

**CITY OF KIRKWOOD**

**PLANNING AND ZONING COMMISSION**

**MEETING MINUTES**

**August 23, 2023**

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| **PRESENT:**  |  | **ABSENT:** |
| Jim Adkins, Chair |  | Tom Feiner, Vice Chair |
| Ron Evens |  | David Eagleton, Secretary/Treasurer |
| Sandy Washington |  | Karen Coulson |
| Mary Lee Salzer-Lutz |  | Darrell Scott |
| Allen Klippel |  |  |
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Pursuant to notice of meeting duly given, the Planning and Zoning Commission convened on Wednesday, August 23 at 7:00 p.m. in the City Hall Council Chambers. Assistant City Attorney Sarah White, Planning and Development Services Director Jonathan Raiche, Planner II Amy Lowry, and Admin. Associate Steve Davies also attended the meeting.

1. Chair Adkins called the meeting to order at 7 p.m. and informed the audience of the Speaker Cards and procedures for making comments regarding items on the agenda requiring Special Use Permit (SUP) review. Chair Adkins announced that Vice Chair Feiner and Commissioners Eagleton, Coulson and Scott were absent and their absences were excused.
2. Motion was made by Commissioner Klippel and seconded by Commissioner Salzer-Lutz to approve the minutes for the July 19 meeting as written. The minutes were approved by a vote of three in favor, zero opposed, and two abstentions.
3. **PZ-03-24 SPECIAL USE PERMIT FOR TOBACCO & VAPOR PRODUCTS STORE – SMOKE DEPOT TOBACCO & VAPE, 10424 MANCHESTER ROAD**

Planner II Amy Lowry provided the Commission with a presentation on the application. She explained that in the B-3 Zoning District, a tobacco or vapor store requires an SUP. If the use were a retail store that sold tobacco or vapor products along with other goods where the tobacco or vapor products were not the primary offering, it would not need an SUP. The applicant plans to sell tobacco, vapor products, candles and other accessories. Proposed hours are 10 am to 7 pm Monday to Saturday, and 10 am to 7 pm Sunday. As a reminder, an SUP is tied to a location and, if not voluntarily abandoned for more than 120 days, is transferrable to a new owner. Tobacco licensing is through St. Louis County and is not allowed within 1000 feet of a school. The owner provided notice from the County that this location is approved to sell tobacco products.

Petitioner Armin Awwad said that he and fellow petitioner Shadi Abu-Amer have chosen this space for their store as they felt Kirkwood was a good place to open another store. He said he has another store in St. Peters as well as a business in another state.

The floor was then opened up to the Commission for questions. In response to Commissioner Salzer-Lutz’s and Chair Adkin’s questions, Ms. Lowry said that the building is two stories and the applicant intends to occupy both floors. There is a lower level that is partially exposed and accessed on the eastern façade. Mr. Awwad said that sales would only be on the top/ground floor, with inventory on lower level. In response to Commissioner Evans’s questions, Mr. Awwad said he had been in the tobacco business for four years and vaping sales are 70% of the business. Commissioner Evans asked about age limits. Mr. Awwad said it is twenty-one and he has a scanning system to detect fake IDs. In response to Commissioner Salzer-Lutz’s questions, Mr. Awwad said that the candles are just regular candles and he will have surveillance cameras. He said that he has not experienced much crime at his St. Peters store. Commissioner Washington questioned the location of the store in a stand-alone storefront instead of a strip mall. Mr. Awwad said he liked the location along Manchester Road and in Kirkwood. In response to Chair Adkins’s question, Mr. Awwad said there would be no vaping allowed inside.

Chair Adkins then asked if there were any comments from the audience and the following responded:

Jeanene Harris, 1026 Sylvan Place, stated her concerns about the negative impacts – including on traffic, surrounding property values, the community character, and kids.

Maureen Wallingsford, 1037 Sylvan Place, was concerned about the parking and traffic safety impacts, especially on neighborhood kids. She stated that the use would be more appropriate in the larger commercial districts along South Kirkwood Road.

Melissa Range, 1020 Sylvan Place, talked about how her driveway has been damaged over the years with cars needing to turn around on the narrow, dead-end street. She added that this business does not fit in the Kirkwood community.

Marla Kindt, 1025 Sylvan Place, mentioned that she is a middle school teacher, has lived in her house for twenty years, and raised her kids there. She also talked about the negative impact of vaping on kids.

Carrie Menendez, 1040 Sylvan Place talked about the criteria for an SUP and how this business does not fit, is not a harmonious use, will create traffic and fumes, and will create disturbances in the area.

Michael Shoop, 1044 Curran Avenue, said that he is the third generation running Ackermann’s Swim Camp. His teenage employees must go past the shop to get to work and he does not think the location is appropriate due to its proximity to his swim school business.

Vivian Conran, 1020 Sylvan Place, spoke about growing up and living in the area for twenty years with lots of kids playing everywhere, including in the street. She believes vaping is easy to access and for teens to hide its use, and has concerns about the health impact on children.

Commissioner Evens asked whether a subcommittee needed to be assigned or whether he could make a motion on the matter at this meeting. Commissioner Evens then made a Motion to approve PZ-03-24 Special Use Permit for Tobacco & Vapor Products Store – Smoke Depot Tobacco & Vape, at 10424 Manchester Rd. Commissioner Salzer-Lutz seconded the motion.

Chair Adkins called for discussion on the motion. Commissioner Evens stated that after his review of the information provided and hearing the information provided tonight, he believes the proposal does not meet the criteria of a special use permit in regards to being harmonious with the neighborhood and promoting the general welfare of the community. Commissioners Evens and Salzer-Lutz both clarified that they do not believe there are conditions that could be placed upon the application that would make the request appropriate at this specific location. Commissioner Klippel reminded the Commission that a few years ago a vaping business was approved on South Kirkwood Road in a place he believed was more appropriate. He said that while he believes individual health concerns over vaping are not criteria to be considered for an SUP, he cited the SUP criteria number seven regarding the general welfare of the community and the criteria related to traffic concerns for his opposition to the application. Commissioner Washington said she agreed that the use would violate criteria seven as it would not be harmonious with the existing uses. When asked by Commissioner Evens, City Attorney Sarah White confirmed that a motion could be made as a subcommittee is not required and that the Commission is doing the appropriate thing by putting their concerns in relation to the SUP criteria on the record.

Chair Adkins pointed out that the Commission had approved a marijuana dispensary next to residential property, Schnuck’s and Huck’s sell tobacco products in the immediate area, and any new business will create additional traffic.

Mr. Awwad pointed out that there is a liquor store across the street so he did not think his store would be an issue. He also informed the Commission that there is a side parking lot next to the building as well.

The Commission discussed that the marijuana dispensaries are governed by regulations under the State constitution, but vapor shops are not. Commissioner Evens pointed out that the State regulations limit how the City can limit the locations of marijuana dispensaries. Commissioner Salzer-Lutz added that the State regulations for dispensaries add a layer of protection with certain security measures required. Planning and Development Services Director Jonathan Raiche noted that all five votes must be in favor for there to be a recommendation of approval to the City Council.

At this time, Lisa Hendry, 1036 Sylvan Place, asked to make an additional comment for the Commission to consider whether they would want this business located on their street.

Chair Adkins then called for a vote to approve PZ-03-24 Special Use Permit for Tobacco & Vapor Products Store – Smoke Depot Tobacco & Vape, 10424 Manchester Rd. The motion failed by a vote of 1-4, with only Chair Adkins voting in favor.

Mr. Raiche said the matter would now have a public hearing at City Council, with the earliest date in about one month.

1. **COMMISSION/STAFF (INTERNAL) ITEMS**

 **Envision Kirkwood 2035- Quarterly Update**

Mr. Raiche gave the following update with regard to Housing and Neighborhoods:

* On goal number 3, preserving historic buildings and neighborhoods, the draft Historic Preservation Commission ordinance has been completed by a joint committee of City Council and Landmarks Commission members. A City Council work session was held and the legislation will be scheduled for formal consideration in September.
* On goal number 5, preserving and enhancing neighborhood retail and services within existing neighborhood centers, the Longview Blvd. project will begin in the fall of 2023, the South Geyer Road project will begin in the fall of 2023, the Essex project will begin in the summer of 2024, and the Kirkwood Road project is scheduled for the fall of 2024.

Mr. Raiche gave the following update with regard to Mobility and Infrastructure:

* On goal number 2, becoming a more walkable and bike-able community, the City is waiting to hear on the status of an STP grant from East-West Gateway for a portion of extension of the Grant’s Trail. We should hear back by August 30th.

**Development Project Update**

Mr. Raiche said that the recommended changes to the Architectural Review Board regulations have been postponed until the Landmarks Commission Ordinance adoption as they dependent on each other.

There being no further business, motion was made by Commissioner Salzer-Lutz and seconded by Commissioner Klippel, to adjourn at 8:05 p.m. With no business anticipated for the meeting on September 6th, the next meeting will be held on September 20th at 7 pm.

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 Jim Adkins, Chair

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 David Eagleton, Secretary/Treasurer

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