

## LEE'S SUMMIT PLANNING COMMISSION

Minutes of Tuesday, November 14, 2017

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The Tuesday, November 14, 2017, Lee's Summit Planning Commission meeting was called to order by Chairperson Norbury at 5:05 p.m., at City Council Chambers, 220 SE Green Street, Lee's Summit, Missouri.

### OPENING ROLL CALL:

Chairperson Jason Norbury	Present	Mr. Herman Watson	Absent
Mr. Donnie Funk, Vice Chair	Present	Mr. Beto Lopez	Present
Ms. Colene Roberts	Present	Ms. Carla Dial	Present
Mr. Don Gustafson	Present	Mr. Jeffrey Semmes	Present
Ms. Dana Arth	Present		

Also present were Robert McKay, Director, Planning and Special Projects; Josh Johnson, Assistant Director of Planning Services; Christina Stanton, Senior Staff Planner; Victoria Nelson, Long Range Planner; Dawn Bell, Project Manager; Michael Weisenborn, Project Manager; Chris Hughey, Project Manager; Ryan Elam, Director of Development Services; Nancy Yendes, Chief Counsel Infrastructure and Zoning; Kent Monter, Development Engineering Manager; Jim Eden, Assistant Fire Chief I, Fire Department; and Jeanne Nixon, Development Center Secretary.

### APPROVAL OF AGENDA:

Chairperson Norbury announced a change to the agenda. The applicant for Item 5, Application PL2017-196, had requested that it be continued. On the motion of Mr. Funk, seconded by Ms. Roberts, the Planning Commission voted unanimously by voice vote to **APPROVE** the agenda as amended.

### PUBLIC COMMENTS

There were no public comments at the meeting.

### 1. APPROVAL OF CONSENT AGENDA

- A. **Application #PL2017-210 -- VACATION OF EASEMENT --** 2821 NE Independence Ave.; LSMOB Owner, LLC, applicant
- B. **Application #PL2017-218 -- SIGN APPLICATION --** QuikTrip, 801 SE M-291 Hwy.; QuikTrip Corporation, applicant
- C. **Application #PL2017-227 -- SIGN APPLICATION --** Capital Tax & Consulting, 608 SW 3rd St.; Capital Tax & Consulting, applicant

- D. **Application #PL2017-228 -- VACATION OF EASEMENT --** 4548 SW Raintree Shore Dr.; Wesley Fields, applicant
- E. **Application #PL2017-231 -- SIGN APPLICATION --** Dayton Hotel Historic Sign, 9 SE 3rd St.; Ben Rao, applicant
- F. **Application #PL2017-241 -- SIGN APPLICATION --** Summit Square Apartments, 785 NW Donovan Rd.; NorthPoint Development, LLC, applicant
- G. **Approval** of the minutes of the October 24, 2017 Planning Commission meeting

On the motion of Mr. Funk, seconded by Mr. Lopez, the Planning Commission voted unanimously by voice vote to **APPROVE** the Consent Agenda, Item 1A-G as published.

2. **Application #PL2017-203 -- REZONING** from AG to CP-2 and **PRELIMINARY DEVELOPMENT PLAN** -- approximately 4.3 acres abutting the property at 1850 NE US 40 Hwy.; IAC Life, applicant

Chairperson Norbury opened the hearing at 5:08 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Jim Harlan, president of IAC Life, stated that he lived in Edmund, Oklahoma. He had joined the company about five years ago; and IAC Life had owned this property for about 15 years. The total tract was 18 acres and the back 13 acres had commercial zoning; but the acres at the front were still zoned AG. The rezoning application was to have the zoning consistent for the entire tract. Concerning the preliminary development plan, Mr. Harlan acknowledged that any specific plans in terms of buildings and infrastructure would have to come back to the Planning Commission for approval. Some challenges existed with water and sewer in particular.

Following Mr. Harlan's presentation, Chairperson Norbury asked for staff comments.

Mr. Johnson stated that the subject property was just north of 40 Highway, near the city limits. He displayed an aerial view, noting that the building adjacent on CP-2 land was a Montessori school. He confirmed that the applicants wanted the zoning to be consistent, with the 4.3 acres at the southwest side becoming Planned Community Commercial. The applicants did not have a specific proposed use yet, which was the basis for staff's recommendation to deny the rezoning. The preliminary development plan essentially showed no use for the land and staff generally avoided this kind of speculative rezoning. Mr. Johnson added that Lee's Summit did not currently provide water, sewer or road access to the property. While CP-2 would be consistent with surrounding zoning, staff could not access any impacts at present. He confirmed that staff recommended denial of the application.

Following Mr. Johnson's comments, Chairperson Norbury asked if there was anyone present wishing to give testimony, either in support for or opposition to the application. Seeing none, he then asked if the Commission had questions for the applicant or staff.

Chairperson Norbury stated to Mr. Harlan that he appreciated wanting zoning to be both consistent for the area and with the City's development pattern in general. However, when most

of this tract was zoned CP-2 this portion was intentionally left out. It would not be an easy piece of land to develop; and he did not see any purpose in doing that at present. It was not even being replatted to make it one piece. Chairperson Norbury noted the reference in the applicant's letter to donating the lot for a conservation area under the Internal Revenue code; and rezoning might raise its value for contribution. If that was the case, it was not sufficient reason for a rezoning without any plan for development. He asked what speculative plans the owners had for the property.

Mr. Harlan stated that the applicants had some discussions with staff about a preliminary design. The existing school building was originally intended as an office building so the preliminary design showed office spaces. Staff had pointed out the issues with water and sewer lines, and the company wanted the entire tract to have consistent zoning so they could put together a plan for the streets, sewers and other infrastructure. There would be no issues concerning surrounding properties since these were already zoned for commercial use. The applicants intended to bring in a specific plan over the next two or three months. Mr. Harlan added that he did not have any information as to why the entire tract did not initially have the same zoning. He acknowledged that the City might want to 'de-annex' the property, in which case they might have to try Independence or Blue Springs.

Chairperson Norbury noted that in some jurisdictions, a plan was required as a component of a rezoning application. He asked Mr. McKay if Lee's Summit not being among them had been a decision or if it was something that had happened by default. Mr. McKay answered that this had been City policy for a long time; but many jurisdictions did have that requirement. In general, the City did not agree to speculative rezoning. This application was rather unusual, with the property having some grading issues and being heavily wooded. While the applicants had said they would bring a plan back, submitting a plan was the time to do a rezoning application.

Mr. Gustafson asked about the use of the existing building. Mr. Harlan answered that the 11,000 square foot, two-story building was being occupied by a Montessori school. It had been there for awhile and was consistent with existing CP-2 zoning. The AG zoned property had no structures.

Ms. Roberts noted that if the applicants were looking for financing, a denial vote could work against them. She asked if just continuing the application would be feasible. Ms. Yendes replied that it could be continued to a date certain; but without the applicant's consent the continuances would be limited to two meetings out.

Ms. Arth asked Mr. Harlan if the plans included the option of selling the property. Mr. Harlan answered that it was not.

Mr. Funk asked Mr. Harlan if he would consider continuing the application to the meeting after next. Mr. Harlan answered that he would; however, the people he was working with did not want to spend the money to do a development plan if the land had not been rezoned. They would be more willing to help with the development of the plan if the zoning was consistent for the whole property.

Chairperson Norbury asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:24 p.m. and asked for discussion among the

Commission members. He noted that this was the first staff recommendation of denial that the Commission had seen in some time.

Ms. Arth acknowledged that the procedure was not to change zoning without a plan. However, she also understood the applicants' situation and asked if how 'formal' a preliminary plan needed to be. It could be a conceptual plan that would give the City a look at what might be done with the property. In any event, if there was no action the property would sit unused indefinitely.

Mr. Funk generally agreed with Ms. Arth's comments. He asked if the City had any kind of kind of preliminary bargaining chip to convey the message that the rezoning could happen but the applicants needed to provide something specific.

Mr. Semmes was in favor of continuing the application in order to give the applicants time to bring in a preliminary plan; although it would not necessarily have the usual amount of detail.

Ms. Roberts observed that whatever the Commission decided, the application would go on to the City Council which would make its own decision. However, she was also in favor of a continuance. A denial by the City Council, followed by the applicant bringing back the application, would be pointless and a waste of time.

Mr. Lopez agreed with the previous Commissioners' remarks. He added that without a plan, it would be difficult for him to vote for approval at tonight's meeting.

Ms. Dial remarked that she did not know of any reason for the property to be rezoned, if the application had included a plan. However, under the circumstances for this particular property she did not see any specific reason to deny the application.

Mr. Johnson suggested giving the applicants some specifics of what the Commission wanted to see at the next meeting. This could include numbers of buildings, square footages, and proposed uses.

Chairperson Norbury observed that there was plenty of evidence that the City was likely to favor a rezoning at this location, since the surrounding uses were zoned commercial and it was consistent with the Comprehensive Plan. While the property had agricultural (AG) zoning, it was quite unlikely that crops would be grown. At this point, Lee's Summit used AG as a "holding" zoning until a specific use was authorized. He considered adjusting the rezoning at this point premature, and would vote for denial assuming the motion was not for a continuance.

Mr. Funk asked what the stated date certain would be, and Ms. Yendes said that two meetings out would be on December 12th.

Hearing no further discussion, Chairperson Norbury called for a motion.

Mr. Funk made a motion to continue Application PL2017-203 to a date certain of December 12, 2017. Ms. Roberts seconded.

Chairperson Norbury asked if there was any discussion of the motion. Hearing none, he called for a vote.

On the motion of Mr. Funk, seconded by Ms. Roberts, the Planning Commission members voted unanimously by voice vote to **CONTINUE** Application PL2017-203 to a date certain of December 12, 2017.

(The foregoing is a digest of the secretary's notes of the public hearing. The transcript may be obtained.)

**3. Application #PL2017-205 -- SPECIAL USE PERMIT for indoor storage facility -- Oakview Storage, 1410 NE Douglas St.; Oakview Capital Partners, LLC, applicant**

Chairperson Norbury opened the hearing at 5:30 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Brad Tidwell stated that he resided in Collierville, Texas and was a partner in Oakview Capital Partners LLC, the applicant. Their business was climate-controlled self-storage facilities, and they had several in the Dallas/Ft. Worth area as well as in Kansas City. The units were multi-story buildings that were designed to look like office buildings. All units were within the buildings, with elevators and covered loading areas. For branding and management they used CubeSmart, which was one of the largest self-storage management companies in the U.S. Historically self-storage businesses located on lower-cost land and in industrial areas; however, Oakview focused on high-traffic retail locations with good visibility. The idea was storage was an amenity for any city, and should be at a clean, convenient and safe location. The proposed location on Douglas Street had enough acreage to allow for some additional commercial development. It would be an advantage to both the City and Oakview, as office/retail at the site could attract more business to the storage facility.

The applicants had met with the neighbors, which were basically the St. Luke's medical complex. They were very supportive of the project. Polyainers, the neighbor behind the property, had told the applicants they would need to look at what was planned before putting the property under contract. That contract had now been in place for several months so Mr. Tidwell assumed they approved.

Following Mr. Tidwell's presentation, Chairperson Norbury asked for staff comments.

Ms. Stanton entered Exhibit (A), list of exhibits 1-16 into the record. She displayed an aerial photo of the property, and pointed out the location of St. Luke's as well as Polyainers behind the subject property and some office-warehouse uses south of Victoria Drive. The movie theatre and other retail and restaurant businesses, with CP-2 zoning, were to the east across Douglas. Ms. Stanton also pointed out the boundary lines defining the area of the Special Use Permit, noting that the plan covered the entire parcel. The building proposed was four stories and 114,448 square feet, and function as an all-indoor storage facility. The total area was a little over 7 acres; however, the SUP would cover only 2.2 acres. On the displayed landscape plan, she pointed out the street network and the street trees lining the internal drive.

A Special Use Permit was required for mini-warehouse facilities, which were defined as "structures containing separate storage areas of various sizes, leased or rented on an individual basis." However, the UDO did not make a distinction between the traditional type of mini-

warehouse business and a climate-controlled indoor facility. Staff considered this use appropriate for the location considering the zoning and existing uses on that part of Douglas including Polyainers and the industrial zoning nearby. Staff supported the 25-year term the applicant had requested, as it was consistent with other mini-warehouse SUPs. The materials were also compatible with other development nearby. Staff was requesting the remove the standard requirement that the roof have a 1:3 pitch [Recommendation Item 1], to allow the flat roof shown on the plan. It would be consistent with other commercial buildings in the neighborhood. Recommendation Item 2 granted the SUP for a 25-year period. No preliminary development plan was required for this project, as no modifications to the UDO were requested.

Following Ms. Stanton's comments, Chairperson Norbury asked if there was anyone present wishing to give testimony, either in support for or opposition to the application. Seeing none, he opened the hearing for questions for the applicant or staff.

Mr. Funk noted that the drive on one of the drawings appeared to be a one-way entry off Douglas. He asked if it was a private street, and Ms. Stanton replied that it was. It was currently owned by Polyainers.

Ms. Roberts asked if the applicants planned to develop the remaining north and east portions of the property, and Mr. Tidwell answered that they did. Ms. Roberts commented that considering the alignment of the drive, there was not much room in the southeast corner. Mr. Tidwell acknowledged that some alignments might be moved, adding that this was three-quarters to a little over 2 acres; so there was plenty of room for pad sites.

Mr. Gustafson asked if the projected future retail use would require any rezoning. Ms. Stanton answered that when a specific use was proposed, rezoning would have to be part of the application as well as a preliminary development plan. The rest of the property was currently zoned PI and that would remain until such time as an application came in for another use. Retail uses were limited in PI zoning.

Chairperson Norbury asked what was the reason for changing the roof Jan052569pitch requirement. Ms. Stanton answered that the requirement was for mini-warehouse facilities, which required an SUP. The UDO did not address climate-controlled indoor storage.

Chairperson Norbury asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 6:45 p.m. and asked for discussion among the Commission members, or for a motion.

Mr. Funk made a motion to recommend approval of Application PL2017-205, Special Use Permit for indoor storage facility: Oakview Storage, 1410 NE Douglas St.; Oakview Capital Partners, LLC, applicant; subject to staff's letter of November 10, 2017, specifically Recommendation Items 1 and 2. Mr Gustafson seconded.

Chairperson Norbury asked if there was any discussion of the motion. Hearing none, he called for a vote.

On the motion of Mr. Funk, seconded by Mr. Gustafson, the Planning Commission members voted unanimously by voice vote to recommend **APPROVAL** of Application PL2017-205, Special Use Permit for indoor storage facility: Oakview Storage, 1410 NE Douglas St.; Oakview

Capital Partners, LLC, applicant; subject to staff's letter of November 10, 2017, specifically Recommendation Items 1 and 2.

(The foregoing is a digest of the secretary's notes of the public hearing. The transcript may be obtained.)

**4. Application #PL2017-216 -- SPECIAL USE PERMIT for in-home massage therapy: In Good Hands Therapeutic Massage, 1508 SW 9th St.; Amy Abbott, applicant**

Chairperson Norbury opened the hearing at 5:46 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Ms. Amy Abbott, the applicant and owner of Good Hands Therapeutic Massage, gave her address as 1508 SW 9th Street in Lee's Summit. She had been practicing in Kansas as a massage therapist for 14 years; and had also held a Missouri license previously. In Olathe, she had participated in getting licensing laws passed. For the past five years, she had worked out of rented space in a chiropractic office near I-435 and 95th Street. Commuting from Lee's Summit had worked for awhile, but the construction on I-470 was making this very difficult. She'd not had the opportunity to have an in-home business previously and believed that this was a good time and place to start. It would also reduce her overhead since she would not be paying office space rent, child care or transportation costs.

Her home had a completely separate basement, about 750 square feet, that was accessed behind the garage. The plan was to have the business there, so that clients would not even have to enter her house; and she had obtained a building permit for a 196 square foot room, which had passed two preliminary inspections. The final inspection would be when the drywall installation was finished. If the application was approved, she would petition the State of Missouri for approval of a massage therapy business and get her license from the City.

Following after Ms. Abbot's presentation, Chairperson Norbury asked for staff comments.

Mr. Johnson stated that the business would be in Ms. Abbot's home, at 1508 SW 9th Street. He pointed out its location on the displayed map, also pointing out Murray Road to the west.. The hours Ms. Abbot had proposed were 10:00 a.m. to 7:00 p.m. on Tuesday, Wednesday, Friday and some Saturdays; which was slightly more restrictive than the ordinance required. She planned no more than 5 appointments per day with 30 minutes between appointments; and was requesting 10 years for the SUP. Staff considered the impact on the neighborhood to be minimal; and the ordinance anticipated home occupations in residential zoning. No exterior changes were proposed to the house itself. Staff had not included a set of conditions in their report, because the ordinance conditions covered any potential impact in this case.

Following Mr. Johnson's comments, Chairperson Norbury asked if there was anyone present wishing to give testimony, either in support for or opposition to the application.

Mr. Ronald Jolane stated that he lived in Olathe, and he and his wife had been Ms. Abbot's clients for about ten years. They had seen her develop a good business and they intended to continue being clients in Lee's Summit. He stated that she was very professional and generous with the time she spent with her clients. She and her business would be an asset to Lee's Summit.

Ms. Amanda Sydes gave her address as 1502 SW 8th Terrace and stated that she was a near neighbor. She had known the Abbots for about a year and they were good neighbors.

Mr. Brian McGee gave his address as 104 N. Paire Street in Gardner Kansas and stated that he had been a client for 12 years, originally seeing Ms. Abbot about severe pain from a back injury. She had been very helpful and he was now pain-free thanks to the therapy. She'd had a major impact on his quality of life, and he also intended to remain a regular client. The community would be fortunate to have a family like the Abbots and Ms. Abbot's business.

Chairperson Norbury then asked if the Commission had questions for the applicant or staff.

Chairperson Norbury stated that for the business, Ms. Abbot would need a State license and a regular business license as well as a local massage therapy license, as well as a Special Use Permit. Ms. Abbot added that she also had to get general and professional liability insurance as well as appropriate insurance for their home. She would also need to form an LLC and have a State ID tax number; and she had already taken care of that.

Chairperson Norbury asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:55 p.m. and asked for discussion among the Commission members.

Ms. Roberts expressed regret that this profession had been so widely maligned, to the point where clients might feel they had to defend her. With the general population aging, massage therapists might be appreciated more in the near future.

Chairperson Norbury then asked that staff and the City Council and CEDC do something to reduce the unnecessary and ridiculous number of hurdles that this kind of business had to jump through. A person who wanted to establish a massage therapy business in Lee's Summit had to pay twice the license fees and in general get over more hurdles than in any other kind of business the City allowed. It was based on nothing more or less than a social stigma placed upon professional massage therapists from decades ago that the City had simply never bothered fixed. He considered that there was no excuse for this and wanted it fixed. It was insane and offensive to impose these administrative burdens and additional expense on someone wanting to run an at-home business; and it was not likely that anyone else wanting to establish a business in their home would need to have clients drive in from Johnson County to vouch for their character. He emphasized to the people who had testified that he did appreciate their input.

Hearing no further discussion, Chairperson Norbury called for a motion.

Mr. Funk made a motion to recommend approval of Application PL2017-216, Special Use Permit for in-home massage therapy: In Good Hands Therapeutic Massage, 1508 SW 9th St.; Amy Abbott, applicant; subject to staff's letter of November 10, 2017. Mr. Lopez seconded.

Chairperson Norbury asked if there was any discussion of the motion. Hearing none, he called for a vote.



On the motion of Mr. Funk, seconded by Mr. Lopez, the Planning Commission members voted unanimously by voice vote to recommend **APPROVAL** of Application PL2017-216, Special Use Permit for in-home massage therapy: In Good Hands Therapeutic Massage, 1508 SW 9th St.; Amy Abbott, applicant; subject to staff's letter of November 10, 2017.

(The foregoing is a digest of the secretary's notes of the public hearing. The transcript may be obtained.)

## **OTHER AGENDA ITEMS**

<p>5. <b>Application #PL2017-196 -- FINAL PLAT -- North Park Village, 2nd Plat, Lots 53-93 and Tract F; Engineering Solutions LLC, applicant</b></p>
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Chairperson Norbury opened the hearing at 6:00 p.m. and announced that the applicant had requested that Application PL2017-196 be continued to a date certain of November 28, 2017. He asked for a motion.

Mr. Funk made a motion to continue Application PL2017-196, Final Plat, North Park Village, 2nd Plat, Lots 53-93 and Tract F; Engineering Solutions LLC, applicant to a date certain of November 28, 2017. Ms. Roberts seconded.

Chairperson Norbury asked if there was any discussion of the motion. Hearing none, he called for a vote.

On the motion of Mr. Funk, seconded by Ms. Roberts, the Planning Commission members voted unanimously by voice vote to **CONTINUE** Application PL2017-196, Final Plat: North Park Village, 2nd Plat, Lots 53-93 and Tract F; Engineering Solutions LLC, applicant to a date certain of November 28, 2017.

## **ROUNDTABLE**

There were no Roundtable items at the meeting.

## **ADJOURNMENT**

There being no further business, Chairperson Norbury adjourned the meeting at 6:02 p.m.

PC 111417