

The City of Lee's Summit
Action Letter - Final
Planning Commission

Thursday, August 12, 2021

5:00 PM

City Council Chambers and Videoconference

Notice is hereby given that the Planning Commission for the City of Lee's Summit will meet on Thursday, August 12, 2021 at 5:00 pm in the City Council Chambers at City Hall, 220 SE Green Street, Lee's Summit, Missouri, and via video conference as provided by Section 2-50 of the City of Lee's Summit Code of Ordinances, adopted by the City Council on June 15, 2021, Ordinance No. 9172.

Persons wishing to comment on any item of business on the agenda, including public testimony during a Public Hearing, via video conference may do so by sending a request prior to 5:00 p.m. on Wednesday, August 11, 2021, to the City Clerk at clerk@cityofls.net to attend the meeting on the video conferencing platform. The City Clerk will provide instructions regarding how to attend by this method.

Call to Order

Roll Call

Present: 7 - Chairperson Donnie Funk
Vice Chair Dana Arth
Board Member Randy Benbrook
Board Member Tanya Jana-Ford
Board Member Mark Kitchens
Board Member Cynda Rader
Board Member Terry Trafton

Absent: 2 - Board Member Jake Loveless
Board Member Matt Sanning

Approval of Agenda

Chairperson Funk announced that Application #PL2021-192, on the agenda under "Other agenda items" would be moved above Item 2 in the public hearings. He then asked for a motion to approve.

A motion was made by Vice Chair Arth, seconded by Board Member Jana-Ford, that the agenda be approved. The motion carried unanimously.

Public Comments

There were no public comments at the meeting.

1. Approval of Consent Agenda

- A. [TMP-1991](#) Appl. #PL2021-228 - VACATION OF EASEMENT - 1001 SW Hoke Dr; City of Lee's Summit, applicant

A motion was made by Vice Chair Arth, seconded by Board Member Rader, that this application be recommended for approval to the City Council - Regular Session. The motion carried unanimously.

- B. [2021-4291](#) Approval of the July 22, 2021 Planning Commission Minutes

A motion was made by Vice Chair Arth, seconded by Board Member Rader, that the minutes be approved. The motion carried unanimously.

Public Hearings

2. [2021-4299](#) Appl. #PL2021-203 - PRELIMINARY DEVELOPMENT PLAN and Appl. #PL2021-204 - SPECIAL USE PERMIT for automobile sales - America's Car-Mart, 1150 SE Blue Pkwy; America's Car-Mart, applicant

Chairperson Funk opened the hearing at 5:15 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Ted Taylor, director of expansion and lot development for the applicant, stated that he had been working with Car Mart for 36 years. In that time, the number of locations had grown from 14 to 151 in 12 states. He appreciated the opportunity to get clarity on any issues and regulations. The used car dealership did finance sales but did not do service repairs.

The current plan was a new prototype for the company, with a larger property and building than in the past. Mr. Taylor asserted that the dealership would greatly enhance opportunities for buyers who were looking for a good used car. They offered a wide selection of vehicles and prices; and had met all the City's requirements.

Chairperson Funk asked for staff comments.

Ms. Nelson entered Exhibit (A), list of exhibits 1-15 into the record. She displayed an aerial and zoning map and noted that the site was currently vacant. The subject property was zoned CP-2, as was the property immediately to the west. Residential zoning and use was to the northeast. The property was 4.11 acres. The applicants proposed a 4,460 square foot sales building and a 2,316 square foot detail building. Parking provided 91 display parking spaces, 62 customer and employee spaces and two ADA spaces; for a total 153 spaces. Regarding light spillage, the plan showed

Ms. Nelson then described the lighting for the site. The main building would have wall mounted lighting. The pole lighting would be D-Series, but the above grade pole height could not be above 20 feet. Light spillage should be zero at the property line.

Regarding landscaping, the property was in a commercial area that backed up to residential use, so a high-impact buffer was required. That would consist of a six-foot vinyl fence with landscaping on both sides. Ms. Nelson pointed out where the fence ran along the property's north side and east sides, and around the detention basin.

The facade material on all four sides of the building was a combination of metal panels, which ranged from 48 percent on the front to 23 percent on the back and EIFS, ranging from 29.5 percent on the front to 77 percent on the back. She also displayed sales building elevations for all four sides and four elevations for the detail building. Both automobile sales and detailing were allowed in CP-2 zoning with a Special Use Permit, and the applicant was requesting a 30-year term. SUPs had previously been approved for 20 to 30 year terms for similar uses on new construction projects.

The applicant had held a neighborhood meeting on June 29th, and Ms. Nelson summarized the concerns that were raised, with the applicant's responses indicated in blue. The lot that was chosen had some existing vacant lots nearby; but were "*not available, zoned correctly or the correct size.*"

Concerning drainage, the applicants were aware of flooding issues downstream as well as the flood plain location. The proposed drainage system included a detention basin. Stormwater released from the property peak rates "*will be lower than the existing system at the site.*" The runoff had been draining into low points on 8th Street; and would be directed into the box culvert. The detention basin had a volume of 54,000 cubic feet; and the storm runoff would be stored there. Runoff would increase due to the impervious coverage of the pavement; but the detention basin would release it at a low enough rate that no increase would occur in the creek's flow.

Other questions had come up about the sale's impact, and whether or not the lot was owned by the Vista Del Verde HOA, which it was not. The hours of operation were from 9:00 a.m. to 6:00 p.m., Monday through Saturday. The intersection of Vista Drive and Blue Parkway would not have a traffic signal, as the City's traffic engineer had determined the intersection did not generate enough traffic. Test drives would not go through nearby residential neighborhoods but would take a predetermined route along the main street, with mostly right turns. A wall and landscape screening would be added between the residential properties and Car Mart. During the meeting, the applicant had explained the submittal process for Special Use Permit applications and preliminary plans including meetings with neighbors and City staff.

Concerning lighting, the applicant did not plan on having evening sales, and the exterior lights they planned to use would have shielded light fixtures and would be aimed downward and inward. They would use LED fixtures on 20 to 25-foot light poles. The plan showed a 6 foot vinyl fence with landscape screening on both sides.

The project had no construction schedule as yet; but one would be done after the approval process. Regarding concerns over property value, it was likely that the business would be more likely to increase nearby values than a vacant lot. The business would have video surveillance, but no loudspeaker or PA system. No streets would be widened for the project, and no delivery trucks bringing cars to the site would enter the property from Blue Parkway. Employees would sometimes move cars for sale onto the site.

Neighbors had asked questions about water usage and its impact on neighbors; but the dealership would not use large amounts. The City planned to replace the water main along SE 8th Street; and any water pressure issues should be directed to the Public Works Department. Some requests had been made for a copy of the drainage details and development plan; all of which was covered in the preliminary development plan that was available on the City's website. Some concerns were raised about crime at the hotel near the American Legion building; and the applicant planned to address any security issues.

Car Mart had some distinctive business approaches, including financing; and they had many repeat customers. They did not do any repair or reconditioning of cars, and did not directly compete with the other dealerships nearby.

Ms. Nelson stated that an HOA representative had contacted her about holding a meeting with staff at City Hall, and a meeting was held with staff on July 29th. They were considering forming a protest against the project; and staff had provided information about that process. They planned to follow up with property owners within the 185-foot distance from the subject property. Asked about an extension, staff had recommended that neighbors make this request at tonight's meeting. Regarding drainage and runoff issues, staff had told them that the design standards were outlined in APWA Section 5600; and these had been met in the submitted engineering plans. On removing the proposed SE 8th Street entrance on the north property line, this could also be brought up at tonight's meeting as well as adding additional screening along the back of the buildings.

The representatives had asked what would happen if the project closed after five years. This would be a concern for Neighborhood Services, including any code violations. Concerns and questions about the car wash in the detail building could be addressed via the engineering plans that had been submitted and which had met the design criteria, as did the proposed exterior lighting. However, staff had not been sure whether Car Mart or a third party would own the proposed project. Some safety concerns were raised about the proposed detention basin, specifically to neighborhood children; and the engineering plans had included built-in safety mechanisms.

Ms. Nelson had also received phone calls and emails with concerns over use, drainage, stormwater runoff and traffic. The use was allowed in CP-2 zoning; and as this project was in the planning stage, it would have to go through the public hearing process. Ms. Nelson had also received a notarized protest petition with concerns over lighting, proximity to residential uses, noise including large trucks delivering cars, security issues over theft and other potential crime in the neighborhood and drainage issues, specifically the expanse of concrete increasing the amount of water in the creek.

The application had four Conditions of Approval. It had to be in accordance with the architectural elevations dated July 9, 2021, and with the building architecture condition approval request, dated August 5, 2021. It was also to conform to the preliminary development plan, specifically the site plan, drainage plan and landscape plan, all dated July 12, 2021; as well as the lighting plan dated April 2

2021. The SUP would be granted for a term of 30 years.

Following Ms. Nelson's presentation, Chairperson Funk asked if there was anyone present wishing to give testimony, either in support for or opposition to the application. He asked that questions not be repeated, and suggested that a spokesperson represent a group. Questions could include some that might not have been answered at the neighborhood meeting. He asked those who wanted to speak to give their name and address for the record.

Mr. Scott Landers gave his address as 743 SE Windgate Street in Lee's Summit. He had submitted a notarized protest, and had lived at this address for five years. He was within 185 feet of the site, and had detailed pictures of the creek behind his house. The creek had been very attractive when he'd bought the house but was now filled with trash and fallen wood and brush. He was directly at the culvert outlet; and large amounts of runoff from the highway came directly into his back yard. The water came up his home's deck during heavy rains. They had heard many suggestions, some of the Conservation department, on mitigating water problems such as planting trees. These were definitely not sufficient to address the problem. He was very concerned that his yard would continue to wash away as a consequence of the project.

Another issue was the exit onto 8th Street, which was where local children, including his own, were picked up and dropped for school. Since the proposed business hours were 9:00 a.m. to 6:00 p.m., safety in the afternoons after school was a concern. Many of the neighbors' objections were not to the buildings themselves but the impact related to the creek and the potential risks of increased traffic in the neighborhood.

Mr. Gary Derks stated that he owned the duplex across the street from the proposed entrance. He believed that this project would impact his home's value. He had been a realtor for over 30 years and was skeptical of claims of no impact on property values. A car lot, as opposed to vacant ground or other types of businesses, would not be helpful later when he or anyone else in the neighborhood tried to sell their homes, or rent them. Families with children in particular would hesitate to buy homes in neighborhoods with a lot of traffic, including test drives from a nearby dealer. He doubted that any members of the Commission would like to have a car lot right in front of their homes. He was aware that the property had been vacant for a long time but believed that this was not the best use for it; especially considering the number of existing similar businesses.

Mr. Rick Breinin gave his address as 1412 SE 7th Terrace in Lee's Summit. His home was not within 185 feet but was nevertheless part of the neighborhood. He shared the concerns about the water runoff; though he understood that an engineering study was in process. He also wanted to know if information was available for other places and similar sites in Lee's Summit that had used this water retention system. Some assurance was needed that it worked; as it had been an issue since 1986. It was currently raining and he knew that the creek would be high when he got home. He was not sure that they could pave, and wanted to see some evidence that landscaping and a retention basin would be

adequate, or some examples of this approach being used successfully.

Chairperson Funk reminded the participants that if water runoff and drainage were going to be discussed, the Commission did have some previous examples listed.

Mr. Steve Gash gave his address as 1109 SE 7th Street in Lee's Summit, behind a cul-de-sac. He had a swimming pool in his back yard, and all the water that ran directly north ran to his property. He had tried a number of ways to divert the water; but all that accomplished was to send more runoff to his neighbors' yards on both sides. Late in the spring, he had put a new liner in the pool and shortly afterward had about seven inches of rain. The runoff from the cul-de-sac had been enough to float the entire liner. He was sure that this was a problem for all the neighbors; and though the City had done some work on it, the neighborhood had not only the creek but a spring off Vista Drive. A neighbor who lived in that part of the neighborhood had to buy two sump pumps for his basement.

Regarding the remarks about truck transporting cars, he had been in the car haul industry for several years and had transported cars all over the country. He knew that these trucks would stage in certain areas of neighborhoods and there was just no way to manage independent car haulers. It was likely that the trucks would be a daily sight and they were often kept running, which would not be a benefit in terms of local air quality.

Ms. Tracy Lopez Osborne gave her address as 1116 SE 8th Street. This was a duplex on the corner of 8th Street and Wingate, and would be directly across the street from the car lot. She stated that she was already not allowed to park in front of her home, due to a No Parking zone that had formerly been across the street. She had complained about this but had only been told to tandem park with her neighbor on the other side of the duplex. This was impossible, as both households included a member with special needs. Both cars had been hit when parked in front, due to the added traffic from the rental four-plexes nearby. A number of things in the neighborhood were out of control, including reckless driving.

Mr. John Williams gave his address as 820 SE Vista. He stated that crime was a problem in his part of the neighborhood due to the location near the motel, where some of the drug dealers and prostitutes lived. There had been break-ins for cars and outbuildings, litter in his yard and illegal drug transactions nearby. Unless it had a good fence and security, the proposed car lot would become a magnet for thieves. Mr. Williams added that anyone wanting to verify these claims of crime being a problem could call the Lee's Summit Police Department.

Chairperson Funk then opened the hearing for Commissioners' questions for the applicant or staff. He asked staff how long this piece of property had commercial zoning, and how long it had been for sale. Ms. Nelson replied that the Board of Aldermen had approved the rezoning from AG in 1971. Staff did not have any information concerning how long it had been for sale.

Mr. Otto Westerfeld gave his address as 39050 New Lancaster Road in LaCygne, Kansas. He stated that he represented the property's owner, and had been assisting the owner in selling it. He had been working with Mr. Mock for about 18 months. Mr. Westerfeld confirmed that the property had been for sale for about that long.

Commissioner Kitchens had questions about the water and drainage issues. Mr. Monter noted that the applicant's design engineer was present at the meeting and had a good working knowledge of the project. He asked if the issues about the runoff predated the neighborhood. He noted references to garbage being in the creek and asked what would have caused the higher levels of runoff. Mr. Monter replied that the tract of land that was referenced was owned and was being maintained by the HOA.

Ms. *Mary* Clare Amer, of Wallace Engineering, gave her address as 8900 Lowell Avenue in Overland Park, Kansas. Commissioner Kitchens remarked that this sounded like a bad situation that many people were concerned about it being made worse. He had mixed feelings, commenting that he did sympathize with the concerns people had raised. However, doing nothing would make any improvement impossible. He noted that this property had a lot of impervious paved area and a retention basin; and asked if these factors would increase or decrease the flow off the property. Ms. Amer answered that the total flow would increase but it would go to the detention basin, which would release it at a low rate. Lee's Summit's criteria were more conservative than the rest of the metro area, so the water would be released at peak rates below the existing conditions.

Commissioner Kitchens asked where the retention pond would empty into, and Ms. Amer answered that it would empty into the creek and the box culvert that was adjacent to the property.

Commissioner Kitchens asked staff if the City had any authority with the R-7 School District to relocate any of the bus stops. Mr. Soto confirmed that no representative from the School District was attending tonight's meeting. Staff could not speak for whether the District would agree to change any of the location. Commissioner Kitchens remarked that he wished a representative would attend and that the School District would be more concerned about the location of stops as this could be a safety issue. The speeding on 8th Street was a problem with safety as well. He lived in the Windsboro neighborhood nearby and had almost been sideswiped more than once.

Mr. Ted Taylor, of America's Car Mart, stated that the design plan had a recessed gate, with an access to 8th Street that would be limited to Car Mart associates. It would not be open to the public; and the increased traffic on 8th Street would be nominal as it would be mostly Car Mart employees or associated entities such as suppliers.

Commissioner Kitchens then noted that a potential impact on property values, as well as increase in crime had been brought up more than once. He asked if

anyone from the Police Department was present at the meeting, and was told that they were not.

Commissioner Benbrook asked Mr. Taylor what was the purpose of the entrance on 8th Street. Mr. Taylor answered that it was a restricted area for Car Mart's use only. The Vista Drive entrance was for customers and deliveries; but the primary entrance was on Blue Parkway. He added that he was not sure that a delivery of cars would be possible on 8th Street. Delivery of vehicles would have to be from Blue Parkway, with the exit on Vista and from there to US 50 highway.

Commissioner Benbrook asked if the secured entrance would be for after hours, and Mr. Taylor answered that it would be during business hours only and would be primarily for associates. Commissioner Benbrook then asked what was the specific need for a secured interior fence if the building would be used only during business hours. He identified three or four secured gates, with adjoining fences, on the interior of the building. Mr. Taylor answered that this was a pipe rail fence, intended to cut down traffic from front to back. The associates would park in this restricted area, in addition to vehicles that were not yet ready for display.

Commissioner Benbrook remarked that part of his concern over the 8th Street entrance was the delivery of vehicles, which had been brought up earlier. He went through this area frequently and could see how deliveries were handled with multi-layer vehicle transportation trucks. It looked like these would be parked on either Vista or SE Blue Parkway. One obstacle and possible safety concern for deliveries was the center median on Vista; and SE Blue Parkway was a heavily traveled street. It would make turning around difficult, and a truck that large would block visibility as well.

Commissioner Benbrook wanted to know how to safely deliver vehicles and unload them. Mr. Taylor explained that most deliveries were done individually, with most of the cars driven by individuals and not by transport. On occasions when a transport delivered cars, they would enter the site by Blue Parkway and unload in the center in front of the building. The cars would then be transported to the restricted area in the back; and the truck would leave via Vista Drive, back onto Blue Parkway and onto US 50 from there.

Commissioner Benbrook asked if Mr. Taylor would agree to stipulate that all deliveries be on site unloading, and Mr. Taylor replied that he would.

Commissioner Benbrook stated that he had been looking at the elevations of the building, he noted that EIFS was not a 20-year material. Another proposed material 24-gauge metal panel, was not either; especially located at the base of a wall. He asked what the Commission could expect the weathering on the building to look like. Mr. Taylor stated that he intended the building to continue to look attractive and fresh, whatever that would require. One of their first major projects was in Rogers, Arkansas; and today it was still one of the company's better and more attractive facilities. The company had maintained that building without actually owning it; but it would own the one currently proposed.

Mr. Taylor added that as he was not an engineer he could not make a detailed prediction of how long the building would last; however, he could give detailed information about the life spans of the materials used. Commissioner Benbrook remarked that he had seen local buildings with EIFS as a material, and it did not age well. That was the basis of his concern. He continued that the secondary building had a somewhat flat look, and he would like to see some work done to give it more visual appeal. He pointed out that it fronted on a exposed highway and in fact had more exposure than the the main building. The building met the City's requirements but lacked visual appeal.

Regarding the 54,000 cubic feet size of the detention pond, Commissioner Arth asked Ms. Nelson for a comparison that would give some idea of its size. Mr. Monter noted that the approximate dimensions were 90 feet at the widest point and would have a 175 foot circumference. Commissioner Arth asked how that compared with other retention ponds in the area, and Mr. Monter stated that he would research that online for the information. Chairperson Funk suggested that what was wanted was an example and information about what purpose the retention pond would serve for the property Mr. Monter related that this was a very common design for a detention basin, especially for a new development. This was typically an above-ground basin, which was dry much of the time during periods with no rain. He would look up some examples that were a size similar to the one planned for this project.

Commissioner Arth continued that the neighbors had raised questions about water pressure in particular, and were directed to Public Works. Chairperson Funk recalled a concern about whether water usage for the car lot would impact water pressure, and the neighbors were asked to contact Public Works with that question. Ms. Nelson confirmed that this was consistent with the minutes of the neighborhood meeting. Mr. Soto confirmed that no one from Water Utilities was present at tonight's meeting.

Commssioner Arth asked to see the aerial map again, as she wanted to get a point of reference about the hotel's location.

Commissioner Trafton said his questions were related to the 8th Street entrance. After listening to the comments, he thought that the potential use for that entrance was redundant and not necessary. He also wanted to know what how a 'controlled' entrance would differ from the other entrances. The other two entrances could be used and still have a gated entrance around the building, which might create more separation between the property and the neighbors. Mr. Taylor replied that they had considered eliminating that entrance, and had discussed keeping the back area private. The gates from the front area to the back had been added to facilitate the movements of cars to the back for cleaning, as well as enabling associates to enter and leave from the back instead of having to drive across the front lot. This was partly for security purposes, and also to ensure that employees' cars did not have to be accessible by the general public.

Commissioner Trafton asked if they had considered a right-in access only,

which might prevent people from exiting onto 8th Street. Mr. Taylor said they could consider that; and Commissioner Trafton asked if they wanted to keep the entrance and exit in the back part of the property. Mr. Taylor emphasized that they did, partly for security but they could consider limiting access to right-in.

Commissioner Trafton then brought up the additional screening near the back of the building. Mr. Taylor confirmed that they planned a 6-foot vinyl fence. Commissioner Trafton noted that a walkway was proposed on the other side of the fence. Since Lee's Summit's streets were required to provide walkways, a sidewalk should run along the south side of 8th Street, in accordance to the Livable Streets guidelines. Mr. Taylor confirmed that a sidewalk was indicated on the plan, outside of the fence and beyond the landscaping.

Commissioner Trafton wanted to know if additional screening could be provided with landscaping. He had not seen the dimensions. Mr. Soto stated that the City ordinance required that a high-impact screen be a minimum 6 feet tall with an opaque fence. The applicant had proposed a vinyl fence. If they added evergreen trees, those had to be a minimum 8 feet at the time of planting, for a maximum survival rate. The fence would have to be at least 6 feet. The ordinance allowed a maximum 8 feet for fences. The buffer area was 20 feet wide, with the fence along the middle and an additional 10 feet on the other side.

Commissioner Jana-Ford asked if it was correct that the 6 foot vinyl fencing would run along 8th Street and to the detention pond. Ms. Nelson replied that it was. Commissioner Jana-Ford asked why the fence stopped at the pond, remarking that if this was for security purposes it would not be very effective; since anyone could get to it from Blue Parkway. Ms. Nelson responded that as she understood it, it was just a buffer for the residential development and was not intended to provide security. Commissioner Jana-Ford then asked what material the gate would be, either vinyl or the pipe railing style mentioned earlier; and Ms. Nelson replied that it would be a vinyl gate.

Commissioner Jana-Ford asked what was the purpose of the fencing along the sidewalk at Building 1. Mr. Taylor answered that the fencing in front was the pipe rail type, not a vinyl fence. It was not intended to be a buffer, but rather to provide a low-profile separation between the front display area and the back parking area, which was not open to the public. It was a little over two feet off the ground.

Commissioner Jana-Ford then stated that she did not like the high percentage of impervious coverage. The security and separation of public and private could have been achieved with more landscaping and less pavement. She had looked up Car Mart's parking layout, and they did double loaded parking. Mr. Taylor said that someone wanting to see the cars would have to go through their office building to get to the display area. He added that this was the original location they had planned, and that due to the volume of business, they would need that many spaces. He added that they did not sell a car until it had been tagged with the company's name.

Commissioner Jana-Ford said she was referring to the cars on the front half of

the building, where they were all parked diagonally. She asked why they were just single spaces and not back-to-back ones. Mr. Taylor explained that they parked their cars with convenience of customers in mind. These were not striped spaces but were organized to group similar kinds of cars. The wider space around them was to enable potential buyers to open the doors without hitting nearby cars and could walk completely around the car. This meant that the cars were not as close together as they would otherwise be and had been the company's standard practice since 1981. Commissioner Jana-Ford said she appreciated the inclusion of the data spec sheet for materials, but would have liked to see more about the fencing.

Commissioner Rader said she could understand the concern the neighbors had about the water runoff. She had sold houses in that area, and knew that Vista del Verde had experienced problems with water along the creek line behind the subdivision for a long time. She asked Mr. Monter how the project would impact that situation; and if it was correct that the creek would be maintained by the HOA. Mr. Monter related that this was a typical design for a detention basin, adding that any type of development would include some amount of impervious pavement. That would always result in more stormwater runoff, as the water would just run over surfaces that it would have soaked into if those surfaces were not paved. The basin would essentially slow the flow down. In terms of the impact downstream, the applicant's design engineer had indicated that the peak runoff during a rain event would actually decrease, not increase, from its current level. The increase was in volume of runoff, but not the rate. He was aware of some concerns about impacts downstream; and the City engineer knew about the box culvert, though it was not included in the current CIP project.

Mr. Monter added that the new culverts that had been installed on Oldham and Ranson roads had a detention basin of similar size. A detention basin was also in front of McCarthy Chevrolet on US 50, and it was about 50 percent larger than the one they were discussing.

Chairperson Funk asked if Car Mart was a franchise or a wholly owned entity. Mr. Taylor answered that all the Car Marts were company owned stores, but they did not own every property they occupied. They leased some properties, owning the building but not the land. They were currently trying to purchase the property, though the sale was contingent on approval of the use. There were no franchises.

Chairperson Funk stated that the application could not move forward until the design engineers released the documents that the City wanted to see. He then recalled a question at tonight's hearing about test drives. The right turns would be on Blue Parkway at the front of the lot and on Vista. He wanted to know how this would be organized so that it would not result in more traffic in residential neighborhoods. Mr. Taylor responded that the concept of all right turns was an issue of safety, not convenience. The route would be to turn right on Blue Parkway, proceed to the highway; then turn right again and make a circle going up M-291. People doing test drives tended to prefer doing them on a highway, not in a residential neighborhood, although the applicant could not guarantee that test drives in residential neighborhoods would not happen. Most Car Marts were

located near streets with heavy traffic and near interstate highways.

Chairperson Funk recalled a mention that the building material would last for 20 years; a 20-year Special Use Permit might be appropriate. Mr. Taylor responded that whatever replacement and repairs were needed, up to an including replacement of EIFS or other materials. They were in the process of remodeling many of their locations; but the schedule depended on the condition of each building so the time would vary.

Chairperson Funk asked if the applicant would agree to a 20-year term for the SUP. Mr. Taylor answered that at present, considering the investment they would make to improve the property, they wanted to maintain the 30-year permit.

Chairperson Funk asked if the applicants could agree to have all deliveries done on site, and Mr. Taylor said they would. They would be willing to install a "No Trucks" sign at Blue Parkway, as well as on their own property. They would also specify that a truck delivering vehicles would come off Blue Parkway to their property. He then asked why the parking sign on 8th Street was moved from one side of the street to the other side.

Mr. Brad Cooley said he did not recall why this happened. He had consulted with Mr. Michael Park, who had told him that the signs had been a condition in a previous application.

Concerning the flow rates that had been discussed, Commissioner Kitchens commented that no increase in the rate would happen, but an increase in runoff from impervious coverage would mean an increase in time. He asked if it was correct that increases in amounts without an increase in rate amounted to an increase in time. Mr. Monter said that this was correct. If the total amount was increasing but not the rate, any issue would be extending the time period for the runoff through the creek. Mr. Monter agreed that this was logical.

Commissioner Benbrook noted the reference to Car Mart doing its own financing. He asked if the number of repossessions or returns was average, and Mr. Taylor answered that it was below average.

Commissioner Arth asked Mr. Taylor what kind of security was used at his facilities. He stated that he used multiple levels of security including surveillance, emphasizing that the improvements would not only improve the property but also drive off disruptive or criminal activities. One of the comments that had been made was "People come and go", and that would not happen at this business. Those concerns might be addressed by the Police Department with added patrols.

Referring to the landscaping presentation, Commissioner Trafton noted a fence that sat on a three-foot berm. If this was a six-foot fence its total height would be nine feet. Mr. Trevor Grant clarified that the earthen berm would be only on the east side of the basin. It would not continue around the north side of the property. Commissioner Trafton asked if he would consider increasing the fence height, since the Lee's Summit ordinance made the screening a minimum six feet high; with six feet the minimum and nine feet the maximum. Mr. Grant declined, citing the density of ornamental and shade trees in the area. Shade trees in particular would get well above six feet, where ornamental trees might fill in gaps.

Commissioner Trafton asked Mr. Taylor if the requested 30-year term was related to their

financing improvement of the property. Mr. Taylor answered that no connection existed between financing and the SUP. Commissioner Trafton noted it was not common to approve that long a term. He would consider a 20-year SUP.

Chairperson Funk said he had thought this would be a three-foot fence on a three-foot berm. Mr. Soto remarked that a three-foot fence on a three-foot berm would achieve a total minimum height of six feet specified by code. Chairperson Funk noted where the fence dropped in height until it reached 8th Street. From there it would be a six foot vinyl fence.

Chairperson Funk asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 6:50 p.m. and asked for discussion among the Commission members.

Commissioner Arth noted that the property did have a great deal of impervious coverage. She did understand the neighbors' concerns. She added that the HOA might consider playing a bigger role. Considering the crime problem centering around the hotel, the neighbors might consider bringing this up at the next City Council meeting and see if the Police Department would get more involved.

Commissioner Kitchens commended the citizens present for getting involved with their local government. He had conflicting feelings about this application, as he did appreciate businesses coming to Lee's Summit, but did know there were problems. The water was among them, and it was a chronic problem. That parcel of land in particular would need a good steward but he was not sure this was the right project for the property. He did not like either the pipe railing fence or the vinyl fence; and did not see a need for the north entrance exit. This was on a corridor into Lee's Summit, and he had enough concern to consider a continuance. He hoped the applicant would be willing to discuss the Special Use Permit for a 20 year term, and encourage input from the HOA. He would support a continuance.

Commissioner Trafton also had some concerns about the project. It did fit into the Ignite strategic plan for the city; but he had heard the applicant agree to a right-in only access and he was not even certain that an access at 8th Street was necessary. Concerning the fence, there was a lot of plush landscaping; however, any approach that would separate the business project from residential use would improve the neighbors' support of some commercial development. It was clearly not what was ideal for this property; however, it had been undeveloped for over 30 years; and that was not the Commission's purview in any case. He agreed that continuing the application would provide some time to work out some details including the 8th Street entrance, fencing and landscaping.

Chairperson Funk agreed that there were many details and a number of different issues; and more detailed specifications were needed. He would also support a continuance.

Mr. Johnson reminded the Commission that if the item was continued, there would not be a notice for the next Planning Commission meeting. He suggested including a summary of why the item was continued.

Mr. Bushek stated that if the Commission took on additional evidence in testimony, a Special Use Permit was one of the two applications and if a legal challenge should occur, they would be limited to the evidence that was in the record from the public hearing. He advised the Commission to re-open the public hearing and then continue the application. The decision that the City Council would make on a preliminary development plan was a legislative decision. The public hearing for the rezoning and preliminary development plan met the state requirements for both. In a challenge to a Special Use Permit, the City would be limited in court to the evidence and testimony accepted into the record.

Chairperson Funk re-opened the public hearing at 7:00 p.m.

Commissioner Arth made a motion to continue Application PL2021-203, Preliminary Development Plan and Application PL2021-204, Special Use Permit for automobile sales: America's Car Mart, 1150 SE Blue Pkwy; America's Car Mart, applicant to a date certain of September 9, 2021. Commissioner Kitchens seconded.

Chairperson Funk asked if they would need to add language regarding specific items. Mr. Bushek answered that this would not be necessary, adding that the motion would also be a continuance of the public hearing. Hearing none, he called for a vote.

A motion was made by Vice Chair Arth, seconded by Board Member Kitchens, that this application be continued to the Planning Commission, due back on 9/9/2021. The motion carried unanimously.

- a. [TMP-1995](#) An Ordinance approving a preliminary development plan located at 1150 SE Blue Pkwy in district CP-2, proposed America's Car-Mart automotive sales, all in accordance with the provisions of Chapter 33, the Unified Development Ordinance, of the Code of Ordinances for the City of Lee's Summit, Missouri.
- b. [TMP-1996](#) An Ordinance approving a special use permit for automotive sales in district CP-2 (Planned Community Commercial) on land located at 1150 SE Blue Pkwy for a period of thirty (30) years, all in accordance with Chapter 33, the Unified Development Ordinance, of the Code of Ordinances for the City of Lee's Summit, Missouri.

Other Agenda Items

3. [2021-4263](#) Appl. #PL2021-192 - SIGN APPLICATION - RE/MAX Elite, 1201 NE Windsor Dr; Whittington Graphix, LLC, applicant

Mr. David Nichols gave his address as 1305 NE Horizon Drive in Lee's Summit. He was the owner of the business making the application. They had previously submitted this application and it had been continued. Since then, they had worked with City staff to amend the application, removing portions of the sign order to bring it into compliance with square footage requirements. It was on a building that RE/MAX Elite had owned for about 25 years. After their lease expired, they had decided to move to the larger location on Rice Road. The sign was about two years old and the applicants were asking for a modification to the height of the letters.

Ms. Thompson displayed a slide showing the previous and current proposed signage. She related that at the previous hearing, the Commission had requested some examples of other signage in the M-291 corridor. The previous sign had been 75 square feet, and had included the balloon RE/MAX and Elite logos. The balloon logo and Elite sign had been removed, reducing the overall size by 26 square feet and changing the proposed size to a total 48.75 square feet. The letters were still three feet.

Based on further information staff had received from the applicant, RE/MAX had 79 linear feet of occupied space, with the title company in the same strip having 34 feet. Staff calculated sign square footage on the basis of height x width basis in tenant space; so RE/MAX could use up to 55 square feet overall for a sign in CP-1 zoning. At 48 square feet, they were slightly below the maximum square feet allowed. The only modification requested was to the letter height.

Ms. Thompson then displayed some examples of signs on or near M-291 Highway. The letters on the Merle Norman sign across the highway at 1175 Rice Road were two feet, and those on

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the Bullseye sign were 3.75 feet. The sign for Sleep Outfitters nearby had 2.5 foot letters, as did the Eyemart further down M-291. The sign for Missouri Central, directly north of RE/MAX, had two foot letters. QuickTrip, zoned CP-1, and 3.5 foot letter and State Farm Insurance, zoned CP-2 and also on Windsor Drive, had 2.3 foot letters.

Staff had provided an updated Condition of Approval, stating that "A total of one (1) wall sign along the east elevation that exceeds the maximum letter height (3') shall be allowed for the "RE/MAX Elite" sign located at 1201 NE Windsor Dr. Signage shall comply with all other UDO sign standards of the CP-1 zoning district."

Commissioner Trafton thanked Ms. Thompson and Mr. Soto for the presentation and the additional work, as well as the effort from RE/MAX in revising their signage.

Chairperson Funk asked if there were further questions for the applicant or staff. Hearing none, he called for a motion. Mr. Bushek confirmed that the Commission could directly approve the sign application.

Commissioner Arth made a motion to approve continued Application PL2021-192, Sign Application: RE/MAX Elite, Whittington Graphics LLC, 1201 NE Windsor Drive, applicant. Commissioner Kitchens seconded.

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

A motion was made by Vice Chair Arth, seconded by Board Member Kitchens, that this application be approved. The motion carried unanimously.

Roundtable

Commissioner Trafton asked when the revision of the UDO would begin. The first application tonight accented the questions that needed to be discussed regarding signage. The standards needed to be clarified so fewer variances would be needed. He was especially concerned about signage in CP-2. Mr. Johnson said that staff was currently following a Supreme Court case that might impact the signage code. Another issue was the number of sign applications and whether there should be a limit.

Commissioner Trafton also gave congratulations to his son, who was recently approved as a research assistant at Arizona State. It was a 3-D mapping project for the moon, that would determine future site locations for bases.

Adjournment

There being no further business, Chairperson Funk adjourned the meeting at 7:10 p.m.

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