

***City of Riverside
Planning Commission Meeting***

July 19, 2021

Members Present: Julie Denning
David Owens
Anthony Rodgers
Harold Vazquez

Members Absent: Jonathon Hairston

Others Present: Nia Holt, Zoning Administrator
Gary Burkholder, Community Development Director
Katie Lewallen, Clerk of Council

CALL TO ORDER: Chairwoman Denning called the City of Riverside Planning Commission meeting to order at 6:30 p.m.

ROLL CALL: Mrs. Denning, present; Mr. Hairston, absent; Mr. Owens, present; Mr. Rodgers, present; and Mr. Vazquez, present.

EXCUSE ABSENT MEMBERS: Mr. Rodgers motioned to excuse Mr. Hairston. Mr. Vazquez seconded the motion. All were in favor; none opposed. **Motion carried.**

APPROVAL OF MEETING MINUTES: Mr. Rodgers motioned to approve the minutes of the June 21, 2021 meeting. Mrs. Denning seconded the motions. Roll call went as follows: Mr. Rodgers, yes; Mrs. Denning, yes; Mr. Owens, yes; and Mr. Vazquez, yes. **Motion carried.**

PUBLIC HEARINGS:

- A) **PC #21-0014 – Conditional Use – 602 Woodman Drive** (Parcel ID # I39 00919 0033) – **A Conditional use application for an automobile sales business.** – Public Hearing

Chairwoman Denning opened the public hearing for Case #21-0014.

Ms. Holt stated this is a conditional use to allow automobile sales in the B-2, General Business District. The subject site was the former Cashland south of Woodman Drive and Burkhardt Road intersection. The proposal includes repurposing the existing structure and using the parking lot for display of cars and customer/employee parking. The required landscape buffer area will be placed in the right-of-way and has been approved by the Public Service Department. The applicant submitted a similar request in 2019 under PC #19-0007 that application expired due to unmet conditions. Staff did try and reach out through letters, notifying them of conditions and notices of violations on February 21, 2020, June 23, 2020, and February 5, 2021. After receiving the letters, he has come back in and applied for a conditional use. It should be noted that staff has noticed

additional businesses on the site that aren't included with the application; a cell phone service, a tree removal service, and at one time a COVID-19 mask and hand sanitizer being for sale. There has not been a certificate of zoning occupancy applied for any of those businesses. She presented the zoning map, an aerial map, the plat plan, the site plan, and site photos of the area, the subject site, and surrounding businesses. She reviewed the standards for approval:

1. Automobile sales are permitted in the B-2 General Business District with approved Conditional Use.
2. The proposal would be in line with the Comprehensive Plan, but not any specific objectives. Staff does not believe the proposed use of a car sales lot is necessary for the general welfare nor enhances the successful operation of the surrounding area.
3. Staff found the site is only meant for one use. Because there are multiple uses on the site, there is conflict with the intended character. This can be alleviated by keeping all inventory on the site and ceasing operation of any and all other uses not included in the application.
4. The proposed use will not be hazardous nor will it be disturbing its future existing neighbors.
5. This is an existing structure and adequately served by existing infrastructure.
6. It will not cost the public any additional funds or harm the economic welfare of the community.
7. The conditional use will not involve any activities, materials, equipment or operations which would be detrimental to any persons or property causing the production of traffic, noise, things of the like. Its operations are consistent with the commercial corridor; however, staff has concerns that it is not the highest use of the site, but car sales will not have a detrimental effect to surrounding properties.
8. The Conditional Use will have vehicular approaches to the property, which shall be designed so as not to interfere with traffic on surrounding public thoroughfares. The site has established two access points on Woodman Drive as shown on the pictures. The northern access point will not interfere with traffic. The applicant has provided a copy of the signed access easement agreement between the property owner and St. Helen to use the southern access point. However, the City's Legal Counsel find the agreement to be invalid.
9. The Conditional Use will not result in the destruction, loss or damage of a natural, scenic, or historic feature of major importance.

Ms. Holt stated that staff finds the conditional use application meets all the standards for approval except for standards #2 and #3. Staff recommends denial of the conditional use application. She stated should they grant approval, staff recommends the following conditions: any changes to the approval plan must be approved by the planning commission; all other businesses on site must cease operations and remove associated signage, apply for and obtain variance for distance between curb cuts; apply for and obtain sing permits for car lot; and apply for and obtain certificate of occupancy from building and zoning.

Chairwoman Denning asked on the easement that because the use of the property would be changing from a retail establishment (first a Dunkin Donuts and then a Cashland) that they do not believe the agreement easement is in effect for this use. Mr. Jim Miller, legal counsel, stated that was correct. He stated there is a particular purpose set for in paragraph one of the easement, which specifically grants and easement between the two properties for the sole purpose of vehicular and pedestrian ingress and egress on Woodman Drive and 602, the adjacent property. When this was

entered into easement it was before any idea there would be this type of use at this time. When the planning commission addressed this conditional use in 2019, one of the conditions applied was to obtain an easement. This easement is from 2009; it does not suffice to support the access easement even for the 2019 application. It is the opinion of legal counsel it does not suffice to meet that parameter.

Mr. Mohammad Rihan took the oath to give sworn testimony. He stated he applied for this in 2019 before COVID-19 and they approved the application. He had the idea for the business then closed down because of COVID-19 and tried different ideas, but it was not the best time because of COVID-19. He added that there was miscommunication because then the city was closed. He hired an attorney to find out what he could do to reopen because all of a sudden, the city asked him to shut down. He complied. He stated he has done everything in his power to open this business. He has so far lost almost \$100,000. He does not under the easement as it isn't his easement, but the landlord's and the school. The landlord told him there was no problem. It does not say anything if he can or cannot open. He asked the landlord to come, but he said to have them show him where it says he cannot open. He is tired of being beat up and feels he has been mistreated by Mr. Burkholder. He sent the mayor and Ms. Holt an email. He has been insulted and has tried to do everything in his power. He is ready to give up and stated if he is not wanted here he will go elsewhere. He stated he may not have done everything as planning commission wanted to be done 100%, but it was COVID-19. He bought some masks to help people, but this is his lost. He stated he brought the easement, but he didn't have one that was signed. He spoke to the landlord and then they sent it to the city. He received an email from Ms. Holt about a conflict with the easement. He is confused and does not know what to do, but can go somewhere else. He has lost nearly \$100,000. He is here to do business and make money and hire people. He wants to follow their rules. He is depressed and does not want to be there. There is nothing he can do about the easement; it is not in his power.

Chairwoman Denning asked if the information included from Ms. Ennist shows they have never received the dealership license and doesn't show where they are registered with the tax administrator. Ms. Holt confirmed that was correct. It is all still true. Should a certificate of zoning occupancy be submitted both items would need to be submitted with that application. Chairwoman Denning asked if the location was showing three businesses. Ms. Holt replied yes.

Mr. Rihan stated he has a tree company and a sign. He thought the sign company took care of the zoning. He spent almost \$10,000 on the sign and did not do the paperwork. He does not have that company any more. He did fix a phone because a guy was going to invest and help fix phones. The only business there now is the car business. Chairwoman Denning asked if tree removal was happening. Mr. Rihan replied no. She asked if he could take the sign down and he replied he could not as he paid money for them. He said he put trucks there and the city told him he was not allowed to have them so he gave the trucks away. Chairwoman Denning asked Ms. Holt if it was zoned for tree removal. Ms. Holt stated it is not zoned for heavy machinery. Mr. Rihan stated it is all because of COVID-19; it is all confusing. He was trying to make some business.

Chairwoman Denning stated she found this to be very complicated and the fact they did try and she understands that COVID-19 happened and they are still adjusting from it, but most businesses before they start have to have some sort of permit to occupy. She knows staff was available by

phone, if necessary. She asked if the applicant ceased operation immediately when asked. Mr. Burkholder replied he did not believe so, no. Ms. Holt reviewed the first two letters that were sent by the city notifying him of the violations; then, they went the legal route to cease operations due to no response.

No one else wished to speak. Chairwoman Denning closed the public hearing.

Mr. Rodgers motioned to deny the conditional use application for an automobile sales business for PC #21-0014 at 602 Woodman Drive (Parcel ID # I39 00919 0033). Mr. Owens seconded the motion. Roll call went as follows: Mr. Rodgers, yes; Mr. Owens, yes; Mr. Vazquez, yes; and Mrs. Denning, yes. **Motion carried.**

B) PC# 21-0015 – Lot Consolidation – 1235 Mayapple Avenue (Parcel ID #I39 101411 0036 and #I39 101411 0037) – A final plat to consolidate two (2) parcels into one (1) lot. – Public Hearing

Chairwoman Denning opened the public hearing for Case #21-0015.

Ms. Holt stated this is a final plat consolidation to combine two parcels into one on 0.29 acres. The site is at the intersection of Mayapple and Oakdell. There is an existing residence on the site. She presented a zoning map, an aerial map, a plat plan, and a site photo. She reviewed the standards for approval:

1. The existing lots meet all the standards for the R-3 Medium Density Residential District.
2. Any new structures need to comply with the same dimensional standards of the district.
3. Plat was surveyed by a licensed surveyor and all required information was submitted to staff. The final plat will be submitted should the planning commission approve it.
4. This plat was reviewed for utility access and storm water by the county's environmental services, the fire department, and the service department.
5. The lot does not impact emergency access.
6. The final result will be one parcel.

Ms. Holt stated the plat is adequately justified and meets the standards for approval with the condition that the plat is recorded with the Montgomery County Recorder's Office.

No one came forward to speak. Chairwoman Denning closed the public hearing.

Mr. Owens motioned to approve the lot consolidation for 1235 Mayapple Avenue, Parcel ID #I39 101411 0036 and #I39 101411 0037, consolidating two parcels into one with the condition of filing the plat with the county recorder. Mr. Vazquez seconded the motion. Roll call went as follows: Mr. Owens, yes; Mr. Vazquez, yes; Mr. Rodgers, yes; and Mrs. Denning, yes; **Motion carried.**

C) PC# 21-0016 – Lot Consolidation – 2600 Valley Pike & 11 Pleasant Valley Avenue (Parcel ID# I39 00717 0064 and I39 00717 0063) – A final plat to consolidate two (2) parcels into one (1) lot – Public Hearing

Chairwoman Denning opened the public hearing for Case #21-0016.

Ms. Holt stated this was also for lot consolidation associated with a rezoning on Pleasant Valley. One lot is on Valley Pike and one on Pleasant Valley. The applicant proposed a car, motorcycle sales, rental/service business. They plan to use the existing structure on the lot for whatever the proposed use will be and repurpose it. The proposed use will require a conditional use approval before operations can begin. She presented the zoning map, an aerial map, the plat plan, the site plan, and a site photo. Discussion was held confirming the correct lots being consolidated and the correct building being used as the building sits on the property line. She reviewed the standards of approval:

1. The proposed plat meets all the dimensional standards of the B-2 zoning district. They do not know the parking standards as of yet since they do not have the proposed use, and if it will comply with applicable parking, storm water, lighting, and other development requirements.
2. The applicant is repurposing the existing structure on site; it meets the dimensional requirements.
3. The property has been reviewed and surveyed by a licensed surveyor. All required information has been submitted to staff and they have the final plat plan should it be approval.
4. The property has been approved for access management by the fire department, service department, and Montgomery County Environmental Services. No issues were found.
5. The lot will not impact emergency service access.
6. The lot will result in one parcel.

Staff recommends approval of the subdivision request with the condition that the plat must be recorded with the Montgomery County Recorder's Office.

Mr. Rodgers asked if the citizen comment she received was more of an inquiry than an objection. Ms. Holt replied yes. A business owner within 300' wanted to know what the use was; they were fine with any of the listed uses.

No one came forward to speak. Chairwoman Denning closed the public hearing.

Mr. Owens motioned to approve PC#21-0016 lot consolidation 2600 Valley Pike and 11 Pleasant Valley Avenue, Parcel ID# I39 00717 0064 and I39 00717 0063, a final plat to consolidate two parcels into one with the condition of filing with the county recorder. Mr. Rodgers seconded the motion. Roll call went as follows: Mr. Owens, yes; Mr. Rodgers, yes; Mr. Vazquez, yes; and Mrs. Denning, yes; **Motion carried.**

- D) Permit 210-00247 – Design Review – 1 Hermiston Avenue (Parcel ID# I39 00719 0017) – a design review to allow a chain link fence in the front yard. – STAFF RECOMMENDS TABLING BASED ON ADVICE FROM LEGAL COUNSEL.**

Ms. Holt stated that since they don't have a process for this, they have been using the permits as submitted. They do not a waiver or case number. Chairwoman Denning stated staff recommends tabling. This will give council the opportunity to review what planning commission sent to them

regarding waivers. Ms. Holt stated council passed the first reading so it will go to a second review. Mr. Rodgers asked if they advertised a public hearing. Ms. Holt stated they didn't advertise; they did send notification to properties within 300'. The variance did go out. Ms. Holt stated they did include it in the legal notice, if they followed the same procedures they did with Circle K with a non-residential case going before them with the same interpretation. Discussion was held on the process it needs to go through. Mr. Miller recommended them going through the formal process since it was in some fashion advertised. He recommended tabling until it is brought back up and not continuing it.

Mr. Vazquez motioned to table the design review of 1 Hermiston Avenue, Parcel ID# I39 00719 0017, a design review to allow a chain link fence in the front yard. Mr. Owens seconded the motion. Roll call went as follows: Mr. Vazquez, yes; Mr. Owens, yes; Mr. Rodgers, yes; and Mrs. Denning, yes. **Motion carried.**

OLD BUSINESS/DISCUSSION ITEMS:

A) Planning Commission Work Session – Discussion was held on potential dates. It was determined that Wednesdays and Thursdays worked best for the commission members. All meetings are open to the public. August 25, 2021 was suggested as a first work session date. Chairwoman Denning stated she would start a spreadsheet with all the things they want to accomplish and to assign members to research other communities for their verbiage so they can all work together. She stated fencing and signage are ones they need to review. She asked members of the commission to email her areas they can work on so she can start a list. Ms. Holt suggested they get Mrs. Denning info by the 18th so she can have the list ready for the 25th. Together they will prioritize and keep notes of any updates. She stated she would be willing to learn Google Docs if someone taught her so they could all share and put in their own notes. This will provide them a working document to keep the commission moving forward.

ZONING ADMINISTRATOR DISCUSSION TOPICS:

Ms. Holt stated they should look at bylaws. The BZA has old bylaws. She suggested they look at other cities and what they may want to adopt, as this should be a priority.

MATTERS BY THE COMMISSION: No matters were brought up by the members. Chairwoman Denning thanked Ms. Holt for having the final plats ready to be signed after approval as it is a huge improvement and for her adding all legal emails back and forth as it is helpful.

ADJOURNMENT: Mr. Owens motioned to adjourn. Mr. Vazquez seconded the motion. All were in favor; none were opposed. The meeting was adjourned at 7:25 pm.

Chairwoman

Date