sedgwick County, Kansas, also known at 330 N Main, Cheney, Kansas. The property is currently zoned C2-Planned Commercial Office and Retail district.

Farm Supply LLC wishes to relocate their propane fill station to 330 N Main. The fill station will set outside approximately 25' south of the Farm Supply building and approximately 18' west of the alley. Current use of the property is for Farm Supply Retail store and the propane fill station will be used by Farm Supply employees to fill propane bottles. The proposed use would necessitate the setting of a 1,000-gallon propane tank and equipment in an area approximately 21' long x 42" to fill the small bottles. The unit will have a locking cabinet to prevent unauthorized operations and a barrier. The fill station will be relocated from its current location along the alley at 117 N Jefferson.

### Consideration

#### 4. **RECOMMENDATION TO THE CITY COUNCIL ON SPECIAL USE AT 330 N MAIN**

Discussion by Planning Commission.

Motion for a recommendation to the City Council to accept/decline the Special Use Permit at 330 N Main.

### ADJOURN



## PLANNING COMMISSION

City Hall – 131 N Main St

June 12, 2023 at 7:00 PM

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### MINUTES

**CALL TO ORDER-** Called to order by Danielle Young at 7:00 pm

#### **ROLL CALL**

Present: Planning Commission members Bret Albers, Melanie Block, Tyler Cramer, Melissa Olthoff, Kyle Grandy, Ryan Ingram, Deanna Williams. Administrator Danielle Young.

**OTHERS PRESENT-** Linda Krueger and Jim Krueger

#### **AGENDA ADDITIONS**

#### **APPROVAL OF MINUTES**

There was not a quorum present of active planning commission members to approve the October 10, 2022 minutes.

**CITIZEN COMMENTS-** none

**OLD BUSINESS-** none

#### **NEW BUSINESS**

OATH OF OFFICE FOR NEWLY APPOINTED MEMBERS - Ryan Ingram, Kyle Grandy

#### **Business Items**

#### **ELECTION OF OFFICERS**

Officers of the Commission shall be elected at the first regular meeting following the first of May.

Commissioner Melanie Block moved to appoint Bret Albers as Chairman.  
Commissioner Deanna Williams seconded the motion. Motion carried 7-0.

Commissioner Tyler Cramer moved to appoint Melissa Olthoff as Vice Chairman.  
Commissioner Melanie Block seconded the motion. Motion carried 7-0.

Commissioner Tyler Cramer moved to appoint Danielle Young as Secretary.  
Commissioner Melissa Olthoff seconded the motion. Motion carried 7-0.

#### **Open Public Hearing**

**PUBLIC HEARING TO CONSIDER VARIANCE APPLICATION AT 205 E 4th AVE TO BUILD A SUNROOM WITHIN 20' REAR YARD SETBACK**

Property owner, Linda Krueger, 205 E 4th Ave has requested to build a 10' x 12' attached sunroom on the south side of her house. The addition will be 13' from the rear (south) property line. A variance is required for the addition to be built because the addition will encroach into the required 20' rear yard setback. The property qualifies to apply for a variance because the lot size is 64'5" x 76' and does not meet the minimum lot size of R4 Zoning of 70' x 120'.

Linda Krueger addressed the commission and stated she has always wanted a sunroom because she enjoys sitting with her cat. She likes sunrooms and this is the first time she's lived somewhere where she thought she could have one.

Commissioner Olthhoff asked if the sunroom would have any exits off the backside or if it was just a room with no exits? Krueger stated it would have a backdoor. There will also be windows and screen. Olthhoff asked if the staircase would be off the back or side. It was stated off the side.

Commissioner Block asked if there were any concerns for the neighbors. Krueger said no.

Commissioner Grandy asked if there was a fenced back yard. Krueger said there is a privacy fence on two sides and a chainlink along the alley, but Krueger would like to change the chainlink to a privacy fence. It was clarified that the alley is along the east side of the property.

Administrator Young showed the aerial GIS map on the tv screen for 205 E. 4<sup>th</sup>. Young explained the property has the alley on the east side, so the property to the south is adjacent to her rear yard property line. The rear yard setback is to be 20'. The original lot of 205 E 4<sup>th</sup> used to be 140' x 100'. The building permit was pulled in 1997 and the duplex was built and had a 47' rear yard. After it was built, they sold off 24' of their rear yard to the property owner to the south. According to the layout, she has a 23' rear yard from edge of house to property line. Krueger would like to come out 10' from her house, so it's encroaching into the rear yard.

Administrator Young brought up that this is similar to another variance the planning commission considered last year on Nic Hillman's property. That variance was granted. It is a little different, but in reality, Hillman requested a variance on his property, which also set on a corner. He had asked to build an attached garage. He had enough room in his sideyard, but he wanted to build it in his rear yard (south). He had 24' and with the addition, it would only leave 14' rear yard. It was discussed at that meeting, that technically since the house was on a corner lot and if the house had faced Marshall Street instead of 5<sup>th</sup> Ave, the house could have been 6' from the south property line for the side yard.

Young stated that Krueger's property is unique in that the lot was once large enough, but then a lot split was done down the middle of the duplex and then they sold off 24' to the south. This is nothing Krueger did, but she purchased the property afterwards and now wants to build a sunroom.

Young mentioned that when the Commission considered Hillman's variance they had looked at other houses in the area and if they all met rear yard setbacks and had adequate setbacks. Young showed on the map that there are houses in the area where houses do not have required rear yard setbacks, such as the house on the opposite corner of the block from Krueger. There were also properties along 3<sup>rd</sup> Ave that do not have rear yards.

Chair Albers asked if that was due to a result of zoning not being in place. Young stated that the City's zoning codes were adopted in 2006. Young looked back at the municipal code. There was a setback of 20' as well, but according to the layout that was presented for the sunroom, it does not show the front yard setback meets what would have been required at the time the building permit was pulled. Young was not sure why it was not built to the setbacks at that time and only shows an 18' front yard.

Commissioner Williams asked about any utilities that might need to be moved. Krueger stated that they just found out this week that the other duplex runs diagonal across Krueger's back yard. The line is really close to where a footing might go, so the contractor will have to come out and look at it. Krueger wasn't sure why it ran across her back yard. Young stated she had discussed it with Krueger and there does not appear to be an easement across Krueger's property for the gas line. Young stated that the gas line placement shouldn't affect the variance, but if the variance is approved, she will have to figure out if it will need to be moved.

Commissioner Cramer asked if the sunroom would cover the current patio? Krueger stated yes. Cramer asked if it would go out past the patio. Krueger said originally it was going to because she wanted a 10'x13', but it cost too much. Jim Krueger stated that the existing patio is 10x10, so the sunroom would go 10' back (to south) and 12' over. Chair Albers clarified that the sunroom would go 2' further to the east.

Krueger stated she's using Champion as her contractor. Commissioner Block asked about contractor dealing with gas line and if they'd move it or adjust what she's doing. Krueger said more than likely move the line to go out further and doesn't plan to make adjustments to the building. Krueger stated they're not sure it will even be a problem. Williams asked if they'll leave the pad and Krueger stated at one time they talked about removing it. If putting footings down, they'll have to remove partial, or remove.

Commissioner Cramer asked if they had a picture of what the structure will look like. Young had the planning commission refer to the site drawing. Krueger said he was looking for a picture of what it looks like from the exterior. Cramer was picturing a wood structure that would match the house. Krueger said it would be aluminum clad with solid windows with panels across the bottom. Young showed a similar picture from online. Young asked if it would tie into the roofline of the house or if it would be a separate roof. Krueger said it would be a metal roof and not shingled.

Young went off what Block asked earlier, Young asked if Krueger would be interested if they determine the gas line is in the way and needs to be moved and if the contractor determines instead of moving gas line, to shift the sunroom over a couple feet? Young said if the commission approves the variance as its laid out, or they could approve it to come out 10', but they might not care how its' situated along the back of your house. Albers said they're deciding if it's going to go into the setback and it can sit wherever along the house. Young didn't want to put Krueger in a bind and require a second meeting if they wanted to shift the sunroom east or west. Krueger stated that as it looks now the gas line is 1' away and cuts across at a diagonal to another corner. Krueger didn't know how to shift it down, since the gas line might still be in the way. Krueger thought she might have to cut down 1.5' of the size to clear the gas line. Olthoff asked if it could be shifted to the alley. Krueger didn't believe so. Young stated the city didn't allow structures to be built over gas lines. Krueger said she was willing to deal with the gas line and isn't happy about it, but if the variances passes, she's willing to do what she needs to.

Commissioner Williams asked if she had talked to the gas company. Young stated the City is the gas company. Williams asked about cost and Young said once it was determined if the gas line needs to be moved, the city would determine a cost. Young stated she only asked the question because she didn't want a second meeting to be called if she was going to have to shift the sunroom over.

Commissioner Cramer asked about the warranty on the product to make sure it was a quality product.

Chair Albers closed the public hearing at 7:23 pm.

### **CONSIDERATION OF VARIANCE FOR 205 EAST 4TH AVE**

Chair Albers reviewed Zoning Code 5.33, which states a Variance can be granted if the following conditions are met:

1. That the variance requested arises from such condition which is unique to the property in question, is not ordinarily found in the same zone or district and is not created by an action or actions of the property owner or the applicant. The commission felt Linda Krueger did not create the setback problem.
2. That the granting of the variance will not adversely affect the rights of adjacent property owners or residents. The commission discussed a privacy fence between the two duplexes, and a chain link fence along the alley that she hopes to make a privacy fence. There is also a sunroom built on the back of the property east of the alley.
3. That the strict application of the provisions of this ordinance would constitute unnecessary hardship upon the property owner represented in the application. The commission discussed the definition of unwarranted hardship from the code book is a complete deprivation of use as distinguished from a mere inconvenience.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The commission did not think it would adversely affect anything.
5. That granting the variance will not be opposed to the general spirit and intent of this ordinances. The commission discussed that the building will still be built with approval of a building permit, it just won't meet the setback.

Commissioner Olthoff moved to approve the variance with a stipulation of if they need to shift the sunroom along the house due to the gas line. Motion was discussed regarding placement of existing gas line. Olthoff modified her motion to approve the variance for the building to extend 10' away from structure which would be in the 20' setback with the 12' width being anywhere east or westerly along back side of property determined by homeowner.

Motion made by Commissioner Melissa Olthoff, Seconded Tyler Cramer. Motion carried 7-0.

### **ADJOURN**

Motion to adjourn the meeting at 7:32 pm.

Motion made by commissioner Melissa Olthoff, Seconded by Melanie Block.

Motion carried 7-0.



Attest:

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Bret Albers, Chair

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Danielle Young, Secretary



**P.O. Box 1 • 131 N. Main • Cheney, KS 67025-0997 • (316) 542-3622 • Fax (316) 542-0185**

March 26, 2024

Dear Property Owner:

Notice of Public Hearing to Property Owners within 200 Feet of Lots 1,2,3, Block 19, City of Cheney Blocks 1-36, Sedgwick County, Kansas.

The City of Cheney has received a Special Use permit request from Farm Supply LLC for property owned by Monte Viner. The legal description is as follows: Lot 1, 2, 3, Block 19, City of Cheney Blocks 1-36, City of Cheney, Sedgwick County, Kansas, also known at 330 N Main, Cheney, Kansas. The property is currently zoned C2-Planned Commercial Office and Retail district.

Farm Supply LLC wishes to relocate their propane fill station to 330 N Main. The fill station will set outside approximately 25' south of the Farm Supply building and approximately 18' west of the alley. Current use of the property is for Farm Supply Retail store and the propane fill station will be used by Farm Supply employees to fill propane bottles. The proposed use would necessitate the setting of a 1,000-gallon propane tank and equipment in an area approximately 21' long x 42" to fill the small bottles. The unit will have a locking cabinet to prevent unauthorized operations and a barrier. The fill station will be relocated from its current location along the alley at 117 N Jefferson.

The Planning Commission is responsible for holding a public hearing and making a recommendation to the City of Cheney Governing Body on whether to approve the Special Use Permit application.

A public meeting will be held at the Cheney Planning Commission meeting on April 22nd, 2024 at 7:00 p.m. in City Hall regarding the special use permit. You are invited to attend the public hearing at which time the Planning Commission will hear comments from the public. Written comments may be submitted to City Hall until 1:00 p.m., April 22nd, 2024 which will be read into the record.

Following a decision by the City of Cheney Planning Commission on this application, the owners of property located within 200 feet of the property may submit a protest petition, in conformance with the City of Cheney Zoning Code, filed with the City Clerk within fourteen (14) days after the date of the conclusion of the public hearing.

If you have questions or would like additional information, feel free to contact City Hall.

Sincerely,

Danielle Young  
City Administrator/Clerk  
Planning Commission Secretary

Enclosures





Existing Propane Fill Station located at 117 Jefferson to be moved to 330 N Main



## Staff Report- 330 N Main- Propane Fill Station- Special Use Permit

### 5.15 Criteria For Considering Applications

In considering any application for rezoning or a special use permit, the Planning Commission and the Governing Body may give consideration to the criteria stated below; to the extent they are pertinent to the particular application. In addition, the Planning Commission and Governing Body may consider other factors which may be relevant to a particular application:

1. The conformance of the proposed use to the Comprehensive Plan and other adopted planning documents and policies.
2. The character of the neighborhood including, but not limited to: land use, zoning, density (residential), architectural style, building materials, height, structural mass, sitting, open space and floor-to-area ratio (commercial and industrial).
3. The zoning and uses of nearby properties and the extent to which the proposed use would be in harmony with such zoning and uses.
4. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.
5. The length of time the property has remained vacant as zoned.
6. The extent to which approval of the application would detrimentally affect nearby properties.
7. The extent to which the proposed use would substantially harm the value of nearby properties.
8. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.
9. The extent to which the proposed use would create excessive air pollution, water pollution, noise pollution or other environmental harm.
10. The economic impact of the proposed use on the community.
11. The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.
12. The recommendation of professional staff.

Current land use is C-2 (Planned Commercial Office and Retail District) and owned by Monte T Viner. The property is currently used as commercial retail and the special use of the propane fill station is directly related to the commercial retail use of the property. The Zoning Code states the intent of C-2 zoning is to provide for development of a variety of general commercial uses. Limited outside storage and display of merchandise is permitted in these districts as is necessary to the principal use.

The property is located along Main Street. The fill station will be located towards the alley at the back of the property. Adjacent property use/zoning: West: C-2 being used as Residential with Special Use Permit for commercial storage shed South: C-2 Planned Commercial: Retail Service business, North: C-2 Planned Commercial: Retail business East: Vacant C-2 Planned Commercial lot

Applicant is requesting to relocated the propane fill station that is currently located at 117 N Jefferson. The current location is also zoned C-2 Planned Commercial and is operated under a Special Use Permit approved in 2016. The Special Use in 2016 was highly discussed by the Planning Commission, City Council and concerned neighbors regarding the potential propane smell, safety, and if it fit in the character of the neighborhood. The city has not received any complaints on the smell or for other issues/concerns of the propane fill station at the current location. Fence screening was required to be installed at the current location to shield it from residential view.

The applicant estimates that the propane tank will be filled via a propane truck monthly. The truck will access the fill station via Main Street/alley. They do not foresee any issues with the truck having alley access. The fill station will be used solely by Farm Supply to fill the propane tanks they sell. Barricades will be placed around the fill station to protect it from being hit by a vehicle. The site will be inspected by the State Fire Marshall's office. The applicant has also been in contact with the State Fire Marshall's office and applied for the propane fill station, meeting requirements set forth by the State Fire Marshall's office.

Staff recommends the Planning Commission to discuss and consider stipulations on the Special Use such as,

- Inspections by the State Fire Marshall's office be sent to the city for review
- A lockable cabinet to secure the dispenser and valves be used to prevent unauthorized operation of equipment when not in use.
- Traffic barricades be installed to protect from vehicular damage.
- Meet setback and other requirements set by State Fire Marshall's office
- Utilize an Overfill Prevention Device on all vertical cylinders.
- Refill cylinders that bear a manufacture date within 12 years of the date present, or bear a new date followed by the letter "E". This date means that the cylinder is qualified for an additional 5 years.
- Cylinders must be equipped with collar and foot ring that are in good condition.

**Comprehensive Plan Goals and Objectives up for Consideration:**

Goal: Enhance the aesthetic quality of Cheney's Main Street and local businesses

"Increase the attractiveness of Main Street with trees, building improvements, signs and general attractiveness"

"Invest in a revitalization program to encourage owners of commercial property to invest in the maintenance and upgrading of their properties"

"Construct and renovate businesses with durable materials, such as brick, creating visual continuity within the district"

Goal: Increase opportunities for business growth, expansion and job provision

"Develop vacant lots along Main Street with businesses that are needed in the community"

"Encourage opportunities for new and existing businesses through infrastructure, revitalization programs and economic development policies."

82% of survey respondents stated they would like to see more businesses on Main Street and noted they would like to see a restaurant, medical doctor, clothing store, and motel

"Any commercial development in growth areas needs to be weighted in light of the desire to have a strong commercial Main Street and Downtown."

"It is critical to maximize the use of what already exists by promoting the infill of existing lots that are available for residential and commercial development. Secondly, but just as important, the systems must have expansion capability that supports new growth in a logical manner."

"Any future commercial development in growth areas needs to be weighted in light of the desire to have a strong commercial Main Street and Downtown."

"Commercial Main Street- In this area the reflection of community values is critical. Downtown Cheney is the one place where Main Street character is unique and important. As with the commercial mixed-use

areas, the Main Street area is focused on supporting a mixture of commercial retail, office, and residential uses. The framework for such future development includes on-street parking, zero setback, one to three story buildings, use of masonry materials and shared off-street parking behind buildings or centrally located within the block. Commercial retail activity should be focused on the first floor of buildings with office and residential located on upper floors. The commercial Main Street should be an active destination for daily shopping and entertainment, as well as community events.”

### **5.13 Consideration Of Zoning Text Amendments, Rezoning And Special Use Permits**

1. Public hearing required: Consideration of zoning text amendments, rezoning and special use permits shall require a public hearing before the Planning Commission following a publication notice.
2. Action by Planning Commission: A vote either for or against a zoning text amendment, rezoning or special use permit by a majority of all of the Planning Commissioners present and voting shall constitute a recommendation of the Planning Commission. A tie vote, or the failure to obtain a majority vote of the Planning Commission on any motion, shall be deemed to be a recommendation of disapproval. The Planning Commission's recommendation to approve or disapprove shall be submitted to the Governing Body for action, accompanied by an accurate written summary of the hearing proceedings. A recommendation to approve a zoning text amendment shall be submitted in the form of an ordinance.
3. Governing Body action upon Planning Commission recommendation of a zoning text amendment, rezoning or special use permit: The Governing Body may either (1) approve such recommendations by the adoption of the same by ordinance or resolution; (2) override the Planning Commission's recommendation by a majority vote of the membership of the Governing Body; or (3) may return the same to the Planning Commission for further consideration, together with a statement specifying the basis for the Governing Body's failure to approve or disapprove.
4. Applications returned to Planning Commission: Upon receipt of an application returned by the Governing Body, the Planning Commission may resubmit its original recommendation giving the reasons therefore or submit a new or amended recommendation. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after the receipt of the Governing Body's report, the Governing Body may consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.
5. Reconsideration by Governing Body: Upon receipt of the Planning Commission's recommendation after reconsideration, the Governing Body may take such action as it deems appropriate, including approval, disapproval or amendment of the application and adoption as amended.