

**CITY OF KIRKWOOD**

**PLANNING AND ZONING COMMISSION**

**MAY 15, 2019**

**PRESENT:** **ABSENT:**

Allen Klippel, Chairman Madt Mallinckrodt

Jim O’Donnell, Vice Chairman Ron Evens

Wanda Drewel, Secretary/Treasurer

David Eagleton

James Diel

Jim Adkins

Greg Frick

Pursuant to notice of meeting duly given, the Planning and Zoning Commission convened on Wednesday, May 15, 2019, in the City Hall Council Chambers at 139 South Kirkwood Road. City Attorney John Hessel, City Planner Jonathan Raiche, Assistant Planner Amy Lowry, and Administrative Assistant Patti Dodel also attended the meeting.

**1.** Chairman Klippel called the meeting to order at 7:00 p.m. and stated Commissioners Mallinckrodt and Evens were absent and their absence was excused.

**2.** Motion was made by Commissioner Eagleton and seconded by Commissioner Frick to approve the minutes as written for the May 1, 2019, meeting. The motion was unanimously approved by the seven members present.

**3. PZ-13-19 COMMUNITY UNIT PLAN FINAL PLAT – EMMERSON ESTATES**

Submitted: 4-12-19

Petitioner’s Agent, Grant Stecher

(Subcommittee – Commissioners Klippel and Eagleton)

City Planner Jonathan Raiche stated the final plat and development plans were submitted for an eight-lot subdivision at 2017 Lily and 2040 Boaz Avenue utilizing the Community Unit Plan process. Final approval from Metropolitan Sewer District is required prior to City Council review. Dan Wind of Wind Engineering stated he had no objection to the Subcommittee Report. Chairman Klippel read the underlined sections of the Subcommittee Report:

CITY OF KIRKWOOD

**PLANNING AND ZONING COMMISSION**

**SUBCOMMITTEE REPORT**

###### May 15, 2019

***PETITION NUMBER:*** PZ-13-19

***ACTION REQUESTED:*** Community Unit Plan Type A (Emmerson Estates – 8 lots) – Final Development Plan and Plat

**property owner:** ingargiola development llc

**PETITIONER:** ingargiola development llc

**PETITIONER’S AGENT:** wind engineering co.

**PROPERTY LOCATION:** 2017 Lily Avenue and 2040 Boaz Avenue

**ZONING**: R-3 Single Family District

**DRAWINGS SUBMITTED:** Final development plans prepared by Wind Engineering Company (37 sheets) stamped “Received April 12, 2019 City of Kirkwood Public services department”

Final landscape plan prepared by hall & associates LLC stamped “Received April 12, 2019 City of Kirkwood Public services department”

REVISED FINal development plan sheets (C5.1, C16.1, C17.1a, C17.1b) prepared by wind engineering company Stamped “Received May 3, 2019 City of Kirkwood Public services department”

final record plat prepared by wind engineering company Stamped “Received May 1, 2019 City of Kirkwood Public services department”

**DESCRIPTION OF REQUEST:**

The applicant has purchased the subject property from the previous developer and is seeking approval of a Community Unit Plan, Type A to develop an eight lot single-family subdivision that is substantially similar to the previous developer’s plan. The entire proposed subdivision has been approved as R-3 zoning and pieces were annexed into the City of Kirkwood from unincorporated St. Louis County in 2015.

A boundary adjustment with the neighbor at 421 Emmerson has been accomplished. This boundary adjustment is reflected on the plans and will affect the back yard areas of lots 1, 2, and 3. In addition to the rezoning approval, the previous developer received approval of the Preliminary Development Plans and received a recommendation for approval from the Planning & Zoning Commission for the Final Development Plan. Before receiving City Council approval for the final plans, however, the developer withdrew the request. The current developer received approval of the Preliminary Development Plans and Plat in January of this year.

The subject property was consolidated into a single property of approximately 4.6 acres in size, and is zoned R-3 Single-Family Zoning District. In consolidating the previous lots and withdrawing the subdivision request, the previous developer was allowed to begin construction on one home. The one home under construction is located on proposed lot 4 and is proposed to be completed by the new developer.

The CUP process allows for a developer to request reductions in various zoning requirements due to adverse natural physical conditions. The subject site contains a combination of steep slopes, a natural watercourse, and flood plain.

The proposal reflects a Subdivision Code waiver to allow for above ground detention as previously approved with the Preliminary Development Plan and Plat. Similarly, the plans submitted also reflect that sidewalks may only be required on one side of a proposed cul-de-sac street if said street serves less than nine lots and approved by the City Council with recommendation from the Planning & Zoning Commission. Due to the topography of the site and the proximity to I-270, Staff has no issue with this proposal. This request was also reviewed and recommended for approval during the Preliminary Development Plan and Plat process.

**SITE OVERVIEW:**

The terrain of the site is steep with an elevation change from 556 feet to 470 feet or a difference of 86 feet across the property from the south to the north with an active creek along the northern property line. The eight lots will vary in size from 11,328 to 33,795 square feet with an average lot area of 16,698 square feet. As permitted by the CUP Type A process, this complies with underlying density of the R-3 Zoning District which requires a minimum lot size of 15,000.

The development will be accessed via an extended 40’ right-of-way of Lily Avenue which will terminate in a cul-de-sac. A storm water facility will be located within the common ground which will be located north of lots 6, 7 and 8. The common ground will be 43,902 square feet and accessed via a twenty foot wide easement located between lots 5 and 6. The portion of the Boaz right-of-way adjacent to the subject site was vacated by Ordinance 10426 and the southern half is being assumed in to the subject site with this proposal.

Setbacks will be varied from the underlying zoning district standards, but are consistent with the previous proposal. These reduced setbacks are to allow the placement of new homes to work with existing grades and be placed further away from the existing creek. A comparison of proposed setbacks to the regular R-3 District requirements can be seen below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **PROPOSED CUP** | |  | **REQUIRED R-3 DISTRICT** | |
| Front: | 25 Feet |  | Front: | 40 Feet |
| Side: | 8 to 12 Feet |  | Side: | 12 Feet |
| Rear: | 15 to 35 Feet |  | Rear: | 35 Feet |

Lot widths have also been varied. The minimum lot width required of an R-3 zoned lot is 100 feet. The eight proposed lots, when taken at the building line, will have widths that range from approximately 75 feet (cul-de-sac) to 110 feet.

**LANDSCAPING**

The Final Landscape Plan is substantially similar to the Preliminary Landscape Plan with a revision to reflect the boundary adjusted area and to include the required buffer alond I-270. A list of the major requirements and how they are met in this proposal can be seen below:

* Frontage Tree Plantings:
  + Required: 1 tree for each 50 feet of street frontage for 15 total.
  + Provided: 15 provided along new roadway plus 2 additional in the cul-de-sac.
* Overall Subdivision Density:
  + Required: 1 tree per 2,000 square feet of site area less street right-of-way for 89 total.
  + Provided: 103 new individual trees, 16 saved trees, plus woodland on Lot 8 and in Common Ground.
* Individual Lot Density (to be confirmed for boundary adjusted area by revised plans):
  + Required: 1 tree per 4,000 square feet of lot area.
  + Provided: Each lot varies, but all lots are proposed to meet the minimum requirement. See the proposed landscape plan for details.
* Individual Lot Coverage(to be confirmed for boundary adjusted area by revised plans):
  + Required: Each lot has a minimum canopy area of 350 square feet per 1,000 square feet of lot area (35%).
  + Provided: Each lot varies, but all lots are proposed to meet the minimum requirement. See the proposed landscape plan for details.

**COMPREHENSIVE PLAN:**

This property is designated as Suburban Residential by the EnVision Kirkwood 2035 Comprehensive Plan. The development types described in this land use designation include the following:

* Single-family residential (1-2 dwelling units per acre)
* Community Unit Plan Development (2-6 dwelling units per acre) that accommodates natural features and cluster designs

The proposed development is approximately 2 units per acre of net site area after the proposed right-of-way is deducted and it is consistent with the development policies presented by the Plan.

***LAND USE AND ZONING***:

The subject property is currently zoned R-3 Single-Family District and the existing property contains one home that is under construction. Surrounding land uses and zoning include the following:

To the north: Adjacent to the subject property are single-family residences zoned R-1 and R-3.

To the south: Adjacent to the subject property is a single-family residence zoned R-3 and the right-of-way line for Interstate 270.

To the east: Adjacent to the subject property are single-family residences zoned R-1 and R-3.

To the west: Adjacent to the subject property is I-270 and the western municipal boundary of the City of Kirkwood.

***OUTSTANDING DEPARTMENT/OUTSIDE AGENCY COMMENTS:***

Water:1. Water main to be installed per Kirkwood specifications.

Building:1. New structures are required to meet the IRC 2015.

Engineering:1. MSD approval required.

**DISCUSSION:**

A Zoning Matters sign was placed on the property on April 29, 2019. A subcommittee meeting was held at the subject site on May 7th. For a list of attendees at this meeting, see Exhibit B. The applicant’s engineer explained that they expected MSD’s approval within approximately two weeks and did not anticipate any issues with that based on comments from MSD. The Subcommittee discussed that their recommendation would include a condition that final MSD approval be provided prior to City Council consideration.

As previously mentioned, the developer is requesting approval to provide above ground storm water detention. In accordance with Article X of the Subdivision Code, a waiver from the Subdivision Code is being requested to allow storm water management facilities above ground versus underground. Metropolitan Sewer District requires water quality and detention facilities to be open and above ground and neither the subcommittee nor City Staff has any objection to the waiver request.

**RECOMMENDATION:**

The Subcommittee recommends granting the waiver from the Subdivision Code for above ground detention and approving the Final Development Plan and Final Plat for the Community Unit Plan with the following conditions:

1. The subdivision shall be constructed to be consistent with the plans referenced in the “Drawing Submitted” portion of this report.
2. The sidewalk requirement shall be reduced to only the north side of the extended Lily Avenue as the Lily Avenue extension is a cul-de-sac street that serves less than 9 single-family residential lots.
3. Lily Avenue shall be reconstructed to twenty-six (26) feet in width from the entrance of the subdivision to the intersection of Emmerson Avenue.
4. The primary construction route shall be via Boaz.
5. Storm water management plans and sanitary sewer plans shall be approved by Metropolitan Sewer District (MSD) prior to review of the final development plans by the City Council. Storm water greater than one c.f.s. shall not be directed across the driveway entrances.
6. A separate flood plain development permit is required.
7. Per Appendix B, Article X, a waiver to allow for above ground water detention is approved.
8. The applicant shall comply with all standard conditions as listed on Exhibit A.

David Eagleton Allen Klippel

Motion was made by Commissioner O’Donnell and seconded by Commissioner Diel to approve PZ-13-19, an application to develop 2017 Lily Avenue and 2040 Boaz Avenue into an eight lot subdivision utilizing the Community Unit Plan process and the associated development plan and record plat in accordance with the Subcommittee Report. There being no discussion, the motion was unanimously approved by the seven members present.

**4. PZ-24-19 SPECIAL USE PERMITS - CAMP BOW WOW, 902 SOUTH KIRKWOOD RD**

Submitted: 3-12-19 Automatic Recommendation: 7-10-19

Petitioner’s Agent, Peter Newton

(Subcommittee: Commissioners Eagleton and Evens)

City Planner Jonathan Raiche stated revisions to the site plan were made in accordance with the Fire Marshal’s comments. The outdoor area was relocated from the north side of the building to the south side, the accessory structure behind the building will be removed, and a parking area on the north side of the lot will be striped for no parking. One employee will be on site for every 25 dogs.

Commissioner Eagleton read the underlined sections of the Subcommittee Report:

CITY OF KIRKWOOD

**PLANNING AND ZONING SUBCOMMITTEE REPORT**

###### May 15, 2019

***PETITION NUMBER:*** PZ-24-19

***ACTION REQUESTED:*** SPECIAL USE PERMITS (PET DAY CARE, KENNEL, OUTDOOR USE)

**PROPERTY OWNER:**ROBERT VATTEROTT PROPERTIES, INC.

***PETITIONER:*** SHARON JEFFRIES, CAMP BOW WOW

***PETITIONER’S AGENT:*** PETER NEWTON, HILLIKER CORP

JEFF MUGG, SAINT LOUIS DESIGN ALLIANCE

***PROPERTY LOCATION:*** 902 SOUTH KIRKWOOD ROAD

***ZONING:*** I-1, LIGHT INDUSTRIAL DISTRICT

***DRAWINGS SUBMITTED:*** SITE PLAN AND FLOOR PLAN PREPARED BY SAINT LOUIS DESIGN ALLIANCE ARCHITECTS STAMPED “RECEIVED MAY 9, 2019 CITY OF KIKRWOOD PUBLIC SERVICES DEPARTMENT”

LIGHTING PLAN STAMPED “RECEIVED MARCH 12, 2019 CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT”

***DESCRIPTION OF PROJECT:***

The petitioner is requesting multiple Special Use Permits to allow the operation of a pet day-care facility with overnight boarding, training, and grooming services in the existing building and property located at 902 South Kirkwood Road. The property was most recently occupied by ABC Supply Company. The property has been historically used for similar uses with outdoor storage as a non-conforming use. The legal non-conforming outdoor storage component has been abandoned for more than 180 days and therefore has lost the legal non-conforming status. The property and building are currently vacant.

The petitioner proposes to renovate the interior of the main existing building and the existing parking lot. The building will be renovated to include a large area with individual boarding facilities, common indoor play areas, office area, grooming areas, and a reception area. In addition to the indoor facilities, the applicant has also proposed multiple outdoor play areas enclosed by an 8’ tall vinyl fence.

***ZONING, LAND USE, AND COMPREHENSIVE PLAN:***

The subject property is presently zoned I-1, Light Industrial District and is designated as Transition Mix Use by the EnVision Kirkwood 2035 Comprehensive Plan. The Transition Mix Use Land Use designation includes the provision for Regional Commercial uses. The proposed land use is listed in this district as a Special Use requiring the applicant to apply for a Special Use Permit. Surrounding land uses and zoning include the following:

To the south: A multi-building office park is located to the south and is zoned I-1.

To the north: Commercial/light industrial buildings are located across the BNSF railroad right-of-way and are zoned I-1.

To the east: A combination of commercial/light industrial uses and single-family residential homes are located to the east. These properties are zoned I-1 and R-4.

To the west: Commercial/light industrial buildings are located across Kirkwood Road and are zoned I-1.

***OUTSTANDING DEPARTMENTAL/AGENCY COMMENTS:***

Engineering: 1. Applicant shall provide staking/layout of the entrance location for the City contractor to install as part of the S. Kirkwood Road TAP project.

2. Construct and grade island at SW property corner to drain towards the existing area inlet east of the proposed island. Area Inlet A will be eliminated from the City’s TAP project.

Fire: 1. Provide an emergency access and pet removal plan for after hour incidents. It looks like there are over 100 indoor pet pens and even partial occupancy could quickly overwhelm our ability function, maintain safety for our personnel and safely remove the pets.

***DISCUSSION:***

A Zoning Matters sign was posted on the property on March 29, 2019, and notice of the Planning & Zoning Commission was properly posted. This request was first presented by City Staff and the applicant at the Planning & Zoning Commission meeting on April 3, 2019. A subcommittee meeting was held on-site on April 8, 2019. A list of attendees at the subcommittee meeting can be seen in Exhibit A. Discussion at the subcommittee meeting included the following items:

* The outdoor training area needs to be delineated on the plan and hours of outdoor use need to be specified.
* The incorporation of conditions from the most recent approval on the site into this proposed site plan.
* The existing accessory structure needs to be removed or repaired per building code prior to occupancy of the main building is granted.
* The top rail of the existing chain link fence that is to remain should be painted or replaced.

***RECOMMENDATION:***

The subcommittee recommends that this petition be **approved** with the following conditions:

1. The project shall be constructed and maintained in accordance with the plans referenced in the Drawing Submitted portion of this report, except as noted herein.
2. Outdoor use shall be limited to the fenced areas indicated on the Site Plan stamped “RECEIVED MAY 9, 2019 CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT” and shall be limited to the hours of 7am to 7pm.
3. The existing chain link fence and gate along the front property line and the fence along the north and south property lines for a minimum of 20 feet from the front property line shall be removed. Existing barbed wire on the entire existing chain link fence shall also be removed.
4. Landscape islands in the northwest and southwest corners of the property shall be installed and maintained as indicated on the Site Plan stamped “RECEIVED MAY 9, 2019 CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT”.
5. The existing accessory structure located in the southeast corner of the property shall be removed as indicated on the proposed plan.
6. The top rail of the existing chain link fence that will remain on the property shall be painted or replaced. All portions of the chain link fence located in front of the existing building shall be maintained to be rust-free for aesthetic reasons.
7. No parking is permitted along the north side of the middle island. Striping and signage may be required by the Fire Marshal.
8. Potholes shall be patched as directed by the Public Services Department.
9. Per Section A-1000.6, two bicycle racks to accommodate a total of four bicycles shall be installed. Said racks must comply with all regulations contained within Section A-1000.6.
10. An emergency access and pet removal plan for after hour incidents shall be provided for review and approval by the Fire Marshal prior to issuance of permits.
11. The petitioner shall comply with all standard conditions as listed in Exhibit B.

Respectfully submitted,

David Eagleton Ron Evens

Motion was made by Commissioner Drewel and seconded by Commissioner O’Donnell to approve PZ-24-19, an application for Special Use Permits to operate a kennel and pet day care with outdoor use by Camp Bow Wow at 902 South Kirkwood Road and the associated site plan in accordance with the Subcommittee Report. There being no discussion, the motion was unanimously approved by the seven members present.

**5. PZ-2-20 SPECIAL USE PERMIT (RESTAURANT)–GELATO DI RISO, 151 WEST JEFFERSON**

Submitted: 4-25-19 Automatic Recommendation: 8-23-19

Petitioner, Larry Fuse

City Planner Jonathan Raiche stated Gelato Di Riso is proposing to occupy half of the two-tenant building to sell gelato and pastries. Three of the six parking spaces to the west and north of the building are dedicated to this tenant.

Motion was made by Commissioner O’Donnell and seconded by Commissioner Diel to approve PZ-2-20, an application for a Special Use Permit to operate a restaurant in the tenant space known as 151 West Jefferson Avenue in accordance with the memo dated May 8, 2019, from City Planner Raiche. There being no discussion, the motion was unanimously approved by the seven members present.

**6. PZ-1-20 AMEND ZONING CODE – MEDICAL MARIJUANA**

Petitioner, City Planner Jonathan Raiche

City Planner Raiche stated revisions to the Zoning Code are required to provide regulations for Medical Marijuana facilities for cultivation, dispensing, manufacturing, and testing, i.e., which of these four uses are permitted or special; which zoning districts are appropriate; what is the appropriate distance from a school, day care, church or park; the appropriate distance between facilities; are restrictions for hours of operation desired; and do any of the proposed regulations effectively prohibit the uses. In a memo dated April 29, 2019, from City Planner Raiche, staff made suggestions for all four uses. Staff is recommending: (1) all facilities require a special use permit; (2) dispensaries be allowed with a SUP in the B-3 District and all other facilities with a SUP in the I-1 District; (3) the buffer between a facility and a school, day care, or church be 1,000 feet; (4) Public parks should be included in the 1,000 foot buffer requirement above; (5) facilities be located 500 from another facility of the same type; and (6) hours of operation be restricted for the dispensary facilities to 8 a.m. to 9 p.m.

Commissioner Frick noticed a dispensary in Illinois that was closed on Sunday and asked if Kirkwood could have a similar restriction. Not knowing if it was closed voluntarily or mandatory, a restriction of not allowing sales on Sunday could be considered unduly burdensome.

Motion was made by Commissioner O’Donnell and seconded by Commissioner Adkins to approve PZ-1-20 to amend the Zoning Code for medical marijuana. City Planner Raiche restated the six issues before the Commission as outlined in his memo dated April 29 with the revision to (5) being “of the same type”. Commissioner Eagleton believes a 1,000 foot buffer is too restrictive and suggested 750 feet. Commissioner Frick believes a 1,000 buffer and a minimum of 750 feet from another facility of the same type are appropriate. City Attorney Hessel stated the State will limit the total number of facilities and Commissioner Adkins added the total number of dispensaries allowed in the State of Missouri is limited to 192.

Commissioner Frick made a motion to approve the amendment with a revision that no facility shall be located within 750 feet of another facility. The motion failed for lack of a second.

Motion was made by Commissioner Klippel and seconded by Commissioner Diel to amend the staff recommendation that restricts the distance between facilities by adding “of the same type”. The motion passed 5 to 2 with Commissioners Eagleton and Frick dissenting.

Chairman Klippel called for the vote on the motion to approve PZ-1-20 as amended. Motion passed 5 to 2 with Commissioners Eagleton and Frick dissenting.

**7. DEVELOPMENT PROJECT UPDATE**

City Planner Raiche updated the Commissioners on the condominiums at Madison and Clay (submitted to Architectural Review Board), Plaza Tire (close to obtaining a building permit), Total Access Urgent Care (under construction), EZ Storage (obtaining interior demo permit), Kirkwork (obtained Architectural Review Board approval and preparing to demo four buildings on Big Bend and one on Prospect)

**8. ZONING & SUBDIVISON CODES REWRITE UPDATE**

The Focus Group met on May 8th. June 26 is the next Steering Committee meeting, and there will be a public event on June 27, details will be forthcoming.

There being no further business, motion was made by Commissioner Adkins and seconded by Commissioner O’Donnell to adjourn at 7:46 p.m. The next regular meeting will be held on June 19, 2019, at 7 p.m. in the Council Chambers at Kirkwood City Hall.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Allen Klippel, Chair

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Wanda Drewel, Secretary/Treasurer

Upon request, these minutes can be made available within three working days in an alternate format, such as CD, by calling 314-822-5822. Minutes can also be downloaded from the City’s website at [www.kirkwoodmo.org](http://www.kirkwoodmo.org), then click on City Clerk, Boards & Commissions, Planning & Zoning Commission.