

A digital copy of the packet for this meeting may be accessed by clicking on the event for this meeting on the City's website calendar at the following link: <https://www.kirkwoodmo.org/services/events-calendar>.



**Planning & Zoning Commission
Agenda
Wednesday, March 20, 2024, 7:00 p.m.
Kirkwood City Hall
139 S. Kirkwood Road
Kirkwood, MO 63122
Posted March 15, 2024**

- I. ROLL CALL**
- II. APPROVAL OF THE FEBRUARY 21, 2024 MEETING MINUTES**
- III. UNFINISHED BUSINESS**
NONE
- IV. NEW BUSINESS**
NONE
- V. COMMISSION/STAFF (INTERNAL) ITEMS**
 - 1. PZ-12-24 STAFF-INITIATED ZONING CODE TEXT AMENDMENT – PERSONAL & COMMERCIAL SERVICE HOURS OF OPERATION IN B-1 (Continued from February 21 Agenda)**
Staff Requesting Vote Consideration
 2. Development Project Update
- VI. PLANNING AND ZONING SCHEDULE:**
 1. April 3 and 17, 2024 – 7:00 p.m.

Staff Liaison: Jonathan Raiche; Phone: (314) 984-5926; Email: RaicheJD@kirkwoodmo.org

Kirkwood Planning and Zoning Commission: Chairman Jim Adkins, Commissioners David Eagleton, Ron Evens, Tom Feiner, Sandy Washington, Mary Lee Salzer-Lutz, Darrell Scott, Allen Klippel, and Karen Coulson.

Accommodation: The City of Kirkwood is interested in effective communication for all persons. Persons requiring an accommodation to attend and participate in the meeting should contact the City Clerk at 314-822-5802 at least 48 hours before the meeting. With advance notice of seven calendar days, the City of Kirkwood will provide interpreter services at public meetings for languages other than English and for the hearing impaired. Upon request, the minutes from this meeting can be made available in an alternate format, such as CD, by calling 314-822-5802.



**CITY OF KIRKWOOD
PLANNING AND ZONING COMMISSION
MEETING MINUTES
February 21, 2024**

Members Present

Jim Adkins, Chair
Tom Feiner, Vice-Chair
David Eagleton, Secretary/Treasurer
Allen Klippel
Ron Evens
Mary Lee Salzer-Lutz
Darrell Scott
Karen Coulson

Members Absent

Sandy Washington

Pursuant to notice of meeting duly given, the Planning and Zoning Commission convened on Wednesday, February 21st at 7:00 p.m. in the City Hall Council Chambers. Planning and Development Services Director Jonathan Raiche, Planner II Amy Lowry, and Administrative Associate Tiona Brooks also attended the meeting.

1. Chair Adkins called the meeting to order at 7 p.m. He announced that Commissioner Washington was absent and the absence was excused.
2. Motion was made by Commissioner Salzer-Lutz and seconded by Commissioner Scott to approve the minutes for the February 7, 2024 meeting as written. The minutes were approved by a vote of 7-0, with Commissioner Coulson abstaining.
3. **PZ-11-24 MAJOR SUBDIVISION PRELIMINARY PLAT (2-LOT) – 1956 WESTVIEW AVE.**

Presentation: Planner II Amy Lowry presented to the Commission the request for a Major Subdivision for one lot to be split into two. The applicant would like to keep a house on the property and would need a modification from the Zoning and Subdivision Code in order to do so. The lot split could be approved by City Staff if the house were to be demolished, as the subdivision would otherwise meet the regulations of the code. The current site is located south of Ballas Road and is Zoned R-3. Under the zoning code for a corner lot, the primary front yard is on the street of the least dimension – in this case Westview Avenue. The rear yard is opposite the street of the least dimension and is from the south property line. The rear yard setback is 35 feet. The side yard setback from the east property line is 12 feet. The existing house is 21.5 feet

from the side property line. The applicant proposes to split the property into two lots of roughly 15,000 square feet. The new proposed corner lot A would have a primary front yard on Emmerson Avenue and the rear yard would then be measured from the east property line. The proposed subdivision lot A requires a rear yard setback modification of 13.5 feet for the house to remain. The existing deck would also be over the new 12-foot side yard setback from the south property line, but will be brought into conformance. With regard to the proposed landscape plan, Ms. Lowry reported that the frontage tree and canopy coverage requirements are met, but an additional four trees are needed to meet the density requirement of one tree per 2000 square feet. For the 30,106 square foot total for the subdivision, 15 density trees are required, not counting the 7 frontage trees. In addition, the two European Hornbeams on proposed lot A will need to be moved so that they are at least 25 feet from the intersection of the street right of way lines.

Commissioner Comments: In response to Chair Adkins' question, Ms. Lowry confirmed that the current property is a legal lot of record. In response to Commissioner Klippel's inquiry, Ms. Lowry stated that the only setback concern is with proposed lot A. Commissioner Evens asked if this case was similar to the recently reviewed subdivision at Manor Grove. In response, Ms. Lowry stated that the lot at 111 W. Rose Hill was already a legal lot of record and no additional building lots were created with that subdivision. She also confirmed that if the subdivision were approved with the requested modification, the existing house on proposed lot A would be allowed to expand along the 21.5-foot rear yard setback to the east and the 12-foot side yard setback to the south. In response to Commissioner Coulson's request for clarification on the deck, Ms. Lowry stated that the deck could come into compliance with the side yard setback by removal of about a foot of the structure.

Petitioner Comments: Sydney and Mark Rasch with Benchmark Custom Homes addressed the Commission. Sydney Rasch stated that she intended to keep the home for herself due to the limited inventory of affordable homes in Kirkwood, but she would not expand it. To correct the side setback issue, Ms. Rasch did clarify that they would cut back the deck. If the application is denied, the home will be demolished, but this is not their preference due to the cost and construction needs related to the site. Ms. Rasch cited the petition included in the Commission's packet whereby neighboring property owners voiced favor with keeping the home rather than demolishing a perfectly good structure. Mark Rasch stated that they were not looking to change any aspects of the house, and that it would be nice to have two lots to build new house upon, but he would rather see his daughter in the existing home. Commissioner Klippel said that the setback modification was an issue with him and asked if the applicant considered moving the house on the lot. Mr. Rasch stated that the house has good bones, and moving the home would not be affordable. He said another solution would be to demolish the garage, however, if that route were taken he would not advise his daughter to purchase the lot. Commissioner Salzer-Lutz asked for clarification on whether the percentage of impervious surface will meet the standards with two

lots compared to one. Mr. Raiche stated the impervious surface is not capped by City regulations, but the applicants would be required to mitigate storm water effects based on the amount of impervious surface on each lot. Commissioner Scott questioned whether the lot was missing trees due to the noncomplying setback. Ms. Lowry stated that there is no current issue with the lot with meeting the proposed tree requirement.

Motion: With no additional questions from the Commission, Chair Adkins called for a motion. Commissioner Eagleton made a motion to approve Case PZ-11-24 Major Subdivision Preliminary Plat (2-Lot) – 1956 Westview Ave., subject to conditions contained in Ms. Lowry’s February 16, 2024 letter to the petitioner. Commissioner Coulson seconded the motion. Chair Adkins opened the floor to discussion from the Commission.

Commission Discussion: Commissioner Klippel viewed this request as a self-inflicted hardship. Commissioner Evens questioned if the deck could be constructed around the home and built into the rear setback. Ms. Lowry replied that a deck could not encroach into a side yard and would need to be 25’ from the rear yard. In response to Commissioner Evens’s question, Ms. Lowry clarified that the house is not located in a historic district. Both Commissioner Feiner and Chair Adkins voiced concerns about setting a precedent for the City’s approval of additional applications similar to this case. Commissioner Eagleton stated that the Planning and Zoning Commission is there to make a recommendation for the City Council, and the Council has final approval. He believes that the Commission should work with the owner to make the property work for everyone and replacing a perfectly sound structure with a new construction would not help the City. Commissioner Coulson questioned if there is a way to divide the two lots to conform to City code and still keep the house. Ms. Lowry replied there was not. Commissioner Coulson stated that she is in favor of exceptions in order to provide usable and affordable housing. Commissioner Scott said that he believes that this request is self-serving and differs in fact from the previous request. With no further comments from the Commission, Chair Adkins called for the vote. The motion failed by a vote of 2-6, with Commissioners Eagleton and Coulson voting in favor.

4. COMMISSION STAFF (INTERNAL) ITEMS

PZ-12-24 STAFF-INITIATED ZONING CODE TEXT AMENDMENT – PERSONAL & COMMERCIAL SERVICE HOURS OF OPERATION IN B1

Presentation: Ms. Lowry presented Staff’s recommendation for a change in the Personal and Commercial Services use-specific standards for hours of operation. She explained that in the B-1 zoning district both retail and restaurant uses are limited in hours and “shall not operate between 11 p.m. and 7 a.m.” There is no such restriction for the Personal and Commercial Service use, which includes health and fitness studios that typically have early morning hours. She stated that Staff is concerned that such uses may have an adverse effect on residential neighborhoods if not limited in hours.

Discussion: Commissioner Evens asked what caused this reconsideration. Ms. Lowry stated that a dance studio is vacating a leased space in the B-1 district, and interested parties are inquiring what businesses would be permitted there. There is a Special Use Permit (SUP) for the dance studio that would limit hours of operation if a similar use rented the entire space (which is larger than 2000 square feet), however, if such use leased less than 2000 square feet, it would not be subject to the operating hours and other conditions in the SUP. Commissioner Evens commented that putting limitations on operating hours might restrict business recruitment. Commissioners Feiner, Salzer-Lutz, and Eagleton questioned whether such restrictions would adversely affect business operations. In response to Commissioner Coulson's request, Ms. Lowry stated that if a business is operating under an SUP, they would have to amend the SUP to request expanded hours. Commissioner Feiner stated that since the aggregate square footage of buildings zoned B-1 is relatively small and there are other options in the other B-zones for other businesses, limiting the hours would not cause a large inconvenience. In response to Commissioner Eagleton's question, Mr. Raiche stated that the change would not allow some business to go in certain areas, but in his opinion the impact on the residential neighborhoods is of chief concern. Ms. Lowry remarked that if the Commission would like a business to have flexibility to change the hours, Staff would consider and receive input from the City Attorney to allow the hours to be changed through a special use process. Mr. Raiche suggested that the vote could be continued until Staff has a chance to consult with the City Attorney, or, if the Commission felt comfortable, they could also vote tonight. Ms. Lowry stated that there are no applications for the March 6 meeting so the Commission could delay this item until the next scheduled meeting of March 20.

Motion: Commissioner Feiner made a motion to continue the agenda item to the March 20, 2024 Planning and Zoning meeting. The motion was seconded by Commissioner Salzer-Lutz and approved unanimously.

5. ENVISION KIRKWOOD 2035 – QUARTERLY UPDATE

Director Raiche presented the Commission with project updates from the quick guide memorandum.

6. DEVELOPMENT PROJECT UPDATES

Director Raiche provided approval updates to the Commission. The public hearing is scheduled for the Frei Glass application on March 7, 2024. Construction plans are under review for the 7-Brew restaurant and Animal Eye Associates. The Aria Condominiums have the grading permit to begin site work. The subdivision plat for Manor Grove was approved through City Council.

With no further business, a motion was made by Commissioner Salzer-Lutz and seconded by Commissioner Scott to adjourn at 8:14 p.m. The next meeting will be held on March 20, 2024 at 7 p.m.

Jim Adkins, Chair

David Eagleton, 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, then click on City Clerk, Boards & Commissions, Planning & Zoning Commission.

MEMORANDUM



WHERE COMMUNITY AND SPIRIT MEET®

TO: P&Z COMMISSION

FROM: AMY LOWRY, PLANNER II *AGL*

SUBJECT: PZ-12-24 STAFF-INITIATED TEXT AMENDMENT - PERSONAL AND COMMERCIAL SERVICE, RESTAURANT, AND RETAIL BUSINESS USE SPECIFIC STANDARDS IN B-1 FOR HOURS OF OPERATION

DATE: MARCH 20, 2024

CC: JONATHAN D. RAICHE, PLANNING & DEVELOPMENT SERVICES DIRECTOR
LAUREN A. HOERR, PLANNER I

Introduction

When the City adopted the new Zoning Code in February 2021, the hours of operation for restaurant and retail uses in the B-1, Neighborhood Business District, were prohibited between 11:00 p.m. and 7:00 a.m. No such prohibition was made for the personal and commercial service use. However, because such use includes health and fitness studios that typically have early morning hours, Staff is concerned that such uses may have an adverse effect on residential neighborhoods if not limited in hours. Staff also believes the other uses included in the category should be limited due to their customer-based operations.

The personal and commercial service use is defined as follows in Section 25-104 of the Zoning Code:

Establishments that are primarily engaged in providing services generally involving the care of the person or person's possessions. Personal and commercial services may include, but are not limited to, laundromats, dry cleaning (pickup/dropoff only), barbershops, beauty salons, nail salons, massage therapy, physical therapy, mental health therapy, upholstery services, printing services, health and fitness studios, dance studios, tutoring establishments, music schools, informational and instructional services, tanning salons, and portrait studios.

The use specific standards for the personal and commercial service use are as follows in Section 25-36(y):

- (y) Personal and commercial service.
 - (1) In the B-1 and B-2 Districts, the maximum size of any tenant space shall not exceed 2,000 square feet.
 - (2) In the I-1 District, such use is permitted only on lots with frontage or addresses on South Kirkwood Road, Grand Avenue and Prospect Avenue. On all other I-1 zoned lots, such use shall be a special use requiring approval through the special use permit review procedure.

Discussion

The proposed code change to add limited hours in the B-1 District was discussed at the Planning and Zoning Commission meeting of February 21st. The Commission wanted to add flexibility for businesses to request expanded hours in locations that may not create disturbances or nuisances to surrounding properties, residents, or to the community in general and requested Staff to explore further code revisions to accomplish this.

Recommendation

After discussion at the Commission meeting, Staff reviewed the proposed code change with legal counsel, including the proposal to expand hours of operation through the special use permit process. The label in Table 35-1, Principally Permitted Uses in Base Zoning Districts, would be changed to “PS/S” to indicate that the use is both Permitted with Standards and Special Use for expanded hours. The City Attorney and Staff discussed that, for consistency in the B-1 district, the same change be made in the use-specific standards for the limited hours for restaurants and retail businesses.

Staff recommends that the Zoning Code be amended as below. Should the Planning and Zoning Commission wish to vote on this matter at the March 20th meeting without appointing a subcommittee, Staff recommends the following motion:

I move to recommend approval of the Zoning Code Text Amendment regarding Personal and Commercial Service, Restaurant and Retail Business Use-Specific Standards as follows based on the Staff memo dated March 20, 2024:

1. Amend Table 35-1, row “Personal and commercial service” and column “B-1” to read “PS/S”.
2. Revise Section 25-36(y) to add a new condition (1) to read “In the B-1 District, establishments shall not operate between 11:00 p.m. and 7:00 a.m. Said hours of operation may be extended through approval of a special use permit.” and renumber the existing subsections as needed.
3. Amend Table 35-1, row “Restaurant” and column “B-1” to read “PS/S”.
4. Revise Section 25-36(z) to add a new sentence in condition (2) to read “Said hours of operation may be extended through approval of a special use permit.”
5. Amend Table 35-1, row “Retail business” and column “B-1” to read “PS/S”.
6. Revise Section 25-36(aa) to add a new sentence in condition (2) to read “Said hours of operation may be extended through approval of a special use permit.”