

**CITY OF KIRKWOOD**

**PLANNING AND ZONING COMMISSION**

**NOVEMBER 6, 2019**

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

Allen Klippel, Chairman Wanda Drewel, Secretary/Treasurer

Jim O’Donnell, Vice Chairman Madt Mallinckrodt

James Diel Ron Evens

David Eagleton

Jim Adkins

Greg Frick

Pursuant to notice of meeting duly given, the Planning and Zoning Commission convened on Wednesday, November 6, 2019, in the City Hall Council Chambers at 139 South Kirkwood Road. City Attorney John Hessel, City Planner Jonathan Raiche, Assistant City Planner Amy Lowry, and Administrative Assistant Patti Dodel also attended the meeting.

**1.** Chairman Klippel called the meeting to order at 7:03 p.m. and informed the audience of the Speaker Cards and procedures for making comments regarding items requiring Site Plan Review that are on the agenda. He announced that Commissioners Drewel, Mallinckrodt, and Evens were absent and their absence was excused.

**2.** Motion was made by Commissioner O’Donnell and seconded by Commissioner Eagleton to approve the minutes for the October 16, 2019, meeting as written. The motion was unanimously approved by the six Commissioners present.

3. Motion was made by Chairman Klippel to amend the agenda by moving PZ-13-20 to the first item under Unfinished Business. Motion was seconded by Commissioner O’Donnell and unanimously approved.

**4. PZ-13-20 REZONE R3 TO R5 AND SITE PLAN REVIEW - THE TOWNES AT GEYER GROVE, 11204-11224 BIG BEND BOULEVARD**

 Submitted: 10-8-2019 Automatic Recommendation: 1-6-2020

 Petitioner’s Agent, Brad Goss

(Subcommittee - Commissioners Eagleton and O’Donnell)

*Opportunity for Public Comment*

City Planner Jonathan Raiche had advised the petitioner that a positive recommendation would require five of the six members present to vote in the affirmative and offered the item to be continued to the next meeting. The petitioner requested that this item be continued to the November 20 meeting. Motion was made by Commissioner Klippel and seconded by Commissioner O’Donnell to continue the item to the November 20 meeting. The motion was unanimously approved.

**5. PZ-14-20 SPECIAL USE PERMIT (CONVENIENCE STORE) – CBD KRATOM,**

 **11220 MANCHESTER ROAD**

 Submitted: 9-26-2019 Automatic Recommendation: 1-24-2020

 Petitioner’s Agent, Hollie Powell

(Subcommittee - Chairman Klippel and Commissioner Evens)

City PlannerJonathan Raiche stated CBD Kratom is proposing to occupy the westernmost space in the multi-tenant building at 11220 Manchester Road. The space was most-recently occupied by Mavrik Jewelry, who had constructed a drive-up window on the western side of the space for jewelry drop off/pick up. CBD Kratom does not intend to use or remove the drive-up window. As a condition of approval, the signage and striping for the drive-up window shall be removed. They are proposing to sell lotions, confectionaries, and tinctures which are items that can typically be found at a grocery/food store. Based on the City’s definition, a food store less than 5,000 square feet is a convenience store. They are not proposing any structural changes to the site.

David Palatnik, owner of CBD Kratom, stated they were advised by St. Louis County that they cannot sell electronic vaporizing devices.

Chairman Klippel read the underlined sections of the Subcommittee Report:

CITY OF KIRKWOOD

**PLANNING AND ZONING SUBCOMMITTEE REPORT**

###### November 6, 2019

***PETITION NUMBER:*** PZ-14-20

 ***ACTION REQUESTED:*** SPECIAL USE PERMIT (CONVENIENCE STORE)

**PROPERTY OWNER:**IGAL ANON, GINGI HOLDINGS LLC

***PETITIONER:*** DAVID PALATNIK, CBD KRATOM

***PETITIONER’S AGENT:*** HOLLIE POWELL, CBD KRATOM

***PROPERTY LOCATION:*** 11220 MANCHESTER ROAD

 ***ZONING:*** B-3, HIGHWAY BUSINESS DISTRICT

 ***DRAWINGS SUBMITTED:*** FLOOR PLAN EXHIBIT PREPARED BY BOCK DESIGN STAMPED “RECEIVED SEPTEMBER 26, 2019 CITY OF KIKRWOOD PUBLIC SERVICES DEPARTMENT”

 ***DESCRIPTION OF PROJECT:***

The petitioner is requesting a Special Use Permit to allow the operation of a retail store that specializes in cannabidiol (CBD) products. The business is proposed to occupy the current tenant space of 11220 Manchester Road which is 1,989 square feet. The applicant proposes to sell natural supplements including tinctures, skincare products, and confections. The applicant has indicated that all of their products which contain CBD are third-party tested and contain less than the federal legal limit of THC which is less than 0.3%.

In evaluation of the City’s Code, Staff has found that CBD functions as an ingredient in the products being proposed for sale on the premise and that these products can customarily be found in grocery stores, pharmacies, and gas stations. Because the proposal does not include a pharmacy with prescription services, Staff determined that the proposal should be treated similar to a grocery store. As such, the Code categorizes grocery stores that are less than 5,000 square feet in size as convenience stores hence the application for a Special Use Permit to operate a convenience store. While the applicant acknowledged that they offer one model of electronic vaporizing device, they indicated that this is a very minor portion of their business. Staff determined, based on this information, that the proposal would not be treated as a Vapor Product Store.

Based upon the information provided about the sale of an electronic vaporizing device, Staff contacted St. Louis County Department of Health regarding their 2019 ordinance regulating the sale of tobacco and electronic smoking devices. The applicant indicated that they were not subject to these rules; however, St. Louis County Staff indicated to City Staff that the business would be subject to the regulations due to the proposed sale of an electronic vaporizing device. City Staff has notified the applicant of this information and the fact that they will need to comply with County regulations if they intend to sell electronic vaporizing devices. Because of the proximity to Kirkwood North Middle School, the applicant will likely be unable to obtain the necessary County license to sell an electronic vaporizing device.

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

The subject property is presently zoned B-3, Highway Business District and is designated as Corridor Commercial by the EnVision Kirkwood 2035 Comprehensive Plan. The Corridor Commercial 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: Single-family residential homes zoned R-4.

To the north: Various commercial uses and Kirkwood North Middle School are located across Manchester Road and are zoned B-3 and R-3 respectively.

To the east: Various commercial uses zoned B-3.

To the west: Directly adjacent there is a single commercial property zoned B-3 with single-family residential uses zoned R-4 located across Ormond Drive.

***DEPARTMENTAL/AGENCY COMMENTS:***

Engineering: No comments received.

Building/Fire: No comments received.

Water: No comments.

Electric: No comments received.

***DISCUSSION:***

A Zoning Matters sign was posted on the property on October 11, 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 October 16, 2019. A subcommittee meeting was held on-site on October 18, 2019. A list of attendees at the subcommittee meeting can be seen in Exhibit A. The applicant provided information about their proposed operation which included the following items:

* The applicant stated that they have an internal policy restricting their merchandise to customers at least 18 years old. The electronic vaporizing device that they sell is restricted to customers at least 21 years old.
* The applicant explained that the products they specialize in are sold in other typical grocery, pharmacy, or convenience stores.
* The applicant stated that their expected hours of operation are 8am – 10 pm.

In addition to these items, questions were raised about the business’ anticipated clientele and specifically related to a concern for minors due to its proximity to North Middle School. In addition to explaining the company’s age restriction policies, the applicant stated that the majority of their clientele are older patrons looking for alternative methods for dealing with various health ailments. The applicant agreed to post a sign in their window which stated that unaccompanied minors (under 18 years of age) are prohibited in the store. A condition has been added to the recommendation portion of the report reflecting the requirement for this signage.

In addition to the above mentioned condition, the subcommittee also agreed that the existing drive-thru window should not be utilized by the applicant. In an effort to further this requirement, a condition has been added to require the removal of parking lot striping and any signage that directs people to the drive-thru. Removal of the drive-thru awning was discussed; however, the subcommittee felt that the recommended signage changes would be enough and still allow the applicant to utilize the area for covered employee parking, if desired.

***RECOMMENDATION:***

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

1. The special use permit shall be restricted to the existing tenant space which is 1,989 square feet and addressed as 11220 Manchester Road.
2. Use of the existing drive-thru lane for drive-up, drop-off, pick-up, drive-thru, or other similar uses shall be prohibited.
3. Signage and parking lot striping which advertises and directs people to the existing drive-thru shall be removed prior to issuance of an occupancy permit.
4. A sign visible from the exterior of the store shall be placed near the main entrance which states, “Unaccompanied minors (under age of 18) are prohibited”.
5. The petitioner shall comply with all standard conditions as listed in Exhibit B.

Respectfully submitted,

Allen Klippel Ron Evens

Commissioner O’Donnell made a motion and seconded by Commissioner Frick to approve PZ-14-20, a request by CBD Kratom for a Special Use Permit to operate a convenience store at 11220 Manchester Road in accordance with the recommendations contained in the Subcommittee Report. There being no discussion, the motion was unanimously approved by the six members present.

**6. PZ-16-20 SUBDIVISION, 3 LOTS – CONLEY ESTATES, 608 EAST MONROE**

Submitted: 10-17-19

Petitioner, Michael Conley

City Planner Jonathan Raiche stated the property owner is proposing to subdivide the 1.5 acre site into three lots. A portion of the existing house would be demolished and the remaining portion would be relocated onto one of the three lots. The proposed lots range in size from 20,452 to 24,426 square feet. All three lots meet the requirements of the Zoning and Subdivision Codes.

Mike Conley was present to answer questions. Chairman Klippel appointed Commissioners O’Donnell and Diel to the Subcommittee. The subcommittee scheduled a meeting at the site for November 12, 2019, at 9 a.m.

**7. PZ-15-20 MIXED USE/SITE PLAN REVIEW IN B-2 – KIRKWOOD FLATS, 426 NORTH KIRKWOOD**

 Submitted: 9-27-2019 Automatic Recommendation: 2-13-2020

 Petitioner, Josh Udelhofen

 *Opportunity for Public Comment*

City Planner Jonathan Raiche stated the petitioner is proposing to demolish the existing UMB Bank Building on the 2.6 acre site and construct a six story building having 12,500 square feet of commercial space on the first floor and five upper floors containing 178 apartments. Surface and below grade parking is proposed for a total of 297 parking spaces. The proposed building height is 76’-7” and a maximum height of 60’ is permitted in the B-2 District. They are requesting five modifications to the Zoning Code – building height, density, street occupation on Washington Avenue and on Kirkwood Road, and landscaping along the eastern property line.

Josh Udelhofen, Managing Director of Development with Altus Properties, stated they recently completed a similar project in St. Louis on Grand at Shenandoah known as Grand Flats. The UMB Bank will relocate into commercial space on the first floor. Amenities for the residents of the 178 apartments would be located on the second floor. Access to Kirkwood Road would be restricted to right in-right out. The units would be constructed with high-end materials and appliances and high quality amenities would include a swimming pool, sundeck, a concierge service, game rooms, business conference center, and a pet spa. He stated that about a month ago they invited the neighbors to an open house that was held at the train station. Parking spaces in the garage would be reserved for residents and surface spaces would be provided for patrons of the retail spaces. The rental rates for the units would start at $1,000 and a three-bedroom unit would rent for approximately $3,000. He stated the owner of Tom’s Service Station was not interested in selling his property.

Mr. Udelhofen stated that the applicant would be willing to work with the City to incorporate traffic calming elements on either Kirkwood Road and/or Washington Avenue as the City directs.

When asked about the height of other buildings in this area, City Planner Raiche commented that the peak of the northernmost building at Station Plaza is approximately 62 feet and the southern building is 69 feet to the highest point of the roof. The Performing Arts Center that is under construction on Monroe Avenue at Taylor Avenue is a similar height.

In response to a question about the traffic study, Mr. Udelhofen responded that the results of the study indicated that there are no recommended physical improvements to the roadway. The study does indicate that access on Kirkwood Road should be limited to right-in/right-out.

In accordance with Section 220.6 of the Zoning Code, Chairman Klippel asked if there was anyone in the audience who had comments concerning the site plan, and the following responded:

Michael Chiodini, 13 Taylor Woods, spoke in favor and believes the project is in line with the overall planning direction for the Kirkwood Road corridor.

Richard Vandegrift, 131 East Adams Avenue Unit 1D, spoke in opposition to the building height, that it should be no more than four stories. He suggested the entrance and exit be only located on Washington Avenue and would like to see more grass on the site.

Liz Gibbons, 651 Pearl Avenue, stated she is a member of the Kirkwood Historical Society and is concerned about the architectural style of the building.

Gerald DeWulf, 423 Gill Avenue, stated his house is a third of a mile downstream on the Gravois Creek and is concerned about the additional storm water.

Lauren Turley, 440 Rollingwood Lane, is concerned about the quantity of people that will be infiltrating the block and the number of vehicles in the area. She is also concerned about the influx to the population at Tillman and Nipher Schools and the height.

Diana Miller, 429 North Clay Avenue, stated she was at a City Council meeting where the citizen sentiment was so strong against changing the zoning for mixed use that it was removed from consideration. The citizens at the meeting voiced opposition, and the City Council took it off the table. The height is a consideration, the density is twice what it should be, and questions the parking.

Betsy Wendell, 10 Homewood Drive, is concerned that greed is steering the City in a direction that is not a good long-term landscape for Kirkwood and this plan shows a lack of respect for current neighbors. She believes it does not comply with the Master Plan because of the density and height.

Laurie Astroth, 1320 West Adams Avenue, stated this is a good mix and is in favor of the underground parking but that the density is too high and Kirkwood Road backs up past Adams Avenue when a train is blocking Kirkwood Road. Also concerned about the storm water.

Jason Difani, 1905 Westview, stated this is an attractive and modern building but does not fit in with downtown Kirkwood. He also believes the building is too tall, claiming that northeast corner is closer to 90 feet tall and people viewing from Taylor Avenue would be sitting at a lower elevation which would make the building appear closer to 110 feet in height.

Lise Herren, 130 East Bodley Avenue, believes the building is too tall and the value of the condominiums to the east will decrease. She stated this building is not in line with the direction Kirkwood should be moving towards. She believes the area is a concrete jungle and future development should be in accordance with the design guidelines.

Doug Schnell, 457 North Taylor Avenue, met with Mr. Udelhofen and expressed his concerns to him. His house was built in 1904 and believes this building will have an adverse impact on the character of the neighborhood.

Jacob Hilton, 980 Whitecliff but his parents live at 840 North Taylor, believes this building is a little misguided and will devalue his parent’s home.

Chairman Klippel appointed Commissioners Frick and Adkins to the Subcommittee. The subcommittee scheduled a meeting at the site for November 14 at 8 a.m.

**8. TRAFFIC CALMING DISCUSSION**

City Planner Jonathan Raiche presented information provided by Commissioner Eagleton regarding traffic calming on Big Bend Road between Geyer Road and Couch Avenue. Commissioner Eagleton stated that since 2014, a pedestrian or bicyclist is hit by a vehicle in Kirkwood every three to four weeks. Due to the large volume of traffic, it was suggested to lower the speed limit to 25 m.p.h., provide protected bike lanes, narrow the lanes to 10 to 10-1/2 feet, have raised crosswalks, and have a mid-block crosswalk. City Planner Raiche stated the City Council has a Vision Zero Committee that is an exploratory committee with a goal of reaching zero pedestrian- and bicycle-related deaths and serious injuries across the City. Commissioner Eagleton wants the County to apply for a grant being offered by East-West Gateway. Commissioner Eagleton stated that making our community more bikeable and walkable, traffic calming, and the National Association of City Transportation Officials (NACTO) Best Practices are all in our EnVision Kirkwood 2035 Comprehensive Plan. Commissioner Eagleton made a motion to recommend that the City Council recommend to St. Louis County that traffic calming measures be considered on Big Bend Road between Geyer Road and Couch Avenue including street design for best practices, lowering the speed limit, raised crosswalks, narrower lanes, and protected bike lanes, and HAWK flashing beacon. Motion was seconded by Chairman Klippel. After discussion, the motion failed five to one (Commissioner Eagleton voted in favor).

**9. DEVELOPMENT PROJECT UPDATE**

City Planner Raiche stated the age restriction for residents at Adams Place was removed and demolition of the buildings is complete for the condominiums at 204 South Clay Avenue.

**10. ZONING, SUBDIVISON, AND SIGN CODES REWRITE UPDATE**

City Planner Raiche stated the Steering Committee is reviewing the final sections on November 18 and 19, with the consultant having “office hours” for residents on November 19 from 1 p.m. to 4 p.m. A presentation to the Mayor and Council, Planning and Zoning Commission, and the public will be held December 12.

There being no further business, motion was made by Commissioner Diel and seconded by Commissioner O’Donnell to adjourn at 9 p.m. The next regular meeting will be held on November 20, 2019, at 7 p.m. in the Council Chambers at Kirkwood City Hall.

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 Allen Klippel, Chair

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 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.