The City of Lee's Summit

Action Letter

Planning Commission

Tuesday, January 23, 2018

5:00 PM

City Council Chambers
City Hall
220 SE Green Street
Lee's Summit, MO 64063

CALL TO ORDER

ROLL CALL

Present: 8 - Board Member Carla Dial
Board Member Jason Norbury
Board Member Colene Roberts
Board Member Dana Arth
Board Member Don Gustafson
Board Member Donnie Funk
Board Member J.Beto Lopez
Board Member Jeff Sims

Absent: 1 - Board Member Herman Watson

APPROVAL OF AGENDA

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

PUBLIC COMMENTS

There were no public comments at the meeting.

APPROVAL OF CONSENT AGENDA

2018-1789 Application #PL2017-261 - SIGN APPLICATION - Hush Lash Studio, 602 NE M-291 Hwy.; A to Z Sign & Custom Neon, applicant

A motion was made by Board Member Funk, seconded by Board Member Sims, that this application be approved. The motion carried unanimously.

2018-1780 Minutes of the January 9, 2018 Planning Commission meeting

A motion was made by Board Member Funk, seconded by Board Member Sims, that these minutes be approved. The motion carried unanimously.

PUBLIC HEARING

2018-1793 PUBLIC HEARING - Application #PL2017-254 - SPECIAL USE PERMIT for in-home massage therapy - 751 SW Old Pryor Rd; Delane Reed, applicant

Chairperson Norbury opened the hearing at 5:04 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Ms. Delane Reed stated that she was a massage therapist, and that the current address of her business was 601 W. O'Brien Road in Lee's Summit. She wanted to move the business to her home at 751 SW Old Pryor Road. Her husband, who had passed on last September, had been a chiropractor; and they had worked together for 21 years. She was not able to keep the building and needed to relocate the business in order to keep her home.

Chairperson Norbury asked if Ms. Reed agreed with staff's proposed 10-year limit on the SUP, and she replied that she did. Chairperson Norbury then asked for staff comments.

Ms. Thompson entered Exhibit (A), list of exhibits 1-20 into the record. She related that the applicant proposed an in-home massage therapy business, at her residence. The area was zoned R-1. Ms. Reed's home was adjacent to single-family homes on large lots on the north, south and east, with a city park to the west; and her home was on a 4-acre lot. Ms. Reed would be the only masseuse and the business hours would be 9:00 a.m. to 7:00 p.m. Monday through Friday. Some business would be done on Saturdays, by appointment only. Weekdays would have a maximum of 5 appointments per day, with 30 minutes between appointments. Ms. Reed had requested a term of 15 years for the SUP, but staff recommended a 10-year term. The ordinance allowed home occupations in the R-1 district, and the owner did not propose any exterior changes. The impact on the neighborhood would be very slight considering the acreage, hours and appointment scheduling.

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.

Mr. Bob Burns stated that he lived in Lone Jack, and worked for the City's public works department. He had been a patient of Ms. Reed and her late husband for about ten years and they had been very helpful with some physical challenges he'd had. Ms. Reed had an established practice that was an asset to the community. He supported Ms. Reed's plan to relocate the business to her home.

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

Ms. Reed confirmed for Chairperson Norbury that she was licensed as a massage therapist by the State of Missouri.

As there were no further questions for the applicant or staff, Chairperson Norbury closed the public hearing at 5:10 p.m. and asked for discussion among the Commission members.

Chairperson Norbury stated to staff that the applicant was licensed by the State as a massage therapist, and so should not be referred to as a "masseuse." He requested that the correct terms be used in applications of this type.

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

Mr. Funk made a motion to recommend approval of Application PL2017-254, Special Use Permit for in-home massage therapy: 751 SW Old Pryor Road; Delane Reed, applicant; subject to staff's letter of January 29, 2018. The motion did not include Recommendation

Item 1. Ms. Roberts seconded.

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

A motion was made by Board Member Funk, seconded by Board Member Roberts, that this application be recommended for approval to the City Council - Regular Session, due back on 2/15/2018. The motion carried unanimously.

2018-1801 PUBLIC HEARING - Application #PL2017-260 - UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENT #64 - Article 2 Definitions, Article 9 Uses Permitted with Conditions and Article 10 Special Use Permits, establishing regulations for Short Term Rentals; City of Lee's Summit, applicant

Chairperson Norbury opened the hearing at 5:19 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Johnson entered Exhibit (A), list of exhibits 1-8 into the record. He related that this amendment had started with a code enforcement case. Someone in the Monarch View subdivision had been running a bed and breakfast from their home via AirB&B. The applicant had been advised to apply for a Special Use Permit, which was denied by both the Commission and the City Council. The applicants then asked staff to consider a UDO amendment allowing short-term rentals.

The purpose was to address issues of compatibility, noise, traffic and safety. Staff's letter had referenced multiple CEDC meetings where staff had presented research and ordinance language. In September, Mr. Johnson had also hosted a meeting, sending out letters to HOA officers and current bed and breakfast operators. The attendees had been invited to attend tonight's hearing; and he had also sent them ordinance drafts as staff had worked on the proposed amendment. In Article 2, "short term rentals" were defined as "a portion of a dwelling unit rented for a period not to exceed seven (7) days". This could include renting out part of a duplex. Conditions related to location included a minimum size parcel of one acre, and a location within the Old Town Master Development Plan area, which was bordered by Chipman Road, M-291 and US 50. Mr. Johnson displayed a map showing this area, commenting that this was a good percentage of the city. It did not specifically show lots of an acre or more.

The property being rented had to be within one-fourth of a mile of property zoned commercial or PMIX, which had been requested by the CEDC; and the use was restricted to single-family dwellings and duplexes. A large lot would minimize both traffic and unknown individuals staying close to other homes in the neighborhood.

The proposed amendment also came with some restrictions as to use. The owner had to either live in the same unit or on the adjacent lot, and no more than two rooms could be rented with a maximum of four guests. The owner had to obtain a business license and pay the required hotel tax [subparagraph e], as well as provide the City with the contact information. Each rental room had to have posted the UDO language "regarding Control of Noise and Sound" [Chapter 17, article IX, Section 17-254]. The limits on rooms and number of guests were intended to avoid anyone turning a residential dwelling into a "party house."

In terms of safety, each unit had to have a working fire extinguisher, smoke detector, child-proofed electrical outlets and a map showing emergency escape routes. The owner also had to provide guests with emergency contact information. Mr. Johnson then clarified the language related to a bed and breakfast inn. The owner did not have to live

on site but a resident manager or employee had to be present whenever guests were there. This had been modified slightly from an earlier version, which had not specified that this requirement applied only during times when the inn had guests. Public comments after the CEDC meeting included someone who wanted to rent out their entire house. Fire safety requirements included a carbon monoxide detector; and updating references "to applicable building and fire codes", as some of these referencing bed and breakfast establishments were outdated.

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. As there were none, he opened the hearing for questions for the applicant or staff.

Chairperson Norbury remarked that the amendment would create an allowable conditional use, but HOA regulations could add further restrictions, and Mr. Johnson answered that this was correct. He added that at the public meeting, Ms. Yendes had given attending HOA officers a review of what the amendment would allow. Chairperson Norbury then asked what would a long-term rental would be, remarking that there was a gray area between a bed and breakfast stay of 7 days or less and a standard residential lease. In some cases, people had simply executed leases that were very short-term. Mr. Johnson noted that the according to the State statute, a stay of over 30 days would just be renting out a house. A normal lease would be six months. In Lee's Summit the ordinance had other bed and breakfast designations that extended up to 14 days. He acknowledged that enforcement was a challenge, citing a case where staff had worked with the police department and asked neighbors to call the non-emergency police number. Chairperson Norbury asked about situations such as an exchange between the owners and another bed and breakfast. Mr. Johnson answered that it would be allowed. Chairperson Norbury noted that the limitation to four guests might preclude some families, which did not pertain to intensity of use. He would not object to a total of five or six. Mr. Johnson responded that the CEDC was concerned with location requirements being too restrictive, and he would present Chairperson Norbury's points at the hearing.

Ms. Arth remarked that the map looked like this use would be allowed in most locations, and asked if the City wanted to avoid this kind of business in any specific places. Mr. Johnson responded that the reasoning was that residents of subdivisions with the traditional pattern of 6,000 square foot lots and at a remove from commercial development were more likely to want to exclude bed and breakfasts altogether. This had been done at Monarch View. Ms. Arth observed that in many subdivisions some people could qualify to run a bed and breakfast and others would not. Mr. Johnson replied that the intent was to limit the intensity, and the restrictions on numbers of rooms and guests, and length of stay, would accomplish that. The requirement for being close to commercial zoning would make walking to stores and restaurants possible in many cases.

Ms. Arth noted that most likely a number of homeowners ran this kind of business 'under the radar.' She asked about enforcement. Mr. Johnson acknowledged that enforcement operated on a complaint basis.

Ms. Roberts asked if residents were being made aware on the City's website that they could report violators, and who to report them to. Mr. Johnson answered that they were not. Ms. Roberts noted that in a case such as Monarch View, people might be considerably less upset if they knew that the City would listen to complaints. There needed to be some kind of direct path if a neighbor's rentals became disruptive, and the website was a good way to get the word out. Mr. Johnson stated that Neighborhood Services answered questions about what was and was not allowed; and Ms. Roberts was not sure that most people would know to contact Neighborhood Services. If a noise issue came up, for example, they were more likely to call the police. Mr. Johnson answered

that staff intended to brief HOA officials about the requirements, and Ms. Roberts responded that not every neighborhood had an HOA and these should not be excluded on that account.

Mr. Funk asked if the two bedrooms/four guests requirement could be tweaked, perhaps specifying two bedrooms but a slightly higher number of guests, in order to accommodate more family renters. Mr. Johnson answered that it could, such as two bedrooms with a maximum of five or six guests. Chairperson Norbury asked if this could be accomplished via an exception for the extra guests being members of a visiting family, with a maximum of four if the guests were not related. Ms. Yendes suggested references to families and unrelated guests as a suggestion, and Ms. Roberts noted that the references might be to children and adults. Mr. Funk agreed that language was needed to accommodate visiting families. Mr. Lopez noted that with these restrictions, guests might still have parties; and Mr. Johnson stated that this could be enforced under the noise ordinance. In cases of a major violation, the City would send a notice of violation, with the option of taking the owner to court.

Chairperson Norbury asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:42 p.m. and asked for discussion among the Commission members. Ms. Yendes suggested that the motioner move to amend subsection (d) to refer to "a maximum of one family or four unrelated guests."

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

Mr. Funk made a motion to recommend approval of Application PL2017-260, Unified Development Ordinance (UDO) Amendment #64: Article 2, Definitions; Article 9, Uses Permitted with Conditions and Article 10, Special Use Permits, establishing regulations for Short Term Rentals, City of Lee's Summit, applicant; amending subsection (d) to read "a maximum of one family or four unrelated guests." Mr. Lopez seconded.

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

A motion was made by Board Member Funk, seconded by Board Member Lopez, that this application be recommended for approval as amended to the City Council - Regular Session, due back on 2/15/2018. The motion carried unanimously.

2018-1796 Public Hearing - Appl. #PL2018-008 (previously numbered Appl. #PL2018-004) - PRELIMINARY DEVELOPMENT PLAN - Animal Control Facility solar installation, 1991 SE Hamblen Rd; City of Lee's Summit, applicant.

Chairperson Norbury opened the hearing at 5:12 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Ms. Dawn Bell, Project Manager, Development Services, related that last spring, staff and some Councilmembers had been approached by a high school student who asked about the City using solar energy in some facilities. The student subsequently gave a well-researched presentation to the Council, and they agreed to look into it. This was followed up via the RFP process for bids on solar energy for the animal control facility. There was one bid, which was awarded for a lease agreement, leasing the necessary equipment for 15 years. During that process, staff had discovered that the way it was bid did not meet all UDO requirements. That was the reason for this project having a public hearing with the Planning Commission.

Ms. Thompson entered Exhibit (A), list of exhibits 1-14 into the record. For this project the City proposed two ground mounted solar arrays, located at the Animal Control facility

at 1991 Hamblen Road. The five-acre property had PI [Planned Industrial] zoning, which allowed ground mounted solar rays as an accessory use. The facility was surrounded by industrial uses including the City's maintenance facility and Resource Recovery Park. The equipment would be located in in a fenced area on the north side yard, 10 feet from the property line, which would require granting a modification. Ms. Thompson displayed an image of the proposed equipment, commenting that some restrictions for location, height and setbacks existed.

Ms. Thompson summarized staff's three Recommendation Items. Item 1 would grant a modification to the requirement that this kind of equipment be located in the rear yard; and Item 2 would grant a modification to the 12-foot setback requirement. Item 3 required the development to be "in accordance with the preliminary development plan date stamped January 5, 2018." Staff recommended approval, subject to Recommendation Items 1 through 3.

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 asked if the Commission had questions for the applicant or staff.

Chairperson Norbury asked how much power the equipment would generate, and what percentage of the facility's need that would be. Ms. Bell answered that she recalled from the bid process that it would close to a 'wash' for the facility.

Chairperson Norbury asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:18 p.m. and asked for discussion among the Commission members or for a motion.

Ms. Roberts thanked Mr. Burton for his actions in getting this project going.

Mr. Funk made a motion to recommend approval of Application PL2018-008, Preliminary Development Plan: Animal Control Facility solar installation, 1991 SE Hamblen Road, City of Lee's Summit, applicant. Mr. Lopez seconded.

As there was no discussion of the motion, Chairperson Norbury called for a vote.

A motion was made by Board Member Funk, seconded by Board Member Lopez, that this application be recommended for approval to the City Council - Regular Session, due back on 2/1/2018. The motion carried unanimously.

OTHER AGENDA ITEMS

There were no Other Agenda Items at the meeting.

ROUNDTABLE

There were no Roundtable items at the meeting.

ADJOURNMENT

There being no further business, Chairperson Norbury adjourned the meeting at 5:45 p.m.

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".