

AN ORDINANCE GRANTING A SPECIAL USE PERMIT SUBJECT TO CERTAIN CONDITIONS TO CREATIVE ARTS ACADEMY FOR PURPOSES OF OPERATING A GYMNASTICS CENTER IN AN R-1 ZONE AT 1904 NORTH EAST ENGLEWOOD ROAD.

WHEREAS, pursuant to Section 32-39 of Ordinance No. 2.292, being the Gladstone Zoning Ordinance, public notice was made of a request to grant a Special Use Permit on property at 1904 Northeast Englewood Road and legally described as Lot 2, Englewood Baptist Church Addition; 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 of such Special Use Permit requesting certain conditions as incorporated herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:

SECTION 1. SPECIAL USE PERMIT:

THAT, Creative Arts Academy is hereby granted a Special Use Permit for operation of a gymnastic center on property at 1904 Northeast Englewood Road, the effective date of which shall be the enactment date of this Ordinance and expiring **five (5)** years from this date, all subject to the terms and conditions set forth herein:

1. Ms. Raisher 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.
2. This Special Use Permit is to be issued to Ms. Raisher and to be used at this location only. If she relocates, sells or leases out this location to another tenant, either she or another tenant must reapply for a new permit. This Special Use Permit is non-transferable to another tenant occupying this location.
3. Hours of operation for the location shall be limited to 8:00 a.m. to 9:00 p.m. per day, Monday – Saturday.
4. All fire safety requirements shall be complied with and maintained as required.
5. Ms. Raiser shall continue to work with the surrounding neighborhood to insure that a level of residential privacy be considered/implemented as is feasible. The applicant will work to assure that parking, noise, lighting and traffic congestion are mitigated as it relates to the surrounding residential neighbors when considering extra-curricular activities outside the hours of regular day-to-day operation.

6. Signage at the location shall be limited to applicant owned property or included in a shared signage arrangement with the tenant of the adjacent parcel, and shall follow all rules and regulations associated with all City of Gladstone sign ordinances.
7. The Englewood Road entry to the site shall be restricted to employee use only.
8. A shared parking agreement shall continue to be executed. Such agreement shall provide for cross sharing of all parking, maintenance responsibility and insurance.
9. The 6 foot privacy fence, as well as the property located north and south of the privacy fence (residential homes to commercial use), shall be maintained in perpetuity by the applicant.
10. Any violation of these conditions or other City Code requirements may result in the revocation of this Special Use Permit.

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.

PASSED, SIGNED, AND MADE EFFECTIVE BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 8th DAY OF JULY, 2019.



Mayor Carol J. Suter

ATTEST:



Ruth Bocchino, City Clerk

1st Reading: July 8, 2019

2nd Reading: July 8, 2019

File #2019-003



Request for Council Action

RES ☐ # City Clerk Only

BILL ☒ # 19-21

ORD # 4.477

Date: 7/1/2019

Department: Community Development

Meeting Date Requested: 7/8/2019

Public Hearing: Yes ☒ Date: 7/8/2019

Subject: Special Use Permit, Creative Arts Academy, LLC

Background: The applicant is requesting a special use permit renewal (15 year permit) (at the 7/8/19 City Council meeting, the permit was approved for 5 years) for the continued operation of the Creative Arts Academy, LLC located at 1904 NE Englewood Road. The most recent special use permit issued to Ms. Raisher was in May, 2004. Since 2004, the City of Gladstone has received numerous calls in regard to maintenance between the residential fences and privacy fence installed by the Creative Arts Academy located on the north property line (Pictures can be found in the planning packet). The city has also received a number of phone calls over the years in regard to the large banner hanging from the privacy fence (Creative Arts Academy) along the north property line (Pictures can be found in the planning packet). It is City Staff's recommendation that Ms. Raisher maintain the property between residential fences and the Creative Arts Academy privacy fence located on the north property line. The reason for staff's recommendation is that the property between the two fences has been created and neglected due to the installation of the privacy fence used for the Creative Arts Academy. This is in response to neighborhood requests. As of Monday, May 6th, Ms. Raisher has agreed and started to maintain the subject area. It is also City Staff's recommendation that Ms. Raisher bring into compliance with the current sign code the Creative Arts Academy banner hanging from the privacy fence on the north property line. City Staff requests that Ms. Raisher hang the Creative Arts Academy banner sign inside the frame that is already installed on the fence. This is in response to neighborhood requests. As of Monday, May 13th, Ms. Raisher has agreed to hang the banner sign inside the frame that is already installed on the fence. Currently, the frame is being reconstructed to fit the new banner signs and has not been installed as of July 2, 2019.

Budget Discussion: Funds are budgeted in the amount of \$ from the Fund. Ongoing costs are estimated to be \$ annually. Previous years' funding was \$

Public/Board/Staff Input:

Mr. Dick Davis, representing Ms. Nancy Norton spoke on her behalf during the public hearing in regard to a gate being installed by Ms. Pam Rashier (Creative Arts Academy). Mr. Davis did not speak in opposition to the Special Use Permit but believes Ms. Rashier owes Ms. Norton a gate so she can have firewood delivered to her home through the backyard. Mr. Davis and Ms. Norton claim that in the 2004 hearing for the initial 15 year SUP, Ms. Rashier and the Planning Commission agreed that Ms. Rashier would install the gate behind Ms. Norton's residence. City staff has not been able to locate any information via memo and the

RCA DUE TO CITY CLERK WEDNESDAY 12:00 PM

original ordinance that indicates this promise was agreed upon and recorded. In short, Mr. Davis and Ms. Norton believe this promise was made and Ms. Rashier claims she did not make that promise. Since city staff is not able to locate any record of this agreement, staff has not requested as a condition, that a gate be installed behind Ms. Norton's residence.

For the past 15+ years, firewood has been delivered via the front door of Ms. Norton's residence by the boy scouts, family and friends. Ms. Rashier is not in favor of installing a fence on her property for Ms. Norton due to insurance liability if someone were to get hurt delivering firewood on her private property.

Ms. Rashier has agreed to the two primary concerns of the neighborhood in regard to signage and maintenance between the commercial and residential fences on the north property line.

The Creative Arts Academy has been in business at this location for 15+ years.

The Planning Commission heard the request on Monday, May 20th and approved the 15-year special use permit 8-1.

Since the May 20th Planning Commission, City Staff has offered to look into obtaining grants to fund the installation of the gate to help mediate the disagreement, but have not been taken up on our offer. Ms. Rashier feels very strongly about not installing a gate on her property for Ms. Norton to have firewood delivered.

Ms. Rashier has made an adequate effort in maintaining the property between the two fences but has expressed her frustration to staff about her neighbors continuing to toss their yard waste (limbs, ashes, grass clippings) on the property she has agreed to maintain.

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor

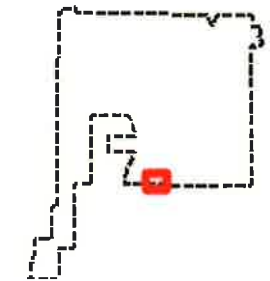
Austin Greer, Assistant To the City Manager/Planning Administrator

City Attorney PC

City Manager SW



Gladstone, MO



Legend

- KCPL 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

Notes

File 2019-003
Creative Arts Academy
1904 NE Englewood Road

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

DEVELOPMENT APPLICATION



CITY OF GLADSTONE
7010 N HOLMES STREET
GLADSTONE, MISSOURI 64118
PHONE: 436-4110 FAX: 436-2228

File #: 2019-003

Date: 3-6-19

PC 4-15

CC 5-13

Application Type:

- | | |
|--|--|
| ☒ Special Use Permit (\$500) | ☐ Right-of-Way Vacation (\$200) |
| ☐ Zoning Change (\$500) | ☐ Variance -- BZA (\$200) |
| ☐ Site Plan Revision (\$500) | ☐ Final Plat/Replat (\$75) |

Address of Action: 1904 NE ENGLEWOOD RD

Legal Description:

Attach under separate cover if needed.

GLADSTONE, MO 64118

Proposed Change:

RENEW 15 YEAR SPECIAL Use
Permit
7/8/19 approved for 5 years

Applicant/Property Owner Information:

☒ Applicant(s) Pamela Raisher
Company CREATIVE ARTS ACADEMY LLC
Address 1904 NE ENGLEWOOD RD
Phone 816 452 3200 Fax: N/A E-Mail: creativeartsacademy@yaho.com

☐ Property Owner (if different than applicant)
Company _____
Address _____
Phone _____ Fax: _____ E-Mail: _____

☐ Architect/Engineer
Company _____
Address _____
Phone _____ Fax: _____ E-Mail: _____

Please indicate in one box above which person is to be the contact.

Applicant's Signature Pamela Raisher Date 3-6-19



Clay County Assessor Parcel Detail

13912001002100

Property Address 1904 NE ENGLEWOOD RD
Property Zip Code
Legal ENGLEWOOD BAPTIST CHURCH ADDITION REPLAT LT 2 LT 2B
Section/Township/Range 25/51/33

Owner Name /address PS PROPERTIES LLC
 1904 NE ENGLEWOOD RD
 KANSAS CITY MO 64118

Tax district 8 **Tax code** 74-20-00-03-00-00-00-01-01-00-00-00
Property Class 31 **Classification** COMM

	Land Value	Improvement value	Appraised value	Assessed value
Residential				
Commercial	210,000	226,500	436,500	
Agricultural				
Total	210,000	226,500	436,500	139,680

Book & Page	Deed Date
4692-931	2005-02-21
1787-0071	2005-02-21
1036-0070	2005-02-21
1449-0648	2005-02-21

Location of this parcel



Community Development Department

Staff Report

Date: April 15, 2019

File #: 2019-003

Requested Action: Special Use Permit, Creative Arts Academy, LLC

Date of PC Consideration: May 20, 2019

Date of Council Consideration: June 10, 2019

Applicant: Pam Raisher
Creative Arts Academy, LLC
1904 NE Englewood Road
Gladstone, MO 64118

Owner: PS Properties, LLC

Address of Property: 1904 NE Englewood Road.

Planning Information

- Current Zoning: R-1 Single Family Dwelling District
 - Zoning History: Residential – In April 2004, the Planning & Zoning Commission voted 0-12 on a motion to approve a rezoning from R-1 to CP-0 at this location for the Creative Arts Academy.
 - Planned Land Use: Residential
 - Surrounding Uses: Residential
 - Applicable Regulations:
 - Additional Information
-

- Public Utility Availability: Existing
- Ingress/Egress: N. Woodland Avenue (Primary) NE Englewood Rd. (Private Drive)
- Traffic Impacts: None
- Parking Provided: Parking Agreement with Englewood Baptist Church
- Proposed On-Site Improvements: None
- Proposed Off-Site Improvements: None
- Proposed Landscaping & Yard Maintenance: Maintain property between residential fencing and Creative Arts Academy fencing on north property line.
- Proposed Signage: None Additional; Bring into compliance the large Creative Arts Academy banner on fencing located on ingress/egress N. Woodland Avenue (Primary) fencing.

Analysis

The applicant is requesting a special use permit renewal (15 year permit) for the continued operation of the Creative Arts Academy, LLC located at 1904 NE Englewood Road. The most recent special use permit issued to Ms. Raisher was in May, 2004.

Since 2004, the City of Gladstone has received numerous calls in regard to maintenance between the residential fences and privacy fence installed by the Creative Arts Academy located on the north property line (Pictures can be found in the planning packet). The city has also received a number of phone calls over the years in regard to the large banner hanging from the privacy fence (Creative Arts Academy) along the north property line (Pictures can be found in the planning packet).

It is City Staff's recommendation that Ms. Raisher maintain the property between residential fences and the Creative Arts Academy privacy fence located on the north property line. The reason for staff's recommendation is that the property between the two fences has been created and neglected due to the installation of the privacy fence used for the Creative Arts Academy. This is in response to neighborhood requests. As of Monday, May 6th, Ms. Raisher has agreed and started to maintain the subject area.

It is also City Staff's recommendation that Ms. Raisher bring into compliance with the current sign code the Creative Arts Academy banner hanging from the privacy fence on the north property line. City Staff requests that Ms. Raisher hang the Creative Arts Academy banner sign inside the frame that is already installed on the fence. This is in response to neighborhood requests. As of Monday, May 13th, Ms. Raisher has agreed to hang the banner sign inside the frame that is already installed on the fence.

Recommended Conditions

City Staff recommends that the following conditions be considered if the Planning Commission and City Council choose to approve this project request:

1. Ms. Raisher 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.
2. This Special Use Permit is to be issued to Ms. Raisher and to be used at this location only. If she relocates, sells or leases out this location to another tenant, either she or another tenant must reapply for a new permit. This Special Use Permit is non-transferable to another tenant occupying this location.
3. Hours of operation for the location shall be limited to 8:00 a.m. to 9:00 p.m. per day, Monday – Saturday.

4. All fire safety requirements shall be complied with and maintained as required.
5. Ms. Raiser shall continue to work with the surrounding neighborhood to insure that a level of residential privacy be considered/implemented as is feasible. The applicant will work to assure that parking, noise, lighting and traffic congestion are mitigated as it relates to the surrounding residential neighbors when considering extra-curricular activities outside the hours of regular day-to-day operation.
6. Signage at the location shall be limited to applicant owned property or included in a shared signage arrangement with the tenant of the adjacent parcel, and shall follow all rules and regulations associated with all City of Gladstone sign ordinances.
7. The Englewood Road entry to the site shall be restricted to employee use only.
8. A shared parking agreement shall continue to be executed. Such agreement shall provide for cross sharing of all parking, maintenance responsibility and insurance.
9. The 6 foot privacy fence, as well as the property located north and south of the privacy fence (residential homes to commercial use), shall be maintained in perpetuity by the applicant.
10. Any violation of these conditions or other City Code requirements may result in the revocation of this Special Use Permit.

Recommendation

City Staff recommends that the request be **APPROVED for 15 years** contingent upon the conditions listed above.

GLADSTONE PLANNING COMMISSION MINUTES

Council Chambers May 20, 2019

1. Meeting called to Order- Roll Call. Chair McGee called the meeting to order at 7:00 pm.

Commissioners present were: Mike Ebenroth
J.N. Hernandez
Alicia Hommon
Gary Markenson
Jennifer McGee, Chair
Katie Middleton
Kim Murch
Shari Poindexter
Bill Turnage

Not present: Chase Cookson
James New
Larry Whitton

Also present: Jean Moore, Mayor Pro Tem
Bob Baer, Assistant City Manager
Austin Greer, Assistant to the City Manager/Planning Administrator
Alan Napoli, Administrator Comm Dev/Building Official
Cheryl Lamb, Administrative Assistant

2. Pledge of Allegiance to the United States of America.

3. Approval of Previous Meeting Minutes: April 15, 2019. Chair McGee asked if there was a motion to approve the minutes from the April 15, 2019 meeting. Mr. Turnage moved to approve the minutes; Mx. Hernandez seconded. The minutes were approved, 9-0.

4. Other Business. None.

5. Public Hearing: SUP Continuance for Creative Arts Academy, File #2019-003. Mr. Greer shared that Ms. Pam Raisher is requesting a special use permit renewal which is a 15 year permit for the continued operation of Creative Arts Academy LLC located at 1904 NE Englewood Rd. The most recent special use permit issued to Ms. Raisher was May, 2004. Since 2004, the City of Gladstone has received numerous calls in regard to maintenance between the residential fences and privacy fence installed by the Creative Arts Academy located on the north property line. The City has also received a number of phone calls over the years in regard to the large banner hanging from the privacy fence along that north property line. It is city staff's recommendation that Ms. Raisher maintain the property between the residential fences and the Creative Arts Academy privacy fence located on the north property line. The reason for staff's recommendation is that the property between the two fences has been created and neglected due to the installation of the privacy fence used by the Creative Arts Academy. This is in response to neighborhood requests. As of Monday, May 6th, Ms. Raisher has agreed and is starting to maintain the subject area. It is also city staff's recommendation that Ms. Raisher bring into compliance with the current sign code, the Creative Arts Academy banner hanging from the privacy fence on the north property line. City staff requests that Ms. Raisher hang the Creative Arts Academy banner sign inside the frame that is already installed on the fence. This is in response to neighborhood requests. As of Monday, May 13th, Ms. Raisher has agreed to hand the banner inside the frame that is already installed on the fence.

City Staff recommends that the following conditions be considered if the Planning Commission and City Council choose to approve this project request:

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10. Any violation of these conditions or other City Code requirements may result in the revocation of this Special Use Permit.

Chair McGee opened the floor to members of the public who are in favor of the application.

Mr. Markenson stated that he had a question for City staff. He asked if the original permit required the applicant to maintain the property free of litter and conform to the City sign ordinance.

Mr. Greer shared that as City staff looked back to some of the memos and the ordinance, they couldn't find any indication of that. Not specifically. That is why it is now being added to the list of conditions.

Mr. Markenson reiterated that there were numerous complaints. Numerous three, numerous . . .

Mr. Greer said that it was phone calls over the last 15 years.

Mr. Markenson asked if he knew how many.

Mr. Greer couldn't say how many over the past 15 years. They will hear from Mr. Dick Davis who is representing a resident tonight with some of the complaints that are being addressed in the staff report tonight.

Mr. Markenson asked about condition number 5; at the very end it talks about activities outside the hours of regular day-to-day operation. Earlier on it says the hours of operation shall be 8am to 9pm. He asked if they can go beyond that. He was confused as it seemed to be a contradiction.

Mr. Greer said that some of the conditions were taken from the previous permit issued 15 years ago. He felt that Ms. Raisher could better explain some of the operation hours that she has. She agreed to these hours 15 years ago and they thought it made sense to keep them the same. There haven't been any complaints with the hours.

Mr. Markenson said that it seemed that last phrases in number 5 would seem to say that they could have events beyond that. He asked if he was reading it wrong.

Mr. Greer confirmed he was not reading it wrong. There may be a wording issue there that needs to be addressed. He asked Ms. Raisher if she would like to step up to the podium and talk about some of different classes she represents for clarification.

Ms. Raisher said they don't do much beyond 9:00pm. Occasionally, over the last 15 years they have had overnight sleepovers with 8 to 10 kids. That is usually a team experience and never conflicts with anything which is why they have never had any complaints. That is the verbiage that was offered to her in the special use permit 15 years ago. It has worked. Their hours; generally they are done by 8:30 in the evening. They comply with the hours shown. If they have an overnight, which they prefer not to have, they might do an overnight once every two or three years. It has never been an issue and it's not a huge bunch of people, children.

Mr. Greer asked Mr. Markenson if that explained it.

Mr. Markenson restated that they aren't going to do it much, but if they do it they are going to conform to the lighting and all the other stuff.

Mr. Greer confirmed that was correct.

Mr. Turnage asked Ms. Raisher if any of the neighbors addressed any of these issues with her directly.

Ms. Raisher replied no. She has never had a complaint. One time there was a tree that has a limb down that she was asked to cut it down and she did that within a few days. That was not a neighbor that was the City itself. That was one issue over 15 years.

Chair McGee asked if there was anyone who wished to speak in favor of the application. None.

Chair McGee asked if there was anyone who wished to speak in opposition to the application.

Dick Davis, who lives at 5826 N Kensington which is two blocks outside of Gladstone. He spent his first 39 years in this town, in Gladstone, as a resident. In 2004, he served on the Planning Commission that considered the initial proposal to authorize this special use permit. Two other members of that Planning Commission, Brian Hill, who later served on the City Council, and Wendell Kaiser, who has moved out of the city and couldn't be here tonight, agree with the points that he will make tonight. Brian had a conflicting meeting and he will be there later if his meeting ends early.

Mr. Davis stated that when their Commission considered this there was much debate about why this proposal was not going to zoning. Churches are allowed in our 1 zone in Gladstone and we were assured that this would remain an R1 property. The three of them were surprised that, after the approval, commercial zoning signs appeared in different places on the property. Commercial zoning is not allowed in R1 zones. They would have never authorized a revision of the R1 zoning. He thinks that any renewal of

this application should prohibit commercial zoning period. If you look at the property it stretches from Antioch Road to North Oak. Not a single commercial use anywhere in that property, yet there is this one property that usually has 3 or 4 commercial signs on it.

Second, they were told that a fence would be provided as a buffer between the parking lot and fenced back yards of the properties on 57th Street. The area between the fences would be landscaped and maintained by Creative Arts Academy. They discussed insuring an adequate distance between the fences to make this landscaping possible. They were shocked in days after the approval that a fence appeared very close to the rear fences. It was so close that a lawnmower could not be passed from one end to the other. Still can't. There was nothing resembling landscaping. In fact, for fourteen plus years there has been no maintenance. The last few weeks with renewal pending they have seen some cleanup. But the narrow space has been an overgrown eyesore. He urged them to take a look at this space and ask themselves, "Would I tolerate this in my backyard?" His guess is no.

Third, a Nancy Norton owns the property and resides at 1805 NE 57th Street and has for the past 53 years. Nancy was presented and he asked her to stand. Nancy asked their Commission for a gate to be provided in their fence so that firewood could continue to be delivered to her property. The presenter of the proposal, Ms. Raisher very graciously agreed that the gate would be provided as requested. Since before the gym's construction, Nancy had used the church's parking lot for delivery of firewood with no objection. Nancy is a single mother with five children and heats her house with firewood to save money. Several years later when the church sought City approval to build the gym, and notice the gym is about 10 feet from the rear line, it needed a special permit from the City because it violated the rear yard setback requirements. Neighbors were asked for their concurrence. Nancy said she would have no objection as long as her gate access would continue to be allowed. The fence was later built with no gate and CAA's response was that her insurer objected to the gate, and this was after she made her commitment to us in the planning commission meeting. Unfortunately, the planning commissioners, the City kind of screwed up and their meeting did not reflect any discussion regarding the fence. If you look in the minutes, you can't find a word about it. Ms. Raisher was able to ignore her agreement to provide the gate because the City failed to document the agreement. That incurred despite the fact that a former mayor, that's him, a former council member, that's Brian, three planning commissioners and Mrs. Norton all were there and all would serve as witnesses that she made that commitment. If the extension is approved, this would be a good time for the city of Gladstone to demand that the petitioner live up to her previous commitments. Meaning they do have a chance to correct a mistake that their planning commission failed to do. They didn't get it in the minutes, and as a result (inaudible). At a minimum, decent maintenance between the fences should be demanded. He is impressed that the city staff recommendation addresses that. That may require several gates for sufficient access. You can't get to it, let alone maintain it. And Nancy's gate should be provided to align with her fence, and it should not have a lock. Nancy needs the chance to get through that gate without the lock. The gate would not be a safety issue as Ms. Raisher said earlier, because of insurance. Anyone could walk between the fence could simply walk around the fence and get to the same place.

Last, he thinks the Creative Arts Academy has not been a good neighbor, far from it. You should be reluctant to extend for 15 years. Consider a short-term extension and if she is a better neighbor, a longer term extension could be provided at the next renewal. He thanked them for their patience and listening to his presentation.

Ms. Hommon asked him to elaborate on what he was referring to that they have not been a good neighbor.

Mr. Davis replied that in 14 years there has been zero maintenance. The good side of the fence has been maintained. Nancy's side has not been maintained. You've got 14 years of growth. Some neighbors would go over the fence and clean it up, others would not. But absolutely zero for 14 ½ years.

Ms. Hommon asked if they had been a good neighbor as far as the business aspect.

Mr. Davis answered that, to his knowledge, there have been no complaints about the other side of the fence, other than the signage which was a complete surprise. He responded to Mr. Markenson's question about the hours and said nobody had complained about the hours. The hours haven't been a problem. He did say that Brian Hill served on the City Council for three years and his term as a planning commissioner included much discussion between the City Council and City staff on what they could do insure compliance. They tried to get the gate in, but obviously they failed.

Mr. Ebenroth asked a question about the gate. He asked if the planning commission had a recommendation that a gate be installed.

Mr. Davis confirmed that was correct. They asked Ms. Raisher if she could do that and she said she would be delighted.

Mr. Ebenroth inquired if they had a chance at the next planning commission meeting to review the minutes.

Mr. Davis confirmed that they blew it.

Mr. Ebenroth stated that it was approved at the Council meeting as well without the gate in there.

Mr. Davis said that they never saw the minutes. He added that Ms. Norton had three children she raised. Today she is 80 years old and still lifting that firewood by herself because she makes a living by doing ironing and cleanup work for other people. He is there because he hates to see a situation where a wealthy commercial establishment takes advantage of the fact that they didn't document that she agreed to provide a simple gate which would be a great asset to a woman that really can't afford to be paying for that.

Ms. Middleton asked how the firewood has been delivered for the past 15 years.

Mr. Davis said through the front yard and lugging it to the back yard. Her son will come over and move some of it.

Ms. Middleton asked if it needs to go to the back yard.

Mr. Davis said it is stored in the back yard.

Ms. Middleton asked Ms. Raisher if she would be agreeable to putting a gate into the fence.

Ms. Raisher said this was actually brought back to the council as was determined that this was not an issue that should be determined by the City Council. She did not agree to put in a gate. After looking, number one she didn't want to put in a 400 foot privacy fence which is what Ms. Nancy Norton wanted so she put that in. She did not agree to maintain it because there is minimal space and there is an easement behind that fence. She has now agreed to do that. However, a lot of her property has become a dumping ground for the neighbors. If anyone has driven Englewood Road to see Englewood Baptist Church and Creative Arts Academy which sit side-by-side, she has spent a ton of money maintaining the property, improving the visual for the City of Gladstone. This is a space that, number one, you can't see unless you are looking out the back. Those people are throwing everything over the fence so she can clean it up. She added that she is not a wealthy business person.

Ms. Middleton confirmed that was a no to the gate.

Ms. Raisher said she would not put in a gate. Her insurance and her attorney determined, and so did the City Council, that if she allows one neighbor to have access to her parking lot and have their firewood delivered doesn't she need to let all 19 neighbors have access. The city at one point trying to get everyone happy went so far as to demand an electric gate so it could be locked. She's just a private business person trying to protect her property. They have a parking lot situation.

Ms. Middleton asked for the City staff perspective on this gate issue.

Mr. Greer said he wouldn't give their perspective on it. What he will say is when staff looked through the memos and the ordinance that was passed there was no recollection of a gate being installed.

Ms. Poindexter asked for clarification that they want a gate on Ms. Raisher's property, in your fence, so someone can have firewood delivered on your pavement and then they can carry it through.

Ms. Raisher confirmed that was correct.

Chair McGee asked if there were any additional people speaking for the opposition.

Mr. Davis added that it is totally within the planning commission's prerogative to recommend that a single gate be provided. If that is approved the only way that they could demand 17 more gates is to go back to the next review 15 years from now.

Nancy Norton, 1805 NE 57th Street, approached the podium. She said that the fence was fine. She did good with the fence. She takes care of the other side of the fence. In between the fences you can get a lawnmower in there but you can't turn it around. She takes care of her back yard and in between the fences and it is a big to do. Her neighbors do not. She had a rental house next door and she agreed that the rental house was, they should have torn it down, but they didn't. Everything went over the fence in between. The trees grew up. Everything was thrown over there. Everything has grown up from her house out. Her children are concerned that, if she has a fire at her house, how does she get out the back door. She can get out the back door, but she would have to climb over all the fences to get out. That is a fire lane in that alley, which should be cleaned. Whether it's cleaned by Ms. Raisher, all of that land in between belongs to the houses. That land is hers. She thinks the house should be responsible to cut the grass, to cut the trees, and do all that. Not Ms. Raisher. That's not her land. Her problem is the fence. She is looking from here to over there, and she has this nice white fence that is full of mildew, green junk, whatever, it is discolored. She has scrubbed it, but it has gotten beyond. She thinks Ms. Raisher needs to get out there, power wash it, scrub it, do something so she doesn't have to look at the unsanitary, moldy fence. The gate. She promised me a gate. Nancy said she could come in, move in, put a fence up; give me a gate. She has had three trees taken down and she's got two more that may have to come down. She has had to tear up a perfectly good bush, tear up her space, tear up her side fence between the houses and drag this tree, after they cut it down, out. She would like a riding lawnmower, she's getting to the point she needs one, but if she had to spend money to put a wider fence in on the side to save her money, because she promised us a gate. She can't get a wide lawnmower back there unless she tears up the side of the fence. That would be an expense to her that she can't afford. Since she said she would give me a gate, I realize it's private property, but that's church property. She's lived there since '66, 55 years. The kids learned to ride their bicycles, people learned to drive their cars, kids roller skate, you pull your kid in a wagon. That's private property but it's the church. It's not interfering with the little space of parking that she owns. She owns 3 feet away from the fence out, all the way down. The mildew on the fence, the space in between and all the garbage which was really from the rental house. Other people have bushes, they don't cut the grass, the weeds are all over,

and the trees are all over. Whether that's her responsibility or the individual people that live there, she doesn't know. Hers is clear, but as far as the wood man coming, yes, she burns wood. She can't afford gas, she'd freeze to death. If you knew the difference, you'd have wood too. But the wood man comes; he throws it over the fence. He used to drive it in, back it in, unload it and stack it with no problem. It's just that she told me she would give us a fence and I think we need a fence. As far as all the advertisement, yes. As far as her cars and lights, she solved that problem. Other than that, she doesn't bother me. She doesn't like the fence. Not her side. Ms. Raisher's side looks great.

Mr. Greer recapped the conversation a little bit. There were two primary concerns coming into tonight. The maintenance between the commercial fence and the residential fence that she was discussing; and then the signage. Through the conditions, through staff, Ms. Raisher has agreed to both of those conditions. To maintain that property in between the two fences and to put her sign in the bracket that was made for that. The two conditions for tonight have been addressed and have been agreed to. The other condition to consider from Mr. Davis and Ms. Norton is the access of the gate. Again, City staff was not able to locate any of that information in the minutes or in any memos from 15 years ago. That is the recap he wanted to share on tonight's meeting.

Chair McGee asked if there were any other comments from the public. None.

Chair McGee closed the Public Hearing.

Mr. Markenson asked if it was appropriate for a special use permit to require a gate. He wanted to know if this was the time to do that and, if they don't do it now, is this . . .

Mr. Greer shared that when City staff discussed the reasoning on the gate and he spoke with Mr. Davis and he recalled fifteen years ago that it was promised. Ms. Raisher has been in business roughly 20 years. The first special use permit is issued for one year; the second for three; the next for five. We are going off a 15 year permit and hoping to do another 15 year permit here tonight. However, with a special use permit, it is not mandated to put in a date. If he had been able to find it in the staff report from 15 years ago, they would have had that conversation more closely with Ms. Raisher. Given that this has been approved multiple times in the special use permit process, they didn't think it was appropriate from staff's perspective to include this within the conditions tonight.

Mr. Markenson asked if it could be done.

Mr. Greer replied it could be done. It could be costly, it could be very minimal. It just depends.

Mx. Hernandez asked if that would reset the cycle of, instead of being 15 years it would go back to a one year permit and go up the scale again.

Mr. Greer said no. It doesn't have to be that way if the planning commission or the City Council deemed that a gate needed to be installed, it could still be the 15 year permit.

Ms. Poindexter asked if Ms. Raisher is required to put in a gate, how she gets the wood into her property; doesn't she need to have a gate in her property too, or does she have a gate.

Ms. Norton replied no.

Ms. Poindexter said that if they solve the problem of requiring a gate or asking for a gate for wood to be delivered, but how does Ms. Norton get that wood into her property.

Ms. Norton said she has a gate, a double gate. The gate she would put in is not just for her and wood. It's for the neighbors. The neighbor had a riding lawnmower but couldn't get it in anymore because there's no gate.

Ms. Poindexter asked who had a gate.

Ms. Norton said that everybody had a gate. The gate she puts in would be for not just her, but for all of them.

Mr. Greer interjected to Chair McGee that the public hearing was now closed so any questions would need to be addressed to staff at this point.

Ms. Hommon shared her thought process. The special use permit in this case is applied because this is residential zoned. Hypothetically, if this were a home behind the property and not a business, because it's a residential zone, what would be the conversation they would be having regarding this gate.

Mr. Greer said it's a commercial use, so it is considered commercial and that is why they are asking her to maintain the property in between and also why she had to install a 400 foot fence. He asked for clarification on the question.

Ms. Hommon said her question is, if she was a neighbor behind Ms. Norton and she installed a privacy fence, would she need to have a gate as a neighbor to Ms. Norton that installed a privacy fence. Would she need to have a gate there?

Mr. Napoli replied that she would not.

Mr. Greer confirmed the answer is no.

Mr. Markenson asked if it would be possible to entertain a motion to postpone until their next meeting to allow staff to work with the parties on getting a cost on a gate.

Chair McGee said he could put that to a motion.

MOTION: Mr. Markenson moved that they leave this on the table until the next planning commission meeting to allow staff an opportunity to try to work out a compromise on a gate that would become a recommended condition. No second. The motion did not carry.

Chair McGee asked if there was any additional discussion.

Ms. Middleton asked if the conditions are not met, can the city revoke the special use permit.

Mr. Greer replied that yes. He gave as an example, if the maintenance between the two fences isn't well kept, technically it could be revoked.

Ms. Middleton asked for the definition of "well kept".

Mr. Greer said that there is a maintenance code that they go by.

Ms. Hommon asked if the appearance of the fence on the backside is included in the maintenance.

Mr. Napoli said yes, but to access that they would have to access every one of the neighbor's backyards, and if they could visually see it, then yes.

Mr. Murch asked if in normal residence to residence who is responsible for the backside of the fence.

Mr. Napoli replied that whoever owns the fence is responsible for the fence, both sides.

Mr. Murch he asked Mr. Napoli to confirm that it was difficult to monitor one side because you don't have access.

Mr. Napoli stated that the other side is private property. To go on that side of the fence they would have to access private property and each resident would have to give us permission to go on their property to view the fence from the back side.

Chair McGee asked if, in order for the code to be enforced, a neighbor would have to invite you into their back yard.

Mr. Napoli confirmed that was correct. He added that, by law, they cannot trespass on private property unless they are invited. They can only address what they can see from the city's right-of-way.

Mx. Hernandez asked if the space between the fences is entirely closed off by fences. He said it looks like, from the picture, there is an opening on the side of it.

Mr. Greer shared that along the 400 foot fence there are openings on both sides. If you walk back there, some spaces are wider than other but there is access to both sides.

Mr. Murch asked if the area between the fences is property that is owned by the special permit holder.

Mr. Napoli said that when he looked at that it looks like most of the property does belong to her. He wasn't sure. The fences in the back jog a little bit so he's not 100% sure where all the property lines. He believes her fence is not directly on the property line, it's just off the property line. Some is owned by her and some is owned by the other residents. Without an accurate survey he isn't able to say exactly where the line is at. Mr. Greer added that, along the 400 feet, it is a combination of both.

Mr. Murch asked if, in order for her to maintain that area, she has to trespass on somebody's property.

Mr. Greer said he couldn't definitively say that without a survey being done. There is enough space back there where she is willing to have her landscaping contractors go through and maintain that for whoever owns that property. He knows that's not a very good answer, but it is 400 feet long and the spaces back there differ from between 5 feet and 10 feet, or 4 feet. It's variable so it's hard to determine without an actual survey who owns what piece of that fence. She is taking it upon herself to maintain the entirety of that.

Mr. Murch asked if anybody along that 400 foot has used her fence as their back fence and eliminated the space between.

Mr. Greer replied that, from what they can see from the right-of-way, it looks like there is chain link fence that is owned by residential along the majority of that property. But without actually going in those back yards and looking, it's hard definitively tell.

Mr. Murch said that they have access to be on her private property if she allows you back there.

Mr. Greer said yes.

Mr. Murch stated they would not have to go to each individual house.

Mr. Greer replied no.

Mr. Murch asked if she owns the backside of the fence and she opts not to power wash it, what would be the difference between him and his neighbor if he owned the fence.

Mr. Napoli said there wouldn't be any difference. He's never had the issue come up where one neighbor complained unless it was in a state of disrepair. If there any mold or mildew to power wash, they would take care of it themselves since it's on that side. They just maintain it. He knows some people who have painted the fences that are facing them. You would own it but there are a lot of people who would maintain the other side of the fence, or clean it off. He has a fence up against his property that has some stuff on it. It's grayed out but his neighbor comes by every once in a while and pounds the nails back in. It varies on who wants to do what and how much they care about what view they see from their property.

Mr. Greer said that there are a lot of hypotheticals they could run through. The fact of the matter is that Ms. Raisher has agreed to maintain that property in between the two fences.

MOTION: By Ms. Poindexter, seconded by Ms. Hommon, to approve the special use permit for the Creative Arts Academy, File #2019-003. The motion carried 8-1.

- 6. Public Hearing: SUP Continuance for K Tailor, File #2019-004.** Mr. Greer stated that the applicant is Mr. Jong Kim who seeks approval of a special use permit for five (5) years for the operation of a homebased alteration and tailor business located at 2404 NE 72nd Street. The location of this single family residence is near a busy commercial intersection, which alleviates any concern that a homebased business with visiting customers would have a negative impact on adjacent residential uses. One sign will be permitted and displayed on the premises in compliance with the current sign code and shall not exceed six (6) square feet. Given that last year's planning commission discussion in regard to this special use permit, a strong argument was articulated that the applicant should be allowed one (1) sign. The special use permit was approved unanimously in 2018. Over the past year, the applicant has been sent two (2) separate notices in regard to sign violations. The applicant and the City staff have met and the issue of the signage is resolved as of May 2019.

City staff recommends that the following conditions be considered if the Planning Commission and the City Council choose to approve this project request.

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. One sign shall be permitted and displayed on the premises in compliance with the current sign code and shall not exceed six square feet.

Chair McGee asked if there were any members of the public that would like to speak in favor of the application.

Mr. Kim and his translator approached the podium. His translator said that he was a church member and he would speak for Jong Kim. He stated the address was 2404 NE 72nd Street. He shared that Mr. Kim has been in business since last year. So far business is not really good but he tries hard. His customers like his business. He doesn't have any parking problem as there is room to turn around and there have not been any issues.

Mr. Turner asked a question of Mr. Napoli. He wanted to know the nature of the sign violations and if it was because of multiple signs, or because they weren't in the correct place.

Mr. Greer replied that there were multiple signs. There were a multitude of things that were wrong with those signs, but they have it squared away at this point with the one sign.

Chair McGee asked if there were any members of the public who wished to speak in opposition to this application. None.

Chair McGee closed the public hearing.

Ms. Hommon asked to make a comment. She shared that she drives past there regularly and the sign that is there now is very tastefully done. It doesn't feel like it's garish for being a place where there are homes directly nearby. She wanted to state that for the record.

Mr. Murch asked City staff how they could turn that property into commercial zoning.

Mr. Greer said given the residents that are in the audience tonight he didn't feel it was appropriate to discuss turning that property into a commercial zoning location at this time.

Mr. Murch said that they are asked to do a special use permit from residential to commercial. He asked why they aren't saying it should be commercial property with a special use permit for R-1.

Mr. Greer stated that it is a residential home at this point. If there was ever a time that Mr. Kim left, his family moved from that spot and sold it, and there was something that wanted to be developed there, they could potentially go through a rezoning process. Until that happens, there is no way that they would go through a rezoning process with someone living in that location.

Mr. Murch asked if they were sure that it is a residence or is it a business. They are asking them to make it a business.

Mr. Napoli said that it is a residential single family home. He uses a portion of it for the business. If you were to rezone the property to commercial, he would never be able to sell that house as a single family residential home. It would be commercial and it's not a commercial structure. It was built and designed for single family residential. He just wants to use it to have a business out of. It's no different than someone

who is running a tax business out of their home or a daycare or something like that. That's why the special use permit is being used. Otherwise, from a commercial use, he would not be allowed to live there and he would have to find someplace else to reside.

Mr. Murch asked if there was a special use permit for having a residence.

Mr. Napoli replied no. It's not a commercial business. It is not designed or equipped, and there is not a special use permit for a single family or residential living facility.

Mr. Murch said he didn't want to be argumentative but what would make it suitable for a commercial use.

Mr. Napoli said that for what he's doing, that's what the special use permit is, he has a room that he uses there that he does all of his tailoring. For example, if you were an accountant working at home and used one room as your office to do all of your accounting work there inside that house, that room would be taken off on your taxes. Same principal. He lives there, he's got a room he's using for his tailor business then the rest of the home is his single family residential home.

Mr. Murch asked where ADA comes into any of this with a commercial business being run in a home.

Mr. Napoli replied that with a special use permit it would not prevail there. If it were a commercial business then he would have to bring it all up to the standards for accessibility, commercial requirements, etc.

MOTION: By Mr. Markenson, seconded by Mr. Turnage, to approve the special use permit for the K Tailor, File #2019-004. The motion carried 9-0.

7. Communications from City Council. None.

- 8. Communications from City Staff.** Mr. Greer shared that the spring edition of the Gladstone Magazine has been released and was sitting on their table. The outdoor municipal pool opens this Saturday, May 25th. City Hall will be closed Monday, May 27th in observation of Memorial Day. NAWS Woofstock will be taking place June 1st at Linden Square. This is a festival for people and pets that will feature music, contests and vendors. There is the City-wide Garage Sale coming up June 7th, 8th and 9th. There will not be Planning Commission meeting on June 3rd, but there will be a meeting on June 18th. They will be looking at a Hy-Vee renovation application as well as the sign code.

Mr. Napoli asked them to note that June 18th is a Tuesday, not a Monday. There will be a work study session on the new sign code. The city counselor will be there so he can discuss the legal aspects of it. He can't be present on a Monday, so that is why they are holding the meeting on Tuesday.

- 9. Communications from Planning Commission Members.** Mr. Markenson shared that the new Linden Square event brochure is out. It is jam-packed full of neat stuff. Also, the Atkins-Johnson farm is part of it. It's all in one book and you can do something every night this summer in Gladstone. He was very impressed by that. He shared that there was a Mother-Daughter Tea at Atkins-Johnson Farm. It was well attended, 96 people were there. It was well-catered and a tremendous success, even though it rained on them a little bit; rained on them a lot.

Mr. Murch reminded everyone that May is National Military Appreciation Month. Last Saturday was Armed Forces Day. Memorial Day is coming up this weekend, and Flag Day is June 14th. He reminded them that liberty and justice are not a given. That is based on the sacrifices of our service people past and

present. He invited everybody to join Gladstone's American Legion Post 66 for a Memorial Day service at 10:00am this coming Monday. It will be at Anita Gorman Park where the fountain is on Vivion and Oak. The featured speaker will be the only living Medal of Honor recipient in Missouri, Colonel Doc Ballard. He was presented the Medal of Honor by Reagan in 1970, which is the highest valor award that can be presented to any military member in a foreign conflict or war. He was awarded it because as a medic he jumped on a grenade saving the lives of many, many of his comrades. That will be 10:00am this coming Monday.

Mr. Turnage expressed his thanks to the City for cleaning the mud out from under the bridge over Rock Creek Trail. It is better and will probably be necessary again.

10. Adjournment. Mr. Markenson motioned to adjourn; Ms. Poindexter seconded.

Chair McGee adjourned the meeting at 7:55pm.

Respectfully submitted:

Cheryl Lamb, Recording Secretary

Approved as corrected _____

Jennifer McGee, Chair

Approved as submitted _____