

**BEFORE THE CITY COUNCIL  
FOR THE CITY OF LEE'S SUMMIT, MISSOURI**

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IN RE PROPERTY ADDRESSED AS	)	
6 SW3RD STREET, LEE'S SUMMIT, MISSOURI	)	
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	)	
APPLICANTS VERITASI DESIGN & BUILD, SHANE	)	
VERITASI AND THE RECORD OWNER WORLEY	)	
REAL ESTATE 6 SW 3RD SERIES LLC, TIMOTHY	)	Case No. PRERP2017-004
HOSMANN, REGISTERED AGENT	)	
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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

On August 10, 2017, commencing at or about 9:58 pm, a hearing was held before the City Council of City of Lee's Summit, Missouri concerning the appeal of the denial of an Exterior Renovation Permit because of alleged failure to meet the City's Downtown Design Standards for the area in which the property located at 6 SW 3rd Street within the City of Lee's Summit, Missouri is located. Mayor Randall Rhoads presided over the hearing. Present for the hearing as members of the Council were Rob Binney, Diane Forte, Craig Faith, Trish Carlyle, Phyllis Edson, Diane Seif and Fred DeMoro. Councilmember David Mosby took no part in the hearing. The City appeared by counsel and staff as detailed below. The Applicant and Owner appeared in person through Shane Veritasi, an applicant. Jurisdiction is premised on City of Lee's Summit, Missouri Unified Development Code, Article VII, and specifically Section 7.440, Development and Renovation within the Downtown Core Area, which provides specifically for a hearing before the City Council in the event the Director of Planning and Development denies an application for an Exterior Renovation Permit.

Following the commencement of the hearing all parties in attendance were given a full and fair opportunity to present evidence and cross-examine the evidence of other parties.

Following the presentation of evidence, testimony of witnesses and review of all the competent and substantial evidence presented on the record, the Council considered the matter in open session. The City Council voted on August 10, 2017, to grant the appeal and directed City Staff to prepare a decision for the Council to adopt at its next regularly scheduled meeting for that purpose. The following decision is hereby rendered and entered by the City Council:

### **FINDINGS OF FACT**

1. At issue is whether or not the applicant may place an off-white marble in two locations on the façade of the building at 6 SW 3<sup>rd</sup> street which are the bulkhead and under the transom, or may only place on off-white marble slab under the transom.

2. Exhibits 1 through 38 were admitted into evidence at the beginning of the hearing. The City prepared Exhibits 1 through 29 which included a certified copy of the City's Design Guidelines in effect during all relevant time periods for this appeal. Exhibits 30 through 38 were prepared by the Applicant.

3. Shannon McGuire, Planner for the City of Lee's Summit, and Joseph Towns, an architect, structural engineer and Vice Chair of the City's Historic Preservation Commission testified on behalf of the City's denial of the appeal. Christopher Hughey, a Project Manager for the City of Lee's Summit, testified in response to City Council questions. Shane Veritasi, a builder and renovator of buildings, testified as an applicant and in favor of the granting of the appeal.

4. Lee's Summit has a Downtown Historic District which consists of 11.4 acres, 1 contributing site, 2 contributing structures and 39 contributing buildings. Eighty-one percent of the properties within the District contribute to the significance of the Historic District.

5. The Downtown Historic District buildings were constructed between 1880 and 1955 and generally reflected the City's agricultural railroad market. Most buildings are a dark earth tone brick and are of a one or two story commercial type. A number of architectural styles

are used. The City's Downtown Historic District was listed on the National Register of Historic Places in 2005.

6. The City, through passage of Ordinance No. 7305, properly adopted design standards to promote redevelopment in structures that are complementary and consistent with the character of existing structures, fosters reinvestment in older buildings, while providing standards that show an appreciation for the elements of scale and character of the historic buildings.

7. Downtown Lee's Summit buildings were generally made of brick with metal, wood or masonry trim. The color palette was traditional earth tone brick colors and accent colors that were usually darker than the main body of the building.

8. The Applicants originally filed for an Exterior Alteration Permit to move the doorway on the building to the center and place a white marble over the entire exterior. When the Director denied the permit, the Applicants submitted a second permit request to place white marble on the bulkhead and under the transom and leave the door and most of the façade as it existed. The Director denied this permit application on July 3, 2017.

9. The Applicants filed a timely appeal of the denial of the second permit and the hearing before Council was originally scheduled to take place later that month. However, both parties agreed to a continuance to allow notice to be properly given to all interested parties and to allow for exhibits to be presented by both.

10. Shannon McGuire testified as to the nature of the District, its designation, the Design Guidelines and why staff did not believe the second proposal met those guidelines. The materials the Applicant wished to use were not earth tone brick and would detract from the historical characteristics of the building and the area. McGuire testified that the proposed material was not appropriate and did not meet the Guidelines because it was white and marble, not earth tone brick. Using Marble under the transom still allowed for the outside material to tie

into what was being installed on the interior but, as it was above eye level, it would not detract from the historic sense of this block.

11. Joseph Towns testified that white marble was not appropriate for the Lee's Summit Historic District as it had never been used as a material in Lee's Summit. Its use was in much larger buildings such as Washington DC or Chicago.

12. The Applicant Mr. Veritasi testified as to his efforts to meet the Downtown Guidelines as he is currently renovating the space to house a café within the subject property. Originally he had wanted to place marble on the entire façade and move the door creating more of a French Bistro design, but had changed his plans to be more in keeping with the historic character of the area and address City staff's concerns.

13. Mr. Veritasi testified that he was changing a non-historical area of his building due to renovation that occurred in 2004 which removed the original elements of the store front. In addition, the bulkhead did not have a base to support brick and would require him to remove a part of the building to install one to use brick. He believed that the small amount of the façade, approximately 17.75%, that would be covered with marble did not impact the historical area where this building was located nor impact any historical contribution the building made to the District as a whole.

14. Mr. Veritasi testified to the use of marble in other historic downtown areas including within Kansas City on the Waltower building. Mr. Veritasi also discussed the actual filing of the City of Lee's Summit for its Historic District designation and the elements that were included .

15. Mr. Veritasi introduced evidence with respect to the change to the exterior of the building immediately adjacent to the subject property which is now a stucco façade. This work was done approximately a year before he filed his application. He also described other properties that do not have earth tone brick façade materials in the District.

16. The hearing was closed at 11:08 pm at the completion of all evidence including some rebuttal testimony by the City with respect to contact with the Applicant to attend the Historic Preservation Commission meeting and that in the opinion of Shannon McGuire, the proposal did not meet the downtown guidelines.

17. Upon motion by Councilman Binney and a second by Councilwoman Forte, the appeal was granted by a vote of 6 to 1.

### **CONCLUSIONS OF LAW**

1. The City is a Constitutional Charter City and empowered to enact ordinances under Section 67.410, RSMo, which it has done by enactment of Article 7 of the Unified Development Ordinance of the City Code. (Exhibit 27).

2. The Council is entitled to weigh the evidence and determine whether or not the proposed façade materials are consistent with the Guidelines as adopted. The Council may consider all competent and substantial evidence presented.

3. The proposal to use white marble on this particular building on this particular block, given the facades in use today on this block and immediately adjacent facades, is not inconsistent with the Guidelines as adopted and is consistent with façade materials used outside of Lee's Summit but during the relevant time periods. The Council has granted this appeal on a non-precedent setting basis as white marble may not be appropriate or permitted under the Guidelines on a different façade within this District.

### **ORDER**

1. IT IS HEREBY ORDERED that the appeal relating to the 6 SW 3rd Street, Exterior Renovation Permit filed by VERITASI DESIGN & BUILD, SHANE VERITASI AND THE RECORD OWNER WORLEY REAL ESTATE 6 SW 3RD SERIES LLC, is hereby granted.

2. IT IS FURTHER ORDERED that the City issue an Exterior Renovation Permit to the above referenced applicant to allow the use of the marble described in the appeal materials

on the bulkhead and directly under the Transom, with the stipulation that no more than 17.75% of the front façade may be marble.

BY AND ON BEHALF OF THE COUNCIL

DATED: \_\_\_\_\_

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RANDALL RHOADS, MAYOR