

**KENT PLANNING COMMISSION
BUSINESS MEETING
December 5, 2017**

MEMBERS PRESENT:

**Amanda Edwards
Jeff Clapper
John Gargan
Peter Paino
Michel Bruder**

STAFF PRESENT:

**Jennifer Barone, Development Engineer
Bridget Susel, Community Development Director
Eric Fink, Asst. Law Director**

I. Call To Order

The meeting was called to order at 7:00 p.m.

II. Roll Call:

Ms. Edwards, Mr. Gargan, Mr. Clapper, Mr. Paino and Mr. Bruder were present.

III. Reading of the Preamble

The Planning Commission operates in accordance with the provisions of the Kent City Charter, the Kent Zoning Code and Subdivision Regulations, all of which establish the powers and duties of the Commission. Members of the Planning Commission are appointed by Kent City Council and serve without compensation. Certain cases such as Conditional Zoning Certificates, Special Zoning Permits, Overlay District Projects and Zoning Amendment require Public Hearings before the Planning Commission. During the Public Hearing, any person wishing to address their concerns to the Commission will be provided the opportunity. Once the Public Hearing is closed, it shall be the discretion of the Chair whether to allow any additional public comment. Cases such as Site Plan Reviews and Subdivision Projects do not require a Public Hearing. However, the Chair will allow public comment on each case as it is taken on the agenda. In each instance where the Commission receives public comments or conducts a Public Hearing, those persons wishing to address their concerns to the Commission will be required to do so under oath or positive affirmation. The oath or affirmation shall be administered to all who wish to speak at the beginning of the Planning Commission Meeting. Once a decision has been made by the Planning Commission on a case, the Case is closed for the commission, as there is no provision to reopen a case. With the exception of cases falling under the Subdivision Code, any decision of the Planning Commission may be appealed to the City's Board of Zoning Appeals in accordance with the Chapter 1109 of the Zoning Code. Anyone interested in appealing a decision of the Planning Commission is advised to seek private legal counsel.

IV. Administration of Oath

Mr. Fink instructed those members of the audience wishing to be heard on any of the cases presented at this meeting to rise and raise their right hand. Mr. Fink administered the Oath, "Do you solemnly swear or affirm that the testimony that you are about to give this evening is the truth, the whole truth, and nothing but the truth, so help you God? Please say "I do." The participants responded, "I do."

V. Correspondence

None

VI. Old Business

None

VII. New Business

**A. PC17-015 Life Upcycled
 1002 South Water Street**

The applicant is requesting a Conditional Zoning Certificate and Site Plan Review & Approval in order to operate a retail trade to sell custom pieces. The subject property is zoned R-C: High Density Multifamily-Commercial

Ms. Edwards asked the applicant to present the request.

Carl Sartoris, 3871 Seneca Street, Stow, Ohio, said he was at the meeting with Brian Bottger who owns the property and his wife, who is co-owner of the business with. He said that weeks ago the Board of Zoning Appeals granted a variance to allow this development to be located adjacent to nonresidential uses. He said he has wanted to do something for people that are struggling. He said he has been in construction for most of his life. He referred to pictures of pieces he built and said he builds custom pieces of furniture that are modern industrial, shabby chic and modern farm. They build pieces out of materials such as concrete, recycled car parts, old doors, etc. He said he has a shop in Stow so no building will be going on at this store. The store will be a show case of things that they have built. He said the concept is to use and recycle material. A large portion of the proceeds will be to open a sober house. He said once people have completed treatment and recovered then go back into society, they can fall back. He would like these people to come to his shop to learn how to build pieces. He said this will be like a band of brothers where likeminded people come together and hold each other accountable. He said it is not so much about the product or the pieces. It is more about the people. This is just a piece of the bigger picture which would be later on to expand to such businesses as auto repair or house flipping. He said when people get

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together for a common cause, it is a great thing. This business will be operated through social media as well as their website once it is developed. This store will be a showcase for people to see the pieces before they are purchased as well as pick up things. He said there will be limited hours and will be open on weekends. One of his sons will run the store around his schedule at Kent State University.

PUBLIC COMMENTS

None

PLANNING COMMISSION DISCUSSION

Ms. Barone stated that this is a conditionally permitted use in the R-C zoning district subject to KCO 1171.01(a)(4), (5), (8), (10) (11) and (46). The store will operate out of what was once a garage to the adjacent house. There are no utilities to the building and there are some issues with the lack of bathroom facilities, which the applicant will have to work out with the building officials. The code requires bathroom facilities to be available within 500 feet. As shown in one of the pictures, one sign is proposed on the front of the building. She recommended adding two conditions to any motion made. The second condition is to provide restroom facilities to meet the requirement of the Building code.

Mr. Fink had no comments from legal.

Mr. Paino stated that the business will be a retail establishment. He confirmed that the store will be open for a limited number of hours. He said the project meets all the conditions except the bathroom requirement. He said it was a nice idea and wished the applicant good luck.

Mr. Bruder stated that it was great work. He asked if the adjacent houses were rentals

Mr. Sartoris replied yes.

Mr. Bruder asked if the existing parking lot serviced the houses.

Mr. Sartoris replied there is a parking lot behind the building for the tenants and two spaces on that lot will be used by them. The lot out front of the structure is for customers.

Mr. Bruder asked if the email received by the commissioners is considered adequate evidence of site control.

Mr. Fink replied that was up to the Planning Commission to decide if it was adequate. The owner is at the meeting and has heard the presentation.

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Mr. Bruder stated his concern was that in time the terms and conditions will change. He asked how the Planning Commission would resolve that.

Mr. Sartoris replied that it is a year to year lease like any other retail establishment which is a condition of the lease.

Mr. Bruder asked if the control of the parking is a condition of the lease.

Mr. Sartoris replied yes.

Mr. Bruder asked if a bathroom had to be within 500 feet of the building. He asked if the applicant could have an agreement with someone near the structure.

Ms. Barone replied yes. They could have an agreement with someone within 500 feet of the building.

Mr. Sartoris stated they are working on it. He said he met with the Fire Marshall and Chief Building Official about three weeks ago. They walked through the building and their biggest concern was the lack of restrooms. He said they did not like the idea of the store being tied to the apartments because they are tenants and that would be an invasion of their space so they are looking for options for restrooms.

Mr. Paino asked if this Conditional Zoning Certificate is only for this business.

Mr. Fink replied that unless you attach a condition to this tenant, if an enterprise came in that was similar to this use, the existing Conditional Zoning Certificate would apply. If a considerably different enterprise was interested, they would have to get a site plan approval.

Ms. Susel stated that with the condition of limited hours, it will be less intrusive to the neighbors so a new use would have to come before the Planning Commission and agree that they would abide with this condition.

Mr. Gargan asked how difficult would it be to add a bathroom.

Mr. Sartoris replied it would be cost prohibited at this point. He said there is no sanitary or water taps so that would be an add on. He said there might be a restroom trailer when the business is profitable. The Chief Building Officer will decide what they can have.

Mr. Clapper stated that the parking aisle should be 24 feet.

Ms. Barone replied that already exists. She said the site has not been changed. They did not change the parking lot.

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Mr. Sartoris stated there is a green space in front of the building so instead of using that space for a handicap space, the space to the left of the building will be used for a handicap space. He would like to have landscaping in that area and keep the green space there. He said that is a tight spot but the parking lot connects directly to the sidewalk. It will be easier to navigate there.

Ms. Edwards stated that she was comfortable that the Building Department will do what is right with restroom. She asked if the condition for limited hours would apply only for Life Upscale specifically.

Mr. Fink replied that bearing in mind the Planning Commission should choose its verbiage in what it is trying to accomplish.

Ms. Edwards stated that the limited hours is different than other retail businesses. She suggested adding a condition regarding the limited hours and asked if the Planning Commission would determine how many hours were permitted.

Mr. Bruder asked if twenty (20) hours a week would work.

Mr. Sartoris replied it is hard to say where this will go or how it is going to go. He said he understood the commissioners concerns regarding the tight parking space and limited parking but he did not have the resources to have a full- time retail establishments. He said he was not sure how to set the hours.

Mr. Bruder said the hours are less than typical retail stores.

Mr. Sartoris stated that his son's class schedule will dictate the hours so they will change each semester. He said he would like to have more than twenty (20) hours.

Ms. Barone suggested limiting the time frame such as 9:00a.m.- 10:00 pm.

Mr. Paino stated he did not want to limit the hours per week. He said the best way to deal with this would be to limit the hours 5 days per week with a time frame of 10:00 a.m. – 6:00 p.m. and closed two days per week. He would like the parking to change for safety reasons since only two spaces are needed and because he did not think anyone should have to back out onto SR 43. He made suggestions how to make changes to the parking to make things safer. He said the applicant's son could park at the house around the corner.

There was continued discussion about the parking. Mr. Sartoris said he would do whatever the commission wanted.

Ms. Edwards asked if the applicant would have to return to the Planning Commission if there were any changes such as parking made to the site.

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Ms. Barone replied that under twenty (20) spaces fall under minor sites so changes can be taken care of by staff.

Mr. Gargan did not feel that traffic was a concern because the business was done by appointment.

Mr. Clapper stated that normal business hours would be all right. The bathroom issue is more of a concern.

Mr. Sartoris stated he would have to open another store if this one was a success. He said he would like the store to be open longer hours on the weekend.

Mr. Clapper stated he may need a larger space for large pick up vehicles.

Brian Bottger, 2252 Carrie Way, Stow, Ohio, asked if the store was technically open if business was done by appointment and not open to the public,

Ms. Susel replied that only a percentage of the business would be done by appointment only. She said a percentage could be determined for appointments only that the applicant would be comfortable with

Mr. Sartoris asked how this would be policed.

Mr. Fink stated that the store is open if the door is unlocked.

A discussion was held about the hours.

Mr. Clapper suggested hours of 9:00a.m – 9:00 p.m. Monday through Saturday and Sunday hours.

Mr. Sartoris said he could not be open all those hours. He would like to be open 2:00 – 6:00 p.m. He said most people will be coming in after work and on weekends.

Ms. Susel asked what percentage would be appointment only.

Mr. Sartoris replied that is an unknown but 51% for business by appointment would be good.

Mr. Fink stated that it would have to be determined if the same hours would apply if he moved to a different location.

Mr. Sartoris stated they will be registering as an LLC. Sober House may be a non-profit business in the future.

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Ms. Edwards asked if a condition could be added to a motion that it relates only to Life Upscaled, LLC.

Mr. Fink replied that the Planning Commission could do that because the Planning Commission has the authority.

Ms. Barone stated there was a traffic concern as well as the hours so the neighbors are not disturbed. She said that appointments could be limited so that there would not be a parking problem nor a disturbance to the neighbors.

Mr. Paino stated that a condition could be added to limit the use to Life Upcycled or to a similar or equal or less intensive use.

There were no other comments or questions so Ms. Edwards asked for a motion.

MOTION: *Mr. Paino moved incase PC17-015, Life Upcycled, property located 1002 South Water Street, to approve the Conditional Zoning Certificate and Site Plan to operate a retail trade, subject to the following conditions:*

- 1. Review & approval of the technical plans.*
- 2. Review the parking lot layout to avoid backing out onto SR 43.*
- 3. Provide restroom facilities to meet the requirement of the Building Code.*
- 4. Limit retail to Life UpCycle or a similar retail establishment of equal or less intensive use.*
- 5. Retail operation hours are to be limited to Monday through Saturday from 9 am to 9 pm and Sunday from 12 pm to 6 pm.*

The motion was seconded by Mr. Bruder.

<i>Ms. Edwards -</i>	<i>Aye</i>	<i>Mr. Clapper</i>	<i>Aye</i>
<i>Mr. Paino</i>	<i>Aye</i>	<i>Mr. Gargan</i>	<i>Aye</i>
<i>Mr. Bruder</i>	<i>Aye</i>		

B. PC17-016 City of Kent Proposed Medical Marijuana

The applicant is seeking review and comment for proposed code language to amend the Kent Codified Ordinances to include the categories from medical marijuana in Chapters 1103,1141,1143,1151, 1155 and 1171.

Ms. Edwards asked staff to address the review and proposed code language on medical marijuana.

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Ms. Barone stated that the commissioners had copies of the updates concerning medical marijuana. She said council would make the final decision. She said the industrious zones are not involved but that might be something to consider. The Light Industrial District is not on the map so that might be considered. She said they wanted to look at Section 1141 and 1155. Greenhouses are in Sections 1141 and 1155. Manufacturing type businesses are in Sections 1141, 1151, and 1145. Drug stores are in Section 1141 and 1132 for dispensing. Pharmaceuticals are in Sections 1132, 1151 and 1155. Section 1132 is Preservation Alternate but that might change. Testing facilities were in Sections 1141, 1143, 1145, 1151, 11531 and 1155. These sections include different types of testing and not just pharmaceutical testing.

Ms. Susel said anyone dispensing medical marijuana must have a license to do so. She said there has been significant public comment on medical marijuana. She said that a total of two dispensaries are permitted in the Northeast District.

Mr. Fink stated that it is important that discussion continues to go forward.

A continued discussion on medical marijuana was held. There were definitions in Section 1141 that were backwards. Changes of definitions on level II were made including 1, 2, 5, 9, 17 and adding 26 and 27 to all. Number 3 should be added to Processing. Some conditions should apply to all projects such as no loud speakers or light nuisances in the zoning code update. Conditions that are listed in the staff report for Levels I and II were discussed: 2, 5, 9, 17 and 26 and 27. This use is permitted to be located on major thoroughfares or at intersections of major and/or collector thoroughfares. These streets or roads are shown on the Map of the Type of Street which will be sent to the commissioners. A dispensary cannot be located within 500 feet of schools, churches, public library, public playground or public parks and it cannot be located near a community addiction service provider. There will be high security and regulated hours from 7:00 a.m. to 9:00 p.m.

There were no other questions or comments so Ms. Edwards asked for a motion on the sections discussed.

MOTION: *Mr. Bruder moved in case PC17-016, City of Kent, that the Planning Commission continue discussion of the medical marijuana code language at the January 16, 2018 meeting.*

The motion seconded by Mr. Paino.

The motion passed 5- 0.

<i>Ms. Edwards -</i>	<i>Aye</i>	<i>Mr. Clapper</i>	<i>Aye</i>
<i>Mr. Paino</i>	<i>Aye</i>	<i>Mr. Gargan</i>	<i>Aye</i>
<i>Mr. Bruder</i>	<i>Aye</i>		

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X. Adjournment

Motion: *Mr. Paino moved to adjourn.*
 The motion was seconded by Mr. Clapper.

Vote: *The motion carried 5 – 0.*

<i>Ms. Edwards</i>	<i>Aye</i>	<i>Mr. Clapper</i>	<i>Aye</i>
<i>Mr. Paino</i>	<i>Aye</i>	<i>Mr. Gargan</i>	<i>Aye</i>
<i>Mr. Bruder</i>	<i>Aye</i>		

Meeting adjourned at 8:30 p.m.