



City of Ellisville

PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES

Meeting Date: May 13, 2020

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 - A) Petition #20-05-01. City-initiated petition for Text Amendments to Title IV, Land Use, pertaining to the following: (1) supermajority zoning approval requirements, and (2) massage therapy regulations/day spa accessory uses.
8. PETITIONS FOR RECOMMENDATION
 - A) Petition #20-05-02. Petition of Terry L. Dowdy on behalf of Club Fitness for an amendment to an existing conditional use permit to allow building height in excess of thirty (30) feet in connection with the operation of a fitness center at the location known and numbered as 15446A Manchester Road, within the C-3 Commercial Zoning District of the City of Ellisville, Missouri.
 - B) Petition #20-05-03. Petition of Salty Spa, LLC for issuance of a conditional use permit to allow massage as an accessory use at the location known and numbered as 15925 Manchester Road, within the C-3 Commercial Zoning District of the City of Ellisville, Missouri.
9. DISCUSSION
 - 1) Medical Marijuana Comparison Table (Ballwin-Ellisville)
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PLANNING AND ZONING COMMISSION MEETING SUMMARY

1. **CALL TO ORDER:** Chairman Boggs called the meeting to order at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE:** Chairman Boggs led the Pledge of Allegiance.
3. **ROLL CALL**

Present

Absent

Chairman Boggs
John Ellebrecht
Rajiv Gupta
Nancy Bengtson
Jim Burtelow
Sandie McGrath
Marilyn Niebling
Al Tamulaitis
Rob Compton
Cindy Parnell, Assistant City Attorney

Also present were City Planner Hood, Councilmember Reel, and Councilmember McGrath

4. **APPROVAL OF AGENDA**

Planner Hood stated that Petition #20-05-02 of Terry Dowdy on behalf of Club Fitness would be continued to the next meeting in June. A motion was made by Commissioner Compton to approve the Agenda as amended and was seconded by Commissioner Ellebrecht . The votes were as follows:

Aye

Nay

Abstain

Absent

Chairman Boggs
John Ellebrecht
Nancy Bengtson
Jim Burtelow
Sandie McGrath
Marilyn Niebling
Al Tamulaitis
Rob Compton

Rajiv Gupta

5. APPROVAL OF MINUTES

A motion was made by Commissioner Compton to approve the April 8, 2020, Regular Meeting Minutes as written. It was seconded by Commissioner Bengtson.

| <u>Aye</u> | <u>Nay</u> | <u>Abstain</u> | <u>Absent</u> |
|------------------|------------|----------------|---------------|
| Chairman Boggs | | | |
| John Ellebrect | | | |
| Rajiv Gupta | | | |
| Nancy Bengtson | | | |
| Jim Burtelow | | | |
| Sandie McGrath | | | |
| Marilyn Niebling | | | |
| Al Tamulaitis | | | |
| Rob Compton | | | |

6. ELECTION OF OFFICERS

A motion was made by Commissioner Niebling to nominate Rob Compton for Planning and Zoning Chairman, and was seconded by Commissioner Compton. Hearing no questions or discussions, the votes were as follows:

| <u>Aye</u> | <u>Nay</u> | <u>Abstain</u> | <u>Absent</u> |
|------------------|------------|----------------|---------------|
| Chairman Boggs | | | |
| John Ellebrect | | | |
| Rajiv Gupta | | | |
| Nancy Bengtson | | | |
| Jim Burtelow | | | |
| Sandie McGrath | | | |
| Marilyn Niebling | | | |
| Al Tamulaitis | | | |
| Rob Compton | | | |

A motion was made by Commissioner McGrath to nominate Rajiv Gupta as Planning and Zoning Secretary, and was seconded by Commissioner Niebling. Hearing no questions or discussions, the votes were as follows:

| <u>Aye</u> | <u>Nay</u> | <u>Abstain</u> | <u>Absent</u> |
|------------------|------------|----------------|---------------|
| Chairman Boggs | | | |
| John Ellebrect | | | |
| Rajiv Gupta | | | |
| Nancy Bengtson | | | |
| Jim Burtelow | | | |
| Sandie McGrath | | | |
| Marilyn Niebling | | | |
| Al Tamulaitis | | | |
| Rob Compto | | | |

7. PUBLIC HEARING

Petition #20-05-01. City-initiated petition to discuss and consider Text Amendments to Title IV, Land Use, pertaining to the following: (1) supermajority zoning approval requirements, and (2) massage therapy regulations/day spa accessory uses.

Chairman Boggs opened the Public Hearing

Assistant City Attorney, Parnell read the Exhibit List.

| | |
|-----------|--|
| Exhibit 1 | Certified copy of Municipal Code |
| Exhibit 2 | Zoning District Map |
| Exhibit 3 | Comprehensive Plan |
| Exhibit 4 | Notice published in <i>The Countian</i> on April 24, 2020 |
| Exhibit 5 | Notice published in <i>West Newsmagazine</i> on May 6, 2020 |
| Exhibit 6 | City Planner's Memo dated April 28, 2020 |
| Exhibit 7 | Draft Ordinance Amending Sections 400.150, 400.180, 400.185, 405.100 and 405.110 |
| Exhibit 8 | Draft Ordinance Amending Sections 400.090 and 400.335 |

Planner Hood stated that this Text Amendment pertaining to the Super Majority is at the request of the Planning and Zoning Commission. It allows, with a 2/3 vote, the Planning and Zoning Commission to deem specific conditions as necessary, which would then require a super majority at the City Council level to modify or delete them. The second Text Amendment revises the definition of massage and added provisions under which massage services can be offered by non-medical licensed businesses as accessory. Must be accessory to the primary use which can be determined by the City Manager. Commissioner Compton asked Planner Hood the reasoning behind available for purchase to general public. Hood stated that because it is being administered by non-licensed personal, it must be useable by everyone. Commissioner Ellebrecht stated that the super majority item seems a little open ended and suggested possibly limiting the necessary conditions to one per item on the agenda. Commissioner Compton agrees there needs to be limitations but isn't sure 1 per item is the answer. Commissioner Ellebrecht questioned making it a unanimous vote at the Planning and Zoning level. Commissioner Gupta disagreed with unanimous. Commissioner Niebling stated that if a super majority is being required at the City Council level then it should be required at the Planning and Zoning level as well. She also suggested creating a public record that communicates to the City Council the reasoning of any negative recommendation by the Planning and Zoning Commission. Commissioner Bengston agreed with this idea. Commissioner Gupta would like to see the City Council send things back to Planning and Zoning that they disagree with giving the opportunity for dialogue and to work together to get things approved. Commissioner Ellebrecht voiced concerns about items going back and forth and being held up between the City Council and Planning and Zoning.

Commissioner Compton moved to forward a positive recommendation to the City Council as outlined in the attached exhibits. The motion was seconded by Commissioner Gupta. The votes were as follows:

Vote Call (1)

| <u>Aye</u> | <u>Nay</u> | <u>Abstain</u> | <u>Absent</u> |
|-------------------|-------------------|-----------------------|----------------------|
| Rajiv Gupta | | | |
| Nancy Bengtson | | | |
| Jim Burtelow | | | |
| Sandie McGrath | | | |
| Marilyn Niebling | | | |
| Al Tamulaitis | | | |
| Rob Compton | | | |
| Chairman Boggs | | | |
| John Ellebrecht | | | |

Planner Hood discussed the definitions of massage and massage therapy. Assistant City Attorney, Parnell, spoke about the change in definition.

Dane Carlson from the Salty Spa spoke about the apparatus and where it is currently being used.

Chairman Boggs closed the Public Hearing.

Commissioner Compton moved to forward a positive recommendation to the City Council as outlined in the attached exhibits. The motion was seconded by Commissioner Ellebrecht. The votes were as follows:

Vote Call (2)

| <u>Aye</u> | <u>Nay</u> | <u>Abstain</u> | <u>Absent</u> |
|-------------------|-------------------|-----------------------|----------------------|
| Rajiv Gupta | | | |
| Nancy Bengtson | | | |
| Jim Burtelow | | | |
| Sandie McGrath | | | |
| Marilyn Niebling | | | |
| Al Tamulaitis | | | |
| Rob Compton | | | |
| Chairman Boggs | | | |
| John Ellebrecht | | | |

8. PETITION FOR RECOMMENDATION

Petition #20-05-03. Petition of Salty Spa, LLC for issuance of a conditional use permit to allow massage as an accessory use at the location known and numbered as 15925 Manchester Road, within the C-3 Commercial Zoning District of the City of Ellisville, Missouri.

Planner Hood stated that this is an application for a conditional use permit to allow the use of a leg compression device in connection with their business. The request is being processed concurrently with the City's petition for the text amendment to allow such uses. This is only to be used if the text amendment is approved.

Commissioner Ellebrecht moved to waive the Public Hearing and forward a positive recommendation to the City Council. The motion was seconded by Commissioner Compton. The votes were as follows:

| <u>Aye</u> | <u>Nay</u> | <u>Abstain</u> | <u>Absent</u> |
|------------------|------------|----------------|---------------|
| Rajiv Gupta | | | |
| Nancy Bengtson | | | |
| Jim Burtelow | | | |
| Sandie McGrath | | | |
| Marilyn Niebling | | | |
| Al Tamulaitis | | | |
| Rob Compton | | | |
| Chairman Boggs | | | |
| John Ellebrecht | | | |

9. DISCUSSION

Medical Marijuana Comparison Table (Ballwin-Ellisville)

Planner Hood stated that there was some concern from the last meeting that Ballwin may have more robust regulations than Ellisville. Assistant City, Parnell, stated that the State is the primary regulator and that we cannot create harsher regulations than the State. These type of businesses should be treated as a pharmacy. Commissioner Bengtson pointed out that we are less restrictive than the State when it comes to the distance from schools and churches and that the daycares were completely eliminated. Commissioner Niebling stated that she thinks Ellisville did a good job on this one.

10. ADJOURNMENT

Chairman Boggs adjourned the meeting at 8:40 p.m.

Respectfully Submitted,

Holly Woodland