

BILL NO. 18-15

ORDINANCE NO. 4.422

AN ORDINANCE GRANTING A SPECIAL USE PERMIT SUBJECT TO CERTAIN CONDITIONS TO JONG H. KIM FOR OPERATION OF A TAILOR OPERATION ON PROPERTY AT 2404 NORTHEAST 72nd STREET.

WHEREAS, Pursuant to Section 32-39 of Ordinance No. 2.292 being the Gladstone Zoning Ordinance, public notice was made of a request for a Special Use Permit on property at 2404 NE 72nd Street; and

WHEREAS, public hearings have been held after the publishing of the required notices; and

WHEREAS, the Planning Commission of the City of Gladstone did submit its recommendation to the City Council for approval; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, as follows:

SECTION 1. That John H. Kim is hereby granted a Special Use Permit for operation of a tailor operation on property at 2404 Northeast 72nd Street, the effective date of which shall be the enactment date of this Ordinance and expiring **one** year from the date of passage of this ordinance, all subject to the following conditions:

1. This Special Use Permit is issued to Jong H. Kim to be used at the above noted address.
2. This Special Use Permit shall be non-transferable to any other person or company, or to any other location.
3. Any changes in operation of the business by Jong H. Kim or change in ownership shall render this Special Use Permit null and void.
4. No person other than Jong H. Kim shall be employed at this location or any other address in association with the alteration shop by Jong H. Kim.
5. Hours of operation shall be limited to 6:00am to 7:00pm.
6. Jong H. Kim must reside at this residence for this permit to be valid.
7. Jong H. Kim shall apply for and maintain all applicable State and City business and occupational licenses; copy of such business and occupational licenses shall be supplied to the Community Development Department of the City of Gladstone.
8. A single unlit wall mounted sign totaling no more than six square feet in size is allowed.

SECTION 2. SEVERABILITY CLAUSE. The provisions of this ordinance are severable and if any provision hereof is declared invalid, unconstitutional or unenforceable, such determination shall not affect the validity of the remainder of this ordinance.

INTRODUCED, READ, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 23RD DAY OF APRIL, 2018.



Mayor Bill Garnos

ATTEST:



Ruth Bocchino, City Clerk

1st Reading: April 23, 2018

2nd Reading: April 23, 2018

File #2018-004



Community Development Department Staff Report

Date: February 13, 2018

File #: 2018-004

Requested Action: Special Use Permit for Home Alteration Business

Date of PC Consideration: March 19, 2018 (**Unanimously Approved by PC**)

Date of Council Consideration: April 18, 2018

Applicant: Jong H. Kim
K Tailor
2404 NE 72nd Street
Gladstone, MO 64118

Owner: Same

Architect/Engineer: N/A

Address of property: 2404 NE 72nd Street

General location of property: North side of NE 72nd Street, immediately west of QuikTrip and M-1 Highway

Physical Characteristics: Existing single family residence located adjacent to commercial uses to the east and residential uses to the north, south, and west.

Planning Information

Current Zoning: R-1 Single Family Residential District

Zoning History: None recent

Planned Land Use: Single family residential with a home based business

Streetscape Guidelines: N/A

Applicable Regulations: Zoning Ordinance

Additional Information

Public Utility Availability: Existing

Access: Driveway off of NE 72nd Street

Traffic Division Comments: None

Parking Required: Two off-street parking spaces

Parking Provided: Minimum requirement is met

Proposed On-Site Improvements: N/A

Proposed Off-Site Improvements: N/A

Proposed Landscaping: N/A

Proposed Signage: Although the applicant wants the ability to have signage, staff recommends against this provision

Recommended Conditions

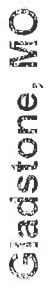
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3. Any changes in operation of the business by Jong H. Kim or change in ownership shall render this Special Use Permit null and void.
4. No person other than Jong H. Kim shall be employed at this location or any other address in association with the alteration shop by Jong H. Kim.
5. Hours of operation shall be limited to 6:00am to 7:00pm.
6. Jong H. Kim must reside at this residence for this permit to be valid.
7. Jong H. Kim shall apply for and maintain all applicable State and City business and occupational licenses; copy of such business and occupational licenses shall be supplied to the Community Development Department of the City of Gladstone.
8. No signage of the business shall be displayed on the premises.

Analysis

The applicant seeks approval of a Special Use Permit for the operation of a home-based alteration/tailor business located at 2404 NE 72nd Street. The location of this single family residence near a busy commercial intersection alleviates any concern that a home-based business with visiting customers would have a negative impact on adjacent residential uses. In fact, at the time of drafting this report, three residents called to inquire about the request and did not see any issues. However, signage of any kind (whether permanent or temporary) should not be allowed on the premises so as not to set a precedent of allowing signage on residential property.

Recommendation

Staff and the Planning Commission recommend that the request be approved for one year contingent upon compliance with the above recommended conditions.



- Legend**
- Stop Sign
 - KOPL Lights
 - Gladstone Lights
 - School Point
 - Bike Parking
 - Bus Stop
 - Point of Interest
 - Church
 - Apartment Point
 - Street Centerline
 - Edge Of Pavement
 - Driveway
 - City Limits
 - Parcel
 - House Number
 - Building Footprint
 - School Polygon
 - City Park
 - Villages
 - Apartment Polygon

Section

2404 NE 72nd Street

1 in. = 166 ft.

—This map is a user-generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION



MOTION: By Mr. Markenson, second by Mr. Whitton, to approve Final Plat (Re-plat): 150-152-154 Pointe Drive. File #2018-007.

VOTE:	Mr. Cookson	Yes
	Mr. Ebenroth	Yes
	Ms. Hommon	Yes
	Mr. Markenson	Yes
	Ms. McGee	Yes
	Ms. Middleton	Yes
	Mr. Murch	Yes
	Ms. Poindexter	Yes
	Mr. Turnage	Yes
	Mr. Whitton	Yes

The motion carried (10-0).

6. Public Hearing: Special Use Permit for 2404 NE 72nd Street. File #2018-004.
Vice-Chair McGee opened the Public Hearing.

Director Pappas stated that the applicant is seeking a Special Use Permit for an alteration business, a tailor business. It will be a home-based business located at 2404 NE 72nd Street, located just west of QuikTrip on M-1 and 72nd. The location is a single family residence. It's near a commercial intersection. That alleviates any concern that a home-based business would interfere as far as traffic is concerned regarding visiting customers in the area. Three residents called to inquire about the request but they did not have any issues. They think it is a good thing. There was one person who called to inquire how the traffic would be affected backing on to 72nd Street; 72nd in that area is very busy. Having traffic back out on to 72nd, instead of having traffic back out on the property and then move forward, is very dangerous in that area. That was the one concern that we received. They actually said that having an alteration shop at that location would be good for the City. Staff had recommendations for the Commission to approve.

Recommended Conditions

1. This Special Use Permit is issued to Jong H. Kim to be used at the above noted address.
2. This Special Use Permit shall be non-transferable to any other person or company, or to any other location.
3. Any changes in operation of the business by Jong H. Kim or change in ownership shall render this Special Use Permit null and void.
4. No person other than Jong H. Kim shall be employed at this location or any other address in association with the alteration shop by Jong H. Kim.
5. Hours of operation shall be limited to 6:00am to 7:00pm.
6. Jong H. Kim must reside at this residence for this permit to be valid.
7. Jong H. Kim shall apply for and maintain all applicable State and City business and occupational licenses; copy of such business and occupational licenses shall be supplied to the Community Development Department of the City of Gladstone.
8. No signage of the business shall be displayed on the premises.

Provided that the applicant is agreeable to the above, and that the Commission is agreeable to this request, Staff recommends the approval of a one (1) year Special Use Permit.

Mr. Kim, the applicant, and his translator, a church member, approached the podium. His translator shared that Mr. Kim would operate the business himself. He has experience in alterations at a tailor shop in Chicago. He has lived in Gladstone for five years. He likes it here and he bought a residence. He retired from a tailor shop last year. He wants to open a business here but he couldn't find a location. He also has skills in tailoring for 30 years in South Korea. He wants to dedicate, in Gladstone, a tailor shop. He is a Gladstone citizen and that's why he wants to be here. He has a miracle skill. He's his church member. There is only one issue, backing up on 72nd. He never backs up because there is a huge parking space there. You can back up and then turn right or left without backing up on 72nd. He doesn't think it is a problem. Mr. Kim and his wife are the only residents at this address. He doesn't think there are any parking problems or any customers, only one or two in an hour, that should have a traffic issue. He wants a business here and to dedicate a business in Gladstone city. He thanked the Commission.

Mr. Turnage asked Mr. Kim how customers would find him if he's not allowed to have signage.

Mr. Kim's translator shared that he would like to have a sign, but he doesn't have approval here yet. He wants to get a sign by City regulations. He also wants to put his business on the internet.

Mr. Markenson asked if Mr. Kim understood that he cannot put up a sign advertising the business on his property.

Mr. Kim's translator said he did understand and he will follow the regulations.

Director Pappas shared that the reason for no sign is that, several years ago, we had an issue on Antioch where several home-based businesses were putting up signs near commercial signs. They had to go through the whole wherewithal of the code process. We want to limit that possible impediment before the get-go.

Mr. Markenson asked if it would be safer traffic conditions if they had a sign instead of people slowing down and looking at numbers, or possibly a condition that the numbers of the address be a certain size so they would be easy to read. He had to rubber-neck when he went through there to see the address and he would hate to see people slowing down on 72nd. A sign doesn't bother him as much as people slowing down to find the location. He asked if they would be better off allowing a small sign and keeping traffic going.

Director Pappas responded by sharing future plans. With the new sign code coming into compliance with the new Supreme Court rulings, Reed vs. Gilbert, the city of Gilbert, Arizona, specifically, everybody will be entitled to a small sign, eventually. It won't be immediate, but within the next few months we could see people being entitled to small signs. We cannot regulate content; we cannot regulate anything other than the size and the construction. To answer your question, there very well could be a sign allowed in the very near future.

Mr. Markenson felt that it was very important that when people exit they go out forward instead of backing out. He was going to vote no if people were going to be backing out onto 72nd Street. That would be terrible. He asked if there is anything Mr. Kim can do to encourage his customers to head out.

Mr. Kim's translator translated that to him, and replied, yes.

Mr. Murch shared that he comes through that area quite often and the property is as much commercial as residential. He realizes somebody lives there. He personally doesn't have a problem with a sign there and he would like to see this business successful. He doesn't see a marketing plan without a sign there. Then

it becomes "what's the definition of a sign". He asked if he wrapped his vehicle and parked it there, would that be a sign.

Director Pappas responded currently, no. When it comes to the new sign code that is coming out, it really gives vague definitions to the City. We cannot look at a sign in terms of its content. Whatever it says on the sign we can't regulate. That's on Reed vs. Gilbert from last year.

Mr. Murch said he would like to see the place identified for people to be able to do business there as well as not driving around the QuikTrip and the whole area there, or pulling into the driveway and then backing out onto 72nd.

Director Pappas said that regardless of what the Commission decides tonight, a full copy of the minutes will be made available to the City Council so they can review the full record and make an informed decision on how to proceed.

Mr. Murch asked how they should vote; yes or no. He certainly wants the business there. He thinks that is legitimate. He would like to see the requirement for the sign removed.

Mr. Cookson asked if the recommended conditions were satisfactory to Mr. Kim.

His translator replied, yes, so far.

Ms. Middleton asked for clarification on the hours. The staff recommendation states 6:00am and she thought he said 8:00am.

Director Pappas confirmed that 6:00am – 7:00pm were the hours.

Ms. Middleton said that there were vacant lots next to it that could also be commercial because of the location. She doesn't have a problem with it.

Mr. Whitton asked Mr. Kim if he owned the land or was leasing.

His translator said that Mr. Kim owns the land and property.

Director Pappas added that there is action with our city Economic Development Team to try to get a Community Improvement District, a CID, in place with Walmart, Hy-Vee, QuikTrip, extending along 72nd Street to Family Video and Marcos Pizza. This could be part of that. It is considered to be commercial in nature.

Ms. McGee asked if that was a future plan or is it commercial today.

Director Pappas said it is not commercial today. It's still residential but it is our goal to get a CID in that area to improve that intersection.

Vice-Chair McGee asked if there were any members of the public present who wished to speak in favor. None. She then asked if there were any members of the public who wished to speak in opposition. None.

Vice-Chair McGee closed the Public Hearing.

Vice-Chair McGee asked if there was any further discussion on the motion.

Mr. Markenson said he was a little confused about the signs. He asked if the Special Use Permit would prohibit a sign, but that the City may be doing something in the future that would allow the sign, even though the Special Use Permit prohibits the sign.

Director Pappas replied that the City would not be doing anything in the future other than possibly rezoning at the owners request. If it was rezoned, they could pursue a sign just like any other business. Currently, it would be restricted to temporary signs.

Mr. Markenson asked if they want to amend this proposal to take out that provision, is there a limitation on the size of the sign that could be put in. They have to have a sign.

Director Pappas said that would be at the discretion of the Commission. He would recommend no larger than a basic banner-size; nothing longer than that.

Mr. Markenson felt that a banner was big. He didn't want it that big.

Director Pappas shared that what is allowed is a temporary sign as you would see for political or residential real estate signs. That is what is allowed currently.

Mr. Cookson asked for a point of clarification on whether, with the recommended conditions, he could display a political-sized sign in the front yard or not.

Mr. Markenson shared that it says no signage.

Director Pappas said that he struggles with this. Our sign code is a little bit behind Supreme Court regulations. If they want to go ahead and put up a sign, as we said a residential sign or real estate sign, technically it's in violation, but legally we could not enforce that. That is why our sign code is under revision.

Mr. Turnage asked Director Pappas if there is any variance for any of the Special Use Permits that are now in effect to include signs.

Director Pappas replied that there are not.

Mr. Markenson remarked that most Special Use Permits for home occupations occur on side streets. If you go slowly to look at an address it's no big deal. This is a major thoroughfare and people going slow are going to get, possibly, hit from behind.

Director Pappas wanted to bring up again on behalf of the City Council, and he didn't mean to speak for Councilmember Moore or Mayor Mallams, but the City Council in general, several years ago, had a similar situation on Antioch and they needed to crack down on that sort of thing. There were too many signs in front of too many houses.

Ms. Middleton asked if they could get it rezoned as commercial.

Director Pappas confirmed that they could.

Ms. Middleton asked what was involved and if that was expensive.

Director Pappas said that it could be because you have to upgrade restrooms, you have to upgrade ADA accessibility, parking, etc.

Mr. Murch asked if Director Pappas had looked at the economic impact of this to existing tailor businesses.

Director Pappas apologized that he did not. He has heard from several community members that this would be well received. It is a needed business.

Mr. Markenson shared that he is still confused about the condition that says no signage, and asked if the Council can do something in the future that negates that conditional use permit.

Director Pappas confirmed that yes. The Commission can do that now. They can strike it from the record right now. If they want to approve it subject to that provision being stricken out.

Mr. Markenson asked if there is some way they can do it besides a sign. He doesn't want billboards there because that will distract drivers too.

Director Pappas said that we don't allow billboards except in a very small portion of the City. They will never get a billboard. You can restrict the size of the sign; you can write it in.

Mr. Markenson said he is looking for something like this (motioning with his hands).

Director Pappas asked if he means a 2' x 3' sign.

Mr. Markenson replied yes.

Director Pappas said they could write that in.

Mr. Markenson asked for confirmation that when they make a motion to approve this, they could amend Section 8. Signage to say that the property could have a sign up to 2' x 3'.

Director Pappas confirmed they could do that.

Mr. Markenson shared that they should adapt the whole thing first and then he can offer a substitute motion.

Mr. Ebenroth asked a question on where the sign would be placed as he wouldn't want it to affect the visibility of traffic either going into his property or coming out, as well as traffic on 72nd.

Director Pappas said it would be per City code. It would have to meet setbacks. It would have to meet site distance triangle. It would be per code.

Ms. Hommon had two questions. The first one was if they amend this, is there a way to word what they do so it doesn't set a future precedence where the City has their hands tied for future businesses that are seeking Special Use Permits. The second question was, when considering this, if the CID comes into effect, how will that affect his business. She asked what that would look like regarding our decision-making process here.

Director Pappas said that when it comes to the actual property it shouldn't matter. In regards to the second part, the CID is basically an overlay of existing properties. It's an added tax. It doesn't get imposed on the property owners. It gets imposed on the consumer. It is a \$.01 sales tax. You can spend a lot of money and you won't even notice it. That money would go to fund the improvements at M-1 and 72nd Street.

Ms. Hommon asked if he would still have to be rezoned as commercial because it is a commercial business even though it's on a private property; would that affect just the sales tax.

Director Pappas said that it is all about the use. There are two different things. There is the zoning that is allowed and there is the use that is, so it's all about the use.

Ms. Hommon asked about the sign and setting precedence, and inquired what the answer was for that.

Director Pappas said that it is so close to commercial and high density commercial at that. We're talking C-3 which is our largest aside from warehouse and storage. It's our largest commercial district. In reality, it wouldn't be spot zoning. He could see the commercial coming in a little bit to 72nd Street.

Ms. Hommon asked if Director Pappas recommends that they word that in a specific way if we move for recommending a sign for this Special Use Permit.

Director Pappas said it wouldn't matter; it's captured in the minutes.

MOTION: By Mr. Turnage, second by Ms. Poindexter, to approve Public Hearing: Special Use Permit for one year for the address 2404 NE 72nd Street, Gladstone, for a tailor business. File #2018-004.

AMENDMENT: By Mr. Markenson, second by Mr. Cookson, to remove Section 8 and replace it with, "Signage at the business shall not exceed 3' x 2'."

Vice-Chair McGee asked if there was any further discussion on the motion.

Mr. Murch said he is not sure about that size because he doesn't know what the name of the business is.

Mr. Kim's translator shared that it is "K Tailor".

Mr. Murch continued that with the amendment on the size restriction that Mr. Kim would have to submit to the Board to determine if that is an appropriate size. He felt that 2' x 3' isn't a very big sign and, as was eluded, we don't want traffic slowing down and stopping trying to find that sign. But, that well may be what is appropriate for a tailor and alteration business.

Director Pappas reminded the Commission that this property is zoned residential. If you're allowing a larger sign than that you are setting a precedence for other residential premises that might want a sign larger than a 2' x 3'.

Vice-Chair McGee called for a vote on the motion.

VOTE:	Mr. Cookson	Yes
	Mr. Ebenroth	Yes
	Ms. Hommon	Yes
	Mr. Markenson	Yes
	Ms. McGee	Yes
	Ms. Middleton	Yes
	Mr. Murch	Yes
	Ms. Poindexter	Yes
	Mr. Turnage	Yes
	Mr. Whitton	Yes

The motion carried (10-0).

Vice-Chair McGee asked if there was any further discussion on the original amended motion. None.

Vice-Chair McGee called for a vote on the amended motion.

VOTE:	Mr. Cookson	Yes
	Mr. Ebenroth	Yes
	Ms. Hommon	Yes
	Mr. Markenson	Yes
	Ms. McGee	Yes
	Ms. Middleton	Yes
	Mr. Murch	Yes
	Ms. Poindexter	Yes
	Mr. Turnage	Yes
	Mr. Whitton	Yes

The motion carried (10-0).

7. Public Hearing: Site Plan Revision for 6309 NE Antioch Road. File #2018-005.

Vice-Chair McGee opened the Public Hearing.

Director Pappas shared that the applicant is requesting that the City approve a site plan revision that would enable a minor addition to the front of the existing building. This was the old QuikTrip on Antioch and 64th. The request is relatively minor in nature, however, given the City's new landscaping ordinance, street trees, etc., that was recently approved, these street trees shall be planted per code requirements and parking lot landscaping shall be planted on the basis of one (1) landscaping space for every ten (10) parking spaces. Staff is strongly recommending that the northern most access, this is the biggest recommendation, be closed off permanently and landscaped appropriately. In addition, all exterior lights are upgraded to LED. The owner should also construct a connecting side lot from the public right-of-way onto the property to facilitate ADA accessibility. The biggest concern is closing off that northern-most access point. That has been a source of significant traffic impacts but it would be prudent to the City to have that closed off.

The applicant approached the podium and stated the he knows the City would like that entrance closed, but he paid a lot of money for a retail piece of property there. Retail property is all about access. He feels that, if they take that access away from there, they are also taking away value from the project. It's one less point for people to get in and out of the property. That's the only thing he doesn't agree with. QuikTrip did a lot more business there than he's going to do

Mr. Whitton asked him to provide his name and address.

He stated that his name is Ed Reese and his home address is 16411 E 36th Street, Independence, Missouri.

Mr. Turnage asked for clarification that this application is only for the site plan revision. He's presuming that it will be a laundry mat.

Mr. Reese confirmed that was correct.

Director Pappas confirmed that yes, it is a laundry mat.

Mr. Turnage asked if there are any environmental issues since it used to be service station for QuikTrip.