

MINUTES
INDEPENDENCE CITY PLANNING COMMISSION
September 28, 2021

MEMBERS PRESENT

Cindy McClain, Chair
Bill Preston, Vice-Chair
Virginia Ferguson
Bryce Young
Edward Nesbitt

STAFF PRESENT

Rick Arroyo – Assistant Community Development Director
Jordan Ellena – Development Manager
Stuart Borders – Senior Planner
Brian Harker – Planner
Jennifer Baird – Assistant City Counselor

A meeting of the Independence City Planning Commission was held via GoToMeeting, due to the City of Independence State of Emergency, at 6:00 p.m. on September 28, 2021. The meeting was called to order.

Commissioner Preston made a motion to move Case 21-175-08 to the end of the meeting. Commissioner Ferguson seconded the motion. The motion passed with five affirmative votes.

PUBLIC HEARINGS

CONTINUED Case 21-840-01 – Administrative Adjustment Appeal – 17608 E.

Crackerneck Road

Staff Presentation

Brian Harker reviewed the continued case.

Applicant Comments

John Carnes, representing the owner, stated any exterior modification would not enhance the appearance of the building. He said the building is not unattractive. Mr. Carnes stated he paid additional money to the contractor for a vertical design to enhance the exterior. He said there is sufficient natural screening of the building that makes visibility from the street minimal. Mr. Carnes stated he believes the building requirements in the code is for those commercial buildings that are on main roadways. Since this building is not on a main roadway, he does not believe these standards should apply.

In response to Commissioner Preston's question, Mr. Harker stated the façade material does not meet the design requirements for a commercial district. He stated the exposed metal is not an approved material. Mr. Harker said only natural materials are allowed, like stone or stucco.

Commissioner Preston asked applicant why do they think the building meets code? Mr. Carnes responded and said the goal of the code is to have an aesthetically pleasing building and the building is just that.

Commissioner Nesbitt asked if a permit was obtained before the building was built.

Joshua Keller, 121 NE Parks View Court, Lee's Summit, stated the building was built in March 2021. He explained there was a temporary structure closer to the road. Due to security that building was removed and the current building erected.

In response to Commissioner Preston's question, Mr. Harker explained the building Mr. Carnes mentioned on Holke Road, was constructed in 2007, which was a year and a half before the current UDO requirements was adopted.

Commissioner Young asked what happens to building if it is not approved in its current state and not having gone through proper channels. Mr. Harker explained the question the Planning Commission is examining is the appeal of the Director's administrative decision about the zoning ordinance.

Mr. Keller asked to address the Commission. He feels since his business has been operation since 1970, they are not a new development, and that the UDO is put in to place for new development. It was imperative that they had a building to store their assets to do their work each day as theft and vandalism became an issue. Mr. Keller added they could not wait to construct the building for pandemic time periods and lack of communication.

Commissioner Comments

Commissioner Preston stated the Planning Commission met and held cases all throughout the pandemic in 2020 and 2021 and said he finds it difficult to believe City staff were not answering calls, since these other applicants were able to be heard.

Motion

Commissioner Preston made a motion to approve Case 21-840-01 – Administrative Adjustment Appeal – 17608 E. Crackerneck Road. Commissioner Nesbitt seconded the motion. The motion failed with one affirmative vote.

Case 21-200-06 – Special Use Permit – 908 N. Atherton Road

Staff Presentation

Stuart Borders presented the case. Mr. Borders presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses. Mr. Borders reviewed several conditions including:

1. Due to the limited size of the business area the number of vehicles for sale on site is limited to seven (7).
2. The parking and vehicle storage area must be resealed and restriped to prevent ground water contamination.
3. One of the spaces must be designated as an ADA space with proper marking and signage.
4. All improvements must be completed prior to City business license being approved.

Applicant Comments

Todd Rechtermann, 1615 N M 7 Hwy., is speaking for the applicant. The applicant is Julio Palomino, 2000 Concord Road. Mr. Rechtermann explained Julio has been an employee of his for many years. He has detailed and sold cars for many years and understands the business. Mr. Rechtermann said he will help Mr. Palomino in any way needed and feels he is a good person and employee and will run a good business at this location.

In response to Commissioner Preston's question, Mr. Borders stated the City currently has 55 used car lots which includes those used car lots associated with dealerships and auto repair locations. Mr. Borders stated this building has been used for auto service in the past and that Mr. Palomino is currently running a car detailing shop at this location. Mr. Borders explained this location could also be used for minor tune-ups, tire sales, or auto glass replacement. If not auto related, this location could be used for any type of business allowed in C2 zoning.

Commissioner Young stated that the friendship between Mr. Rechterman and Mr. Palomino is incredible, and he applauds that type of relationship, especially with business.

Chairwoman McClain asked if the applicant understands and accepts conditions as stated by staff. Mr. Palomino stated he understands and agrees to the conditions.

In response to Commissioner Preston's question, Caitlin Dix, Environmental Specialist with Municipal Services, stated she believes there are no violations at this location and for this business regarding water pollution control. A drive by was completed by staff for comments and they did not see any violations.

Public Comments

No public comments.

Motion

Commissioner Preston made a motion to approve Case 21-200-06 – Special Use Permit – 908 N. Atherton Road, with conditions as stated by staff. Commissioner Nesbitt seconded the motion. The motion passed with four affirmative votes.

OTHER BUSINESS

Case 21-400-11 – Home Business Permit – 1320 S. Lee's Summit Road

Staff Presentation

Stuart Borders presented the case. Mr. Borders presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses. Mr. Borders reviewed several conditions including:

1. The business shall operate only between the hours of 9:00 am through 6:00 pm, Monday through Friday.
2. Maintain all required State and City licenses.
3. Comply with all City Code standards and requirements.

Commissioner Preston asked if it's considered a major or minor home business. Mr. Borders stated this is a major home business.

Applicant Comments

Carol Kesler, 1320 S. Lee's Summit Rd, stated they would like to run the business from the back building garage. She advised there will not be customers coming to resident. Ms. Kesler explained all employees prep items to mail, and UPS/FedEx picks up items to be shipped in the afternoon and those items are sent to Amazon.

Richard Kesler, 1320 S. Lee's Summit Rd, said they've been running this business for eleven years and just moved to Independence. He advised a fence was added so that the parking lot was more secluded from view from the road.

Chairwoman McClain confirmed with applicant that this is an in and out business as all sales are done via internet. Ms. Kesler confirmed that is correct.

In response to Commissioner Young's question, Ms. Kesler stated they are running the business out of the garage currently but after the application was submitted. They just moved in a few weeks ago and lease was up on prior location.

In response to Commissioner Preston's question, Ms. Kesler stated they have two remote employees and five other employees. She stated they would like to a total of 6 employees not including the applicant and her son for 8 total but can operate with only 3 to 4 additional employees if that is what is allowed. Mr. Borders stated the City Code allows the Planning Commission to allow up 1 employee per acre of land. This property has a little over 3 acres meaning only 3 non-residential employees are allowed; the Code does not cover part-time vs full-time or remote or on-site employees. Mr. Borders advised the employee amount is per City Code and Planning Commission does not have the discretion to change or consider a request by the applicant for more employees. Commissioner Preston confirmed there is not a limit to residential employees but a limit to non-residential employees and Mr. Borders confirmed that is correct.

Commissioner Preston asked for clarification from counsel, specifically, if an employee strictly works remote and never comes to site should that employee be included in count. Assistant City Counselor Jennifer Baird explained the way the code is written states only one outside employee may be part of the operation, with an exception to allow one employee per acre of land, and there is no distinction in the code if an employee works solely remotely.

In response to Commissioner Young's question, Ms. Kesler stated they can operate under those guidelines, but they will have to adjust.

Public Comments

Ronald R. Bentley, 1302 E. Walnut St., explained his property backs up to this one. Mr. Bentley believes the business is currently operating without being allowed. He feels this business at this home will attract theft and not in support of this home-based business.

Ms. Kesler stated they are still in the processing moving in and trucks seen on the weekends are for their personal belongings. They also purchase from Amazon for personal use, so they do receive those deliveries. UPS and FedEx only come once a day for their business purposes. Employees only work in the back building. Ms. Kesler is baffled how this property could reduce other property values.

Commissioner Preston asked for Mr. Bentley to reiterate his concerns and how this will lower property values. Mr. Bentley feels this business will attract theft and increase traffic. He thinks the building will grow and more building will be added. Commissioner Preston asked Staff to comment on restrictions of expansion. Mr. Borders explained Code does not limit amount of area that can be used for a business, not more than on accessory structure. The building can be enlarged but another building cannot be built for the business.

Commissioner Comments

Mr. Borders added a comment. Applicant Ms. Kesler e-mailed Mr. Borders asking for condition of hours be changed. Ms. Kesler explained during holiday season they do work some Saturdays. She is asking Commission to add Saturday as a valid workday 3 or 4 times a year.

Assistant City Counselor Baird revisited the number of employees. She read the code more clearly and the number of employees is limited to 6 employees that live outside the dwelling "...at any one time". Chairwoman McClain gives the example of having 25 employees but only 6 employees work during one shift. Ms. Baird confirmed that's correct and they are limited, due to the acreage, to 3 outside employees at any one time.

Motion

Commissioner Preston made a motion to approve Case 21-400-11 – Home Business Permit – 1320 S. Lee's Summit Road, with conditions as stated by staff and adding the ability for the business to operate on Saturday. Commissioner Ferguson seconded the motion. The motion passed with five affirmative votes.

Case 21-400-12 – Short-term Rental – 905 W. White Oak Street

Staff Presentation

Brian Harker presented the case. Mr. Harker presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses. Mr. Harker reviewed several conditions including:

1. The Short-Term Rental shall obtain a business license in accordance with the City Code and comply with Article 3, Chapter 5 of the City Code. The occupation license number shall be listed on all advertisements and online platforms.
2. The business must comply with all safety and other standards established by Section 14-420 of the City Code.
3. The maximum occupancy of the premises is limited to 8 adults (10 total).

Applicant Comments

Nancy Leavitt, 1996 West Ranch Rd., Farmington, Utah. Ms. Leavitt stated they bought this property in July. The home is furnished but she has not yet rented it out. Ms. Leavitt stated they will try to be selective on who they rent to and refers to her property manager who is on the call as well.

Shellie Piepmeier, 2505 NW London Dr., Blue Springs, is the property manager for the applicant. She manages several properties in the area and is excited and ready for her first short-term rental.

Commissioner Nesbitt asked Staff how often property gets inspected. Mr. Harker confirmed the property will get inspected yearly.

In response to Commissioner Preston's question, Mr. Harker confirmed the license is automatically issued each year and is a conditional renewal. If there are complaints it can be reviewed.

Public Comments

No public comments.

Commissioner Comments

Commissioner Preston is hopeful this applicant will carry on tradition of positive impact on the neighborhood within the historic district. Ms. Leavitt expanded that she has plans to do everything needed to keep property nice and kept up.

Motion

Commissioner Preston made a motion to approve Case 21-400-12 – Short-term Rental – 905 W. White Oak Street, with conditions as stated by staff. Commissioner Ferguson seconded the motion. The motion passed with five affirmative votes.

PUBLIC HEARINGS

Case 21-175-08– UDO Amendment #52 – Recommended Trees and Shrubs Regulations

Staff Presentation

Rick Arroyo explained this amendment to the Code is to repeal and replace the recommended plant species in the City of Independence. This updated list would remove plants that are no longer recommended in the community and emphasize plant and tree species that would perform well in our area and landscape. This amended would also help to remove Missouri non-native species that can cause harm economically and damage to public infrastructure. This amendment is intended to bring City code up to date with State and regional recommendations on invasive species, emerging pests, and diseases, as well as what is recommended for our area.

This would ultimately help property and business owners choose the right plant or tree that would be better adapted to our community and climate while keeping beauty intact. The amendment would also allow to increase the number of approved plants.

Public Comments

No public comments.

Motion

Commissioner Preston made a motion to approve Case 21-175-08– UDO Amendment #52 – Recommended Trees and Shrubs Regulations. Commissioner Ferguson seconded the motion. The motion passed with five affirmative votes.

APPROVAL OF MINUTES

The minutes of the September 14, 2021, Planning Commission meetings were approved as presented.

ROUNDTABLE

Chairwoman McClain stated she would request staff to review changes to the Planning Commission Rules of Procedure, for example, the agenda for efficiency for all.

Chairwoman McClain said she would like to see a yearly Planning Commission training. She said City staff has been working with the City Counselors and will get a date on the schedule.

ADJOURNMENT

The meeting was adjourned at 8:23 p.m.