

MINUTES OF MEETING

ZONING AND PLANNING COMMISSION

CITY OF LADUE, ST. LOUIS COUNTY, MISSOURI

WEDNESDAY, MAY 24, 2017, 4:00 P.M.

Chairman Moore called the meeting of the Zoning and Planning Commission to Order at 4:05 P.M. The following members were present:

- Chairman McPherson Moore
- Vice-Chair Thomas Kahn
- Commissioner Robbye Toft
- Commissioner Timothy Crowley
- Commissioner John Lochhead
- Commissioner Maggie Holtman

Also present were City Attorney Erin Seele, Building Official Will Penney, City Planner Andrea Sukanek, and Director of Public Works Anne Lamitola. Mayor Nancy Spewak and Councilman John Fox were also present.

Chairman Moore introduced himself and announced some basic procedures for the meeting.

APPROVAL OF MINUTES

Chairman Moore stated there was one set of minutes to approve from the March 22, 2017 meeting of the commission. Commissioner Lochhead moved to approve the minutes as written and the motion was seconded by Commissioner Toft. All those present were in favor and the meeting minutes were approved.

PUBLIC FORUM

Chairman Moore asked if anyone from the audience would like to approach the commission about non-agenda items. Ray Potter, 13 Midpark Lane, came forward and inquired about the status of the storm water regulations that were recommended for approval by the Zoning and Planning Commission. City Planner Andrea Sukanek stated that the recommendations were approved by ordinance at the March 27, 2017 City Council meeting.

ZPC 17-01

Proposed text amendment to Zoning Ordinance (#1175) regarding certain commercial uses, as follows: Prohibit drive-through facilities in the City of Ladue, with the exception that financial institutions may obtain a drive-through with a Special Use Permit in the "G" Commercial District. Amendment would modify Sections II, VII, and XIV of the Zoning Ordinance. Proposed text amendment would also require a Special Use Permit for the non-residential developments that would exceed 7,500 square feet of floor area within a building.

Chairman Moore called on Andrea Sukanek, City Planner, for the presentation of this petition to the Commission. Ms. Sukanek stated that drive-through businesses are currently permitted by Special Use Permit. She stated that this portion of the zoning code has been reviewed and City staff is recommending that drive-through businesses, except for Financial Institutions offering mobile banking, be prohibited. Ms. Sukanek described the proposed text amendments which includes establishing definitions for 'Drive-through Facilities', 'Drive-through auto washing facilities', 'financial institution', and 'service station'. Ms. Sukanek stated that this text amendment proposes to add drive-through facilities to the list of expressly prohibited uses, but to allow Financial Institutions offering mobile bank as a use that would require a Special Use Permit.

Commissioner Holtman inquired about potential conflicts that could arise by permitting one type of business to obtain a Special Use Permit while prohibiting all others. City Attorney Erin Seele stated that the language as proposed will not be considered discriminatory toward businesses that are non-financial institutions.

Commissioner Crowley stated that he does not believe that drive-through facilities should be wholly prohibited. He noted the requirement that is currently in place for drive-through facilities which requires capacity on-site for twenty vehicles to queue.

Commissioner Toft stated that there is an existing dry cleaning business in Ladue that has a drive-through. She stated that should another dry cleaner would come forward then it would be prohibited by the proposed ordinance.

Mayor Spewak stated that historically, members of the Ladue community have not wanted to have businesses with drive-through facilities located in Ladue as they are not compatible with the aesthetics of the community or the types of businesses that are preferred for Ladue.

Commissioner Holtman stated that a business such as Walgreens may want to open a store in Ladue and based on her observations, never have twenty cars queuing for the pharmacy drive-through. Commissioner Crowley concurred with Commissioner Holtman.

Ms. Sukanek stated that the second portion of the petition is to establish a requirement that any new non-residential development with more than 7500 square feet would require a Special Use Permit.

Commissioner Toft inquired about what prompted this petition. Ms. Sukanek stated that that currently the zoning code would allow for developments of this size to be permitted administratively if the use is approved and the zoning requirements are met. She added that there would not be a formal public zoning process for such developments. She stated that the Special Use Permit process includes an in-depth review of seven factors as well as a Public Hearing to obtain feedback from the public.

Commissioner Lochhead, Commissioner Holtman, and Commissioner Crowley stated that the City needs to be more business friendly.

Commissioner Toft pointed out several types of larger businesses that currently would not need a Special Use Permit.

Commissioner Crowley stated that he supports the requirement for a Special Use Permit for non-residential uses that exceed 7500 square feet, but that he does not support prohibiting drive-through businesses.

Commissioner Holtman made a motion to recommend approval of the portion of the proposed text amendment that requires a Special Use Permit for non-residential developments that would exceed 7,500 square feet of floor area within a building and Commissioner Toft seconded the motion.

The vote was as follows:

Chairman McPherson Moore – “aye”

Vice-Chair Thomas Kahn – “aye”

Commissioner Toft – “aye”

Commissioner Crowley – “aye”

Commissioner Lochhead – “aye”

Commissioner Holtman – “aye”

There were six (6) “ayes” and zero (0) “nays”. The motion was approved.

A discussion ensued regarding drive-through facilities. A suggestion was made to create a specific list of prohibited businesses in lieu of prohibiting all drive-through facilities. City Attorney Erin Seele stated that the amendment as proposed is the best approach to prohibit these types of facilities in lieu of listing various businesses because it is more legally defensible.

Commissioner Crowley stated that he is aware that certain new businesses want to come to the City of Ladue and that this amendment could preclude commerce. He did note the impacts of increased sales tax from new businesses that could help alleviate the General Fund deficit budget.

Commissioner Holtman stated that she does not want to prohibit opportunities for development and that the Commissioners should be allowed to evaluate various proposals.

Commissioner Kahn stated that a compromise could be considered to allow drive-through facilities in certain areas of the City. Ms. Sukanek stated that she is evaluating establishment of two different commercial zoning districts for the community to allow for increased flexibility in certain areas within Ladue and that Commissioner Kahn’s suggestion could be incorporated into her proposal.

Commissioner Toft stated that quick fixes to financial deficits should not be employed as they can negatively impact that long-term character of the neighborhoods and community.

Mayor Spewak added that the Zoning & Planning Commission can be provided with a breakdown of the various revenue sources to gain a better understanding of the impacts of new development to the overall revenue for the City.

Commissioner Kahn made a motion to table this matter and Commissioner Holtman seconded the motion.

The vote was as follows:

Chairman McPherson Moore – “aye”

Vice-Chair Thomas Kahn – “aye”

Commissioner Toft – “aye”

Commissioner Crowley – “aye”

Commissioner Lochhead – “aye”

Commissioner Holtman – “aye”

There were six (6) “ayes” and zero (0) “nays”. The motion was tabled.

ZPC 17-02

Request for a Special Use Permit for a new 10,205 sq. ft. gymnasium. Proposed gymnasium will be located at 10094 Litzsinger Road, on the Litzsinger School Property in the “A” Residential Zoning District.

Chairman Moore asked for a representative from Litzsinger School to come forward and Steven Quigley from Clayton Engineering, project engineer, came forward. He provided an overview of the project for the Commission that includes an approximate 10,000 gymnasium addition to be located in the southwest portion of the property as well as a new secure vestibule along the north elevation. Mr. Quigley stated that the school proposes to utilize the same brick color as the existing school to ensure that the addition properly blends with the existing school.

Mr. Quigley stated that a 20-foot driveway is proposed to access the rear of the building which has been requested by the Fire Marshall.

Commissioner Toft inquired about landscaping modifications associated with the proposed project. Mr. Quigley reviewed the landscaping plan with the Commissioners which includes a landscape area along the eastern property line. The landscape material will be located to soften the privacy fence that has been proposed.

Mr. Paul Lux, 10088 Litzsinger Road, came forward. He stated that he lives adjacent to Litzsinger School off Rolling Hills Lane. He inquired if there are setbacks for driveways or access roads. City Attorney Erin Seele stated that there are no setbacks for access roads. He inquired whether the construction access could be relocated to the west side of the property in lieu of the east side of the property. Mr. Quigley stated it would not be possible to access the construction area from the west due to steep topography and impacts to the playground which will continue to be utilized during construction.

A discussion ensued regarding impacts of the construction project to the residential properties to the east. Mr. Quigley stated that a new site-proof fence will be installed along the eastern portion of the project and that extensive landscaping will be planted east of the new fence.

Commissioner Toft inquired whether the permanent fence could be installed at the beginning of construction in lieu of at the end of construction. Chairman Moore asked whether they could also install the landscaping at the beginning of construction. Mr. Quigley agreed to both of these requests.

Dr. Lux, 10088 Litzsinger Road, requested that an eight-foot high fence be installed in lieu of the proposed six-foot fence and added that he would prefer it be shortened 35 feet from Litzsinger Road. He also requested that Litzsinger School only perform work on their property and noted that previously, they removed vegetation on his property without permission. Ms. Seele stated that a variance would be needed for a fence that exceeds six feet. Ms. Sukanek added that the proposed vinyl fence material will also require a variance.

Commissioner Toft inquired about whether the City requires an escrow for projects such as this one to ensure potential damages are rectified prior to finalization of the permit. Building Official Will Penney stated that the City does require an escrow for construction projects such as the proposed gymnasium addition.

Commissioner Toft made a motion to recommend approval to City Council for the Special Use Permit for a new 10,205 sq. ft. gymnasium, located at 10094 Litzsinger Road, on the Litzsinger School Property in the "A" Residential Zoning District with the following conditions:

- all conditions proposed by City Planner Andrea Sukanek in the staff report as provided in the packet and in addition be applied
- installation of an eight-foot vinyl fence in lieu of the proposed six-foot vinyl fence; subject to approval by Zoning Board of Adjustment for the height and material
- shortening of the proposed fence by 35 feet from Litzsinger Road
- installation of the privacy fence and landscaping at the beginning of construction
- construction work or deliveries shall not begin prior to 7:00 am or after 4 pm, Monday - Friday.

Commissioner Lochhead seconded the motion.

The vote was as follows:

Chairman McPherson Moore – "aye"

Vice-Chair Thomas Kahn – "aye"

Commissioner Toft – "aye"

Commissioner Crowley – "aye"

Commissioner Lochhead – "aye"

Commissioner Holtman – "aye"

There were six (6) "ayes" and zero (0) "nays". The motion was approved.

ZPC 17-03

Proposed text amendment to Zoning Ordinance (#1175) for the addition of requirements for Special Events to include an Administrative Permit for a promotional event (sidewalk sale).

Chairman Moore called on Andrea Sukanek, City Planner, for the presentation of this petition to the Commission. Ms. Sukanek explained that Special Events procedures and Temporary Outdoor Display of Merchandise have been proposed for approval.

Commissioner Kahn asked if applicants for large events would have to come before the Zoning and Planning Commission and Ms. Sukanek stated that for Special Events, they would be required to come before the Commission for the Special Use Permit.

Ms. Sukanek explained that the Temporary Outdoor Display of Merchandise has been modified from what was originally included in the informational packet in an attempt to simplify the proposed requirements.

Commissioner Toft asked about applicability of these requirements for events on private residential properties and Ms. Sukanek stated that private residences are exempt.

Commissioner Toft asked about whether issues have come up with special events or outdoor displays of merchandise which prompted the proposed text amendment. Mayor Spewak provided background information on the text amendment stating that events such as sidewalk sales are not currently allowed but the City receives inquiries about such events and that the City is aware these types of events do occur. Mayor Spewak stated that the intention of the City is to allow flexibility for businesses who wish to have special sale events, but to adopt a process that sets up parameters for such events.

A discussion ensued amongst the Commissioners regarding events and outdoor sales promotions that are currently held by businesses. Various suggestions were voiced regarding parameters such as establishing approval methods for outdoor displays of merchandise administratively or by outlining specific requirements by ordinance for allowable displays of merchandise.

Mr. Frank Blair, owner of Schnarr's located at 9800 Clayton Road, came forward. He stated that the brick and mortar businesses face numerous challenges, particularly due to increased online sales. He stated that special events are a method utilized to bring in additional customers and that too many controls on special events could deter businesses from holding such events. He stated that he owns a business in Webster Groves and that no formal applications have been required for events, many of which are organized by the local chamber of commerce. Mr. Blair stressed the need for a balance between the needs of the residents and the needs of the businesses. Commissioner Kahn asked Mr. Blair if there have been issues with inappropriate displays of merchandise in the Clayton Road business district and he responded that there have been very few issues.

Mr. Ray Potter, 13 Midpark, asked if there will be requirements to ensure that there will not be any negative impacts to traffic flow associated with outdoor displays of merchandise and

Ms. Sukanek stated that the requirements for outdoor displays of merchandise do address traffic impacts.

Mr. Blair stated that he is involved with the Ladue Street Fest committee and requested that the new requirements for major Special Events be recommended for approval.

Commissioner Lochhead asked if the Street Festival is City sponsored and Mayor Spewak stated that it was. Mayor Spewak stated that for 2017, it will take the place of the Dogwood Festival.

Commissioner Toft asked if Special Event approvals could be approved administratively in lieu of being reviewed by the Zoning & Planning commission and City Council.

Commissioner Holtman stated that the requirements for outdoor displays of merchandise should be pared down significantly to not hinder the ability of businesses to hold sales events.

Commissioner Toft asked if this matter could be delayed.

Mayor Spewak stated that the recommendation for approval is needed for Special Events in order to move forward with the City's event. Commissioner Lochhead stated that the ordinance reads that the City is exempt from obtaining a Special Use Permit. City Attorney Erin Seele stated that currently, Special Events are not allowed by ordinance and therefore the City would not be in compliance with the Code of Ordinances if it held such an event.

Commissioner Holtman asked if the text amendment could be broken up to allow for action to be taken on the Special Events requirements, and to delay action on the temporary outdoor display of merchandise.

Susan Gausnell, Chairman of the Ladue Street Fest event, came forward and provided background information about the proposed event and requested approval of the Special Events portion of the text amendment.

The Commission discussed some minor modifications to Section I and III of the document and proposed the following amendments;

- 1) Section I, Special Event definition, take out 'live' for music description
- 2) Section I, Special Event definition, change vendor sales to 'multiple' vendor sales
- 3) Section I, Special Event definition, ensure that the permit is needed for any of the activities listed
- 4) Section I(A)5, replace 'i.e.' with 'for example'
- 5) Section I(A)11b, replace the second word 'not' with the word 'nor'
- 6) Section III, 1, bullet point 4, items listed should mirror events listed in the Special Events definition in Section I
- 7) Section III, 1 bullet point 3, change both occurrences of the word 'nor' with the word 'or'

Commissioner Holtman made a motion to recommend approval of Sections I and III of the proposed text amendments as modified and that Section II be tabled. Commissioner Toft seconded the motion.

The vote was as follows:

Chairman McPherson Moore – “aye”

Vice-Chair Thomas Kahn – “aye”

Commissioner Toft – “aye”

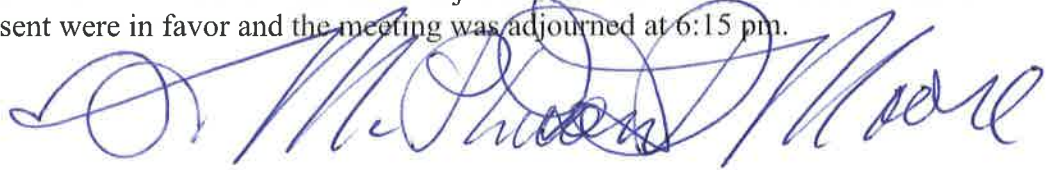
Commissioner Crowley – “aye”

Commissioner Lochhead – “aye”

Commissioner Holtman – “aye”

There were six (6) “ayes” and zero (0) “nays”. The motion to recommend approval of Sections I and II as amended and to table Section II was approved.

Chairman Moore announced that the next meeting was scheduled for June 28, 2017 at 4:00 pm. Commissioner Holtman made a motion to adjourn and Commissioner Kahn seconded the motion. All present were in favor and the meeting was adjourned at 6:15 pm.



Chairman McPherson Moore