



The City of Lee's Summit
Action Letter
Planning Commission

Tuesday, April 24, 2018
5:00 PM
City Council Chambers
City Hall
220 SE Green Street
Lee's Summit, MO 64063

1. CALL TO ORDER
2. ROLL CALL

Present: 6 - Board Member Jason Norbury
Board Member Colene Roberts
Board Member Dana Arth
Board Member Don Gustafson
Board Member Herman Watson
Board Member Jeff Sims

Absent: 2 - Board Member Carla Dial
Board Member Donnie Funk

3. APPROVAL OF AGENDA

A motion was made by Board Member Roberts, seconded by Board Member Sims, that the agenda be approved. The motion carried unanimously.

4. PUBLIC COMMENTS

Ms. Teresa Vollenweider stated that she had a concern with the quality of the Planning Commission's and City Council's due diligence. She had read the files on some of her concerns. Regarding the Horn baseball field at 5261 NE Maybrook Road, the City had never revoked the Special Use Permit and the building permit, both of which the former owner had obtained via misleading the City. The neighbors had complained, saying that it was supposed to be an indoor training facility and the SUP application had referred to a "private non-commercial use." However, the Missouri Secretary of State's form for Horn LLC "ownership, operation and management of a baseball training facility including real property ownership, leasing, management and all related activities."

Ms. Vollenweider emphasized that she had gone through the file and it included numerous complaints from neighbors, not only three as someone had claimed. The City had a number of pictures of a "Horn Baseball" sign on the fencing, which it had not previously provided. No sign would have been necessary if this was a field used only by family and friends. This was obviously a business and the price the couple had paid who had recently bought it indicated that they had wanted the baseball complex included in the sale. They were likely to run it as a business, just as the previous owner had. Ms. Vollenweider suggested that the City had not wanted to undertake a project of removing a permanent baseball complex, which was one reason for not revoking the SUP. The City's actions added up to negligence; and she could provide all the evidence of the facility's use.

A future concern was that setting this kind of precedent would make it easier for another violation of this kind happening in the neighborhood. She asked the Commissioners to exercise due diligence before the May 8th hearing.

5. APPROVAL OF CONSENT AGENDA

- A. [2018-1991](#) Minutes of the March 27, 2018 Planning Commission meeting

A motion was made by Board Member Roberts, seconded by Board Member Gustafson, that the minutes be approved. The motion carried unanimously.

6. PUBLIC HEARING

- A. [2018-2013](#) PUBLIC HEARING - Appl. #PL2018-033 - REZONING from PI to CP-2 and PRELIMINARY DEVELOPMENT PLAN - Oakview Storage Development Phase II, 1410 NE Douglas St; Oakview Capital Partners, LLC, applicant (continued to a date certain of May 8, 2018, at staff's request)

A motion was made by Board Member Roberts, seconded by Board Member Sims, that this item be continued to the Planning Commission, due back on 5/8/2018 The motion carried unanimously.

- B. [2018-2014](#) PUBLIC HEARING - Appl. #PL2018-027 - SPECIAL USE PERMIT renewal for a telecommunication tower - 5740 NE Lakewood Way; American Tower Asset Sub II, LLC, 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. Nick Kaysza of American Tower, gave his address as 10 Presidential Way in Woburn, Massachusetts. He related that the SUP was originally granted when the tower was built in 1998. This was a 100-foot, self-support tower that had three major carriers: AT&T, Sprint and T-Mobile plus the City of Lee's Summit. The tower had functioned well and no reason to not renew the SUP had been brought up.

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

Ms. Stanton entered Exhibit (A), list of exhibits 1-15 into the record. She displayed an image of the tower's location and surrounding land. A residence and subdivision was across the street, zoned R-1, with the rest being AG. Ms. Stanton confirmed that this was a 100-foot monopole, on 2.16 acres of land. The actual site was 50x50 feet, and was fenced. She then displayed an image of the as-built site plan that showed the distance from property lines. To the west and north this was a little over 90 feet and to the east it was 119 feet. The setbacks did not meet the current ordinance requirement; however, due to the length of time the tower had been in this location it was a lawful non-conforming condition. The ordinance did allow the City Council to grant a renewal that included modifications to existing conditions without requiring a preliminary development plan. In any event, a State statute did not allow a municipality to place any limitations on this kind of use. Staff recommended approval of the application.

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 then opened the hearing for questions from the Commission for the applicant or staff.

Chairperson Norbury asked Mr. Kaysza when the tower had last had a structural or general safety inspection. Mr. Kaysza replied that these were generally done every three to five years depending on tower type. He did not have any information as to the last time this tower was inspected. They also ran a structural analysis every time a customer upgraded their equipment. T-Mobile had recently done this so the last analysis was a recent one. A field tech was required to visit at least once a year; but this was more likely to be every few months. Ms. Stanton stated that the last report staff they had received was on February 9, 2016.

Chairperson Norbury asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:15 p.m. and asked for discussion among the Commission members, or for a motion.

A motion was made by Board Member Arth, seconded by Board Member Roberts, that this item be recommended for approval to the City Council - Regular Session, due back on 5/17/2018 The motion carried unanimously.

- C. **2018-2015** PUBLIC HEARING - Application #PL2018-032 - PRELIMINARY
DEVELOPMENT PLAN and Application #PL2018-034 - SPECIAL USE
PERMIT for major automotive repair and automotive sales - McCarthy
Chevrolet, 1000 SE Century Dr.; WRL Investments, LP, applicant

Chairperson Norbury opened the hearing at 5:17 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Justin Bridges of Davidson Architecture and Engineering gave his address as 4301 Indian Creek Parkway in Overland Park. He was testifying on behalf of the applicant, WRL Investments. They proposed a 10,690 square service and repair center to support the dealership, located across the street at the corner of Century Drive and Oldham Parkway. They were requesting at 13.5 year term for the Special Use Permit, to be consistent with the term for the dealership's SUP.

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

Ms. Thompson entered Exhibit (A), list of exhibits 1-17 into the record. She displayed the zoning map and stated that the property was currently zoned CP-2. It was directly across the street from the McCarthy Chevrolet dealership. The next slide showed samples of proposed materials and colors, including various shades of limestone slate, charcoal gray and split-face finish Midwest Block and Brick material. The property was surrounded by office and warehouse uses, including Home Depot to the west and McCarthy Chevrolet to the east. Staff had determined that the use was compatible with adjacent uses and appropriate for the site, subject to six Recommendation Items. Recommendation Item 1 would grant a modification to the landscape buffer width of 20 feet, allowing a 10-foot buffer width along the south side. The applicant would install the same quantity of landscaping in this buffer width. The property to the south was zoned PI.

Item 2 would also grant a modification to landscape screening in the parking lot. It would be clustered rather than planted in a hedgerow-style strip. The applicants would increase the number of shrubs along both Oldham and Century and had exceeded the required number. The change would be planting them in clusters. The SUP term of 13.5 years referenced in Item 4 had been previously mentioned, and would allow the permits for both the dealership and service center to coincide. Items 5 and 6 focused on sidewalks, specifically along the Century Drive frontage (Item 5) and the off-site sidewalk gap along Oldham Parkway (Item 6). Staff had discovered the gap, between the subject property and the property to the west, while reviewing this project. The Century Drive sidewalk would be constructed "within 90 days after notification that a sidewalk on the abutting

Planning Commission

Action Letter

April 24, 2018

property is scheduled to be constructed.” The Chevrolet dealership was on the abutting property, and this deferral had been approved in 2011 as part of the dealership’s preliminary development plan.

Following Ms. Thompson’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.

Regarding Recommendation Item 5, Ms. Roberts asked what would happen if the sidewalk on Century Drive was not constructed. Ms. Yendes replied that this would be a violation of the dealership’s Special Use Permit and subject of revocation. They would first be given an opportunity to testify before the Planning Commission before the City Council made its decision. Ceasing their use would be a major penalty for the business.

Chairperson Norbury asked Mr. Bridges if the proposed project would serve as an accessory to the dealership, and Mr. Bridges answered that it would. Chairperson Norbury asked why the proposed accessory structure was not more architecturally matched to the dealership building, which had metal panels and other architectural features. The service building would not have highway frontage like the dealership but did face a major road. Mr. Bridges stated that the architecture and building materials for dealerships was generally defined by the automobile manufacturer. That would generally govern the dealership building’s type and style. The proposed accessory building was tucked back a little bit further and was a little more in line with the other buildings in the park’s industrial portion. The applicants had done a number of things with the color and patterning that would match the patterning on the existing building. However, this building would not have a showroom and did need to be clearly distinguished from the main dealership building. They did do some visual tie-ins with the blue awnings at the office portion.

Chairperson Norbury then asked staff which entity would be required to build the Century Drive sidewalk. Ms. Thompson answered that there were some vacant lots on Century and the sidewalk would come after the development of these lots. Ms. Thompson also stated that from Century to Oldham and all the way down to south of Bailey there were no sidewalks.

Chairperson Norbury noted that 7 years ago it was determined to not have sidewalks, although people were more likely to be walking along Century Drive than Oldham. He wanted to know what criterion should be used to determine who had to put in a sidewalk and who got a free pass. Mr. Park stated the City had raised its standards for sidewalks. Sidewalks would be required for any new development or redevelopment of the lots to the south either by the developer or the City if a sidewalk project was going on. As staff had reviewed this application they had done so in consideration of the Council’s wish for deferral of the sidewalk along Century and Broadway, which deferral they had not granted for the sidewalk on Oldham. For this application, it was the same ownership, SUP and business and the applicant had requested the same condition. Staff also considered important was connecting the gap off-site, and staff had considered the request to defer in light of the developer doing sidewalk work off-site. The City might in the future have a project that would trigger another business in the area to put in a sidewalk. While working the Legal and Planning, staff was looking at and considering revising some of the UDO provisions for sidewalks, including payments for sidewalks in the general vicinity. This might level the playing field if staff determined that a sidewalk could be deferred or might not be necessary.

Chairperson Norbury asked if there were further questions for the applicant or staff, or any comments from the public.

Planning Commission

Action Letter

April 24, 2018

Ms. Vollenweider stated that the testimony about revoking an SUP made it seem like it would be a very easy and straightforward process. Her experience with an attempt to do just that had been completely different. Her advice was 'don't trust but verify, verify, verify.' In her experience, the City did not seem inclined to revoke a Special Use Permit that had been violated several times.

Chairperson Norbury closed the public hearing at 5:34 p.m. and asked for discussion among the Commission members.

Chairperson Norbury stated to Mr. Bridges that he appreciated the addition of services for a business that had been an asset to the City. However, he would not vote in favor of the application, due to the aspect of it concerning sidewalks. Lee's Summit had a Unified Development Ordinance that required sidewalks, and in the eight years he had been on the Commission he had seen a pattern of the City Council allowing larger businesses to not comply; in this case a few hundred feet of sidewalk in a multimillion dollar project. If the lot to the south was developed, the City was sure to require the developer to put in about 70 feet of sidewalk and this would likely be a much smaller business. They were just not likely to get a pass. Essentially, when it came to sidewalks, the City consistently put it off or gave it away.

Mr. Gustafson asked if adding a requirement for sidewalks would conflict with any agreements the City had. Chairperson Norbury doubted that this was the Commission's purview. It could only decide to grant a modification or not, although in this application there was no mention of a development agreement.

Ms. Roberts remarked that the Commission had a responsibility to uphold the UDO, and she would prefer that the City Council be the one to override the UDO and approve the modification.

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

Mr. Sims made a motion to recommend approval of Application PL2018-032, Preliminary Development Plan and Application PL2018-034 Special Use Permit for major automotive repair and automotive sales; McCarthy Chevrolet, 1000 SE Century Drive, WRL Investments, LP, applicant; subject to staff's letter of April 20, 2018, specifically Recommendation Items 1 through 6, deleting Recommendation Item 5. Ms. Roberts seconded.

Chairperson Norbury asked if there was any discussion of the motion. Mr. Gustafson asked about the condition stating that the developer construct a sidewalk. Ms. Yendes explained that the UDO required sidewalks and Item 5 would allow them to defer it. Deleting the modification would then make the developer subject to the UDO requirement.

Hearing no further discussion of the motion. Chairperson Norbury called for a vote.

ACTION: A motion was made by Board Member Sims, seconded by Board Member Roberts, that this Public Hearing - Sworn be recommended for approval to the City Council - Regular Session, due back by 5/17/2018 The motion carried by a unanimous vote.

7. OTHER AGENDA ITEMS

8. ROUNDTABLE

Chairperson Norbury mentioned that Commissioner Lopez was now on the City Council.

9. ADJOURNMENT

Planning Commission

Action Letter

April 24, 2018

For your convenience, Planning Commission agendas, as well as videos of Planning Commission meetings, may be viewed on the City's Internet site at "www.cityofls.net".