

**KENT PLANNING COMMISSION
BUSINESS MEETING
NOVEMBER 17, 2020**

MEMBERS PRESENT:

Amanda Edwards
Chris Clevenger-Morris
Peter Paino
Michael Bruder
Jeff Clapper

STAFF PRESENT:

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

I. Call to Order

Ms. Edwards called the meeting to order at 7:00 p.m.

II. Roll Call:

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

III. Reading of the Preamble

Ms. Edwards read the Preamble, which describes the purpose and procedures of the Planning Commission as well as the applicant's right to an appeal.

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

- PC20-016: 1 correspondence that is in favor of the request and 83 pieces of correspondence that are not in favor of the request. Ms. Edwards summarized the number of concerns as: 17 for parking, 13 for security, 1 for bike lanes, 17 for traffic, 26 for proximity to schools, 42 for public safety and hazardous to the neighborhood, 68 are opposed to a firearms business in a residential district, 16 for property values, and 10 for type of clientele. All are on file at the Community Development Department.

All Commissioners stated that they have had adequate time to review the correspondence.

VI. Old Business

None

VII. New Business

A. PC20-001 Klaben Ford Proposed Site Plan 1035 West Main Street Conditional Zoning Certificate and Site Plan Review

The applicants are seeking a Conditional Zoning Certificate and Site Plan Review & Approval to reconfigure the parking lot. The subject property is zoned IC-R: Intensive Commercial – Residential Zoning District.

Ms. Barone reviewed the staff report noting that the use of the building was discontinued, the building was demolished, and the area where the building existed has been converted into parking. She stated that the applicant is also reconfiguring some of the existing spaces to make the main entrance more accessible for the handicap spaces. Ms. Barone reported that this project has been delayed because the City has been negotiating for the Hike and Bike Path with a wider sidewalk connection that will cross this property. She stated that negotiations are nearing completion and will be going to Council for review and approval. She stated that the conditions for the variance have either been met or are grandfathered in. She stated that the drive apron will be altered slightly to fit with the new parking space configuration but no alterations to the existing utilities are needed. She stated that there are a couple signs that will need to be relocated due to the changes to the drives. She stated that the recently updated lighting and dumpster will remain the same. Ms. Barone stated that their landscape plan shows the addition of 20 shrubs and 14 pine trees, which will complement the existing landscaping. She stated that because they are delineating the Hike and Bike Path from their parking lot, there will also be some hardscape installed. She explained that the Architectural Review Board was not required to review this project and no variances are required.

Mike VanHoose, Klaben Auto Stores, 1085 W. Main St., stated that their best option for the property was to convert it to parking. He stated that Ms. Barone covered all of the details of the project.

Mr. Paino questioned the use of the parking area.

Mr. VanHoose responded that the parking will be used for customer and employee parking and not new car inventory.

Mr. Paino asked if they knew what the specific plantings would be.

Mr. VanHoose answered not at this time, but he will consult with a plant expert when appropriate.

Dal Jaffrey stated that they consulted with the landscape architect and told him that they wanted a variety between the height, texture, and color. The planting areas will be mounded as well.

Mr. Clapper stated that he would like to make sure that there is good line of site for cars exiting the property with regards to any pedestrians and bikes on the Bike Path. He questioned installing caution sign for the Bike Path.

Ms. Barone stated that signage will be part of the Hike and Bike Agreement between the Engineering Division and Klaben.

Mr. Bruder commended the applicant on cooperating with the City for the Hike and Bike Path.

Ms. Edwards questions the timeframe for the phases presented.

Mr. Jaffrey stated that it will take about two months beginning in the spring; possibly completed by May 1st.

Ms. Edwards questioned the location parking lot islands.

Mr. Jaffrey stated that they are shown on the landscape drawing and are located immediately to the north of the bike path along West Main Street.

Public Comment

None

Planning Commission Discussion

Mr. Morris stated that he is excited to see some revitalization to the West Main Street Corridor through expansion of the Hike and Bike Trail.

No other Commissioners had any other comments.

MOTION: *Mr. Morris moved that in Case PC20-001, Klaben Ford, 1035 West Main Street, the Planning Commission approve the Conditional Zoning Certificate and Site Plan to reconfigure the parking lot subject to the following:*

- 1. Technical Plan Review*
- 2. Execution of the Shared Use Path Development Agreement*

The motion was seconded by Mr. Paino.

The motion carried 5-0.

- B. PC20-018 CVS HealthHub Exterior Sign Rebranding Project
500 South Water Street
Comprehensive Sign Plan Revision**

The applicant is seeking approval of a Revised Comprehensive Sign Plan for the HealthHub Rebranding Project. The subject property is zoned R-C: High Density Multifamily – Commercial District.

Ms. Barone reviewed the staff report. She explained that CVS is rebranding its logo by adding 'heart' and "HealthHub" to the existing signs, which requires a revision to the existing Comprehensive Sign Plan. She stated that CVS is also removing the electronic sign portion of the monument sign on South Water Street and converting it to its standard sign. She stated that the Architectural Review Board has made a positive recommendation for the approval of the plan revisions, as presented.

Ms. Susel stated that the temporary feather signs have been removed and are not part of this request.

Dan Bertke, Archer Signs, 1917 Henry Ave. SW, Canton, OH, stated that CVS is going through a nationwide rebranding of its stores updating the signs, as described in the staff report.

Public Comment

None

Planning Commission Discussion

Mr. Clapper stated that he feels that the removal of the digital sign is an improvement to South Water Street.

Mr. Morris agreed and stated that he is in favor of what is presented.

Ms. Edwards agreed with previous comments.

MOTION: *Mr. Morris moved that in Case PC20-018, CVS, 500 South Water Street, the Planning Commission approve the revised Comprehensive Sign Plan to include a heart on the two CVS Pharmacy wall signs, add two HealthHub wall signs, and add a heart and HealthHub to the monument sign subject to the following condition:*

1. Technical Plan Review

The motion was seconded by Mr. Paino.

The motion carried 5-0

- C. PC20-016 West Arms FFL, LLC
772 West Main Street
Conditional Zoning Certificate and Site Plan Review

The applicant is seeking a Conditional Zoning Certificate and Site Plan Review & Approval for a home occupation to operate a firearms business. The subject property is zoned R-4: Multifamily Residential District. [Note: Should have been listed as background check for firearms.]

Ms. Barone introduced the case and stated that the business is proposed in one unit of a duplex, which is owned by the applicant. She described the business process: firearms are ordered via the internet by the client, once they are received, the applicant makes an appointment with the client to come to her location to perform the background check required by federal law, and after the background check is clear, the firearms are transferred to the client. She stated that the firearms will be stored in a safe in the basement and the transaction will take place in the kitchen, which is different from the applicant's cover letter, which had listed in the basement. She stated that the hours of operation will be weekday evenings between 5pm and 9pm and on weekends; all transactions will be by appointment only. Ms. Barone stated that the applicant will need to get approval from the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to get the Federal Firearms License (FFL). She stated that home occupations are allowed in the R4: High Density Residential District providing it meets the conditions listed therein. She added that staff feels if the application is approved, a condition that the unit be inspected

by the Chief Building Official and the Fire Prevention Officer should be included as well as provide evidence that the applicant has obtained her federal license. Ms. Barone stated that parking will be accessed off of West Main Street and the applicant is proposing to park two vehicles for the residents where the home occupation is being proposed behind one another (stacked) to allow the other parking space for clients. She stated that there isn't any change to the utilities, storm water, lighting, landscaping, trash receptacle location and no proposed signage. The Architectural Review Board was not required to review this project and no variances were required.

Mr. Fink clarified that the Commissioners are reviewing a conditionally permitted use and not a variance. He further explained that it is for a home occupation and the product is not relevant to the conversation other than to the extent whether or not there is a violation of subsection 1171.01(19)(g), which is "such uses shall not create a nuisance by reasons of noise, odor, dust, vibration, fumes, smoke, electrical interference any other causes or one of the other factors that would apply for any other conditionally permitted use, which are listed in 1107.05".

Jessica West, West Arms FFC, LLC, 772 W. Main St, applicant, owner, and resident. She clarified that her business is not focused on firearm sales, but rather the background checks for the ATF. She stated that when firearms are purchased online, it is not legal to have them shipped direct to the purchaser; you have to get it shipped to an FFL dealer. She stated that the firearms are shipped requiring an adult signature only; it is not left on the doorstep. She stated that when she receives the firearm, she contacts the purchaser and arranges for pick-up; one person at a time by appointment only. She stated that the firearm does not leave the safe until the in-person background check is approved and at that time the purchaser leaves with their unloaded firearm. She stated that the hours of operation will be 6pm to 9pm, Monday through Friday with possibly one or two appointments over the weekend. Ms. West stated that the clients will arrive and park in the back two visitor parking spaces and enter the back door of her unit into the kitchen where she will run the background check. She explained that if they pass the background check, she will retrieve the firearm from the safe and give it to the client.

Mr. Morris questioned staff regarding bike lanes and traffic as it may be impacted by delivery trucks for this home occupation. He also questioned if the applicant is required to meet ADA compliance with regard to her unit.

Ms. Susel stated that the ADA compliance would be determined by the Chief Building Official and the Building Code.

Ms. Barone stated that the parking for this project is located on the property and not on the street.

Mr. Morris questioned the driveway availability.

Ms. West stated that she will only have one client at a time and does have visitor parking designated. She stated that when she and her tenants have parties/get-togethers, they instruct their guests to park on Forest and walk over.

Mr. Morris questioned Ms. West's statement from her application regarding servicing a disabled client from their car, and if she felt it was appropriate.

Ms. West stated that it isn't feasible for her to renovate to her residence for something as small as this. She stated that she would hand them the form to complete and then she would run the background check inside the house.

Mr. Morris asked if she would physically carry the firearm out to the client's vehicle.

Ms. West responded "yes".

Mr. Bruder asked for clarification of the colored map with the addresses as 774 is listed twice.

Ms. Barone stated that that is an error in the program that she cannot change so one address is listed incorrectly.

Mr. Bruder questioned the shared driveway and asked if there is an easement. He also questioned if the 774 West Main St. property owner had to formally agree with the conditional zoning due to the easement.

Ms. West stated that there are two driveways that the three duplexes share. The other one is on the side of the third duplex. There has never been a problem or backup even when there are large gatherings.

Ms. Susel stated that the city regulates parking but not private access agreements.

Mr. Clapper questioned the process to purchase a firearm and why her business would be more beneficial than going to a gun store.

Ms. West stated that many people such as city officials, judges, and those that are being harassed prefer not to go to a big gun store to purchase firearms and find it beneficial to go somewhere private for their in-person purchases; less expensive and more private.

Mr. Clapper asked for clarification if the client would purchase from a different provider and if Ms. West is just finishing the transaction for the seller.

Ms. West responded "yes". She stated that she is charging them for the transaction of the background check.

Ms. Susel reminded the Commissioners that home businesses are conditionally permitted uses in the applicant's zoning district.

Mr. Clapper questioned if the ATF inspection for her permit was a one time or reoccurring inspection.

Ms. West stated that there is an initial inspection and then several audits of the books but she is not sure of the frequency of these surprise audits. She stated that if anything is off with the bookkeeping they will revoke her permit.

Mr. Paino asked if Ms. West currently has the ATF permit.

Ms. West stated that she first needs to get the city's permission before applying for the ATF permit.

Mr. Paino asked if she sells firearms or will have an online store.

Ms. West stated “no”.

Mr. Paino reiterated that she is the facilitator who makes sure that the people who purchase the firearms can be licensed and have the proper background check. He questioned how many clients Ms. West anticipates per week.

Ms. West stated that she is projecting between 5-15 people per week to start.

Mr. Fink stated that the ATF is permitted to do random inspections during the lifetime of a permit to do business. He stated that the permits are only valid for 3 years and then the permit need to be renewed.

Mr. Paino asked if the type of business permit could change.

Ms. West stated that she is only applying for the basic FFL Class 1 permit, which allows her to transfer basic firearms such as hand guns and rifles that people use for home/personal protection. She further explained that she is not applying for a Class 3 permit, which would be for automatic weapons and short barreled rifles, etc.

Mr. Fink stated that if the applicant's request for a home occupation is approved, she could expand her home business from a Class 1 license to a Class 2 license, which would allow her to sell relic fire arms or black powder weapons but she could not expand her business where the primary purpose of the structure would be a full gun dealership as this is not permitted under a home occupation or the zoning regulations.

Ms. Susel added that the specifications provided by the applicant on how the home occupation would run with regards to the number of clients, hours of operation, and other details, specifies the conditions under which the conditionally permitted use is approved and set. If the applicant goes against the specification that she has provided, then she would be violating her home occupation conditional approval.

Mr. Bruder questioned how staff would handle any issue that would arise that could lead to revocation of the approval.

Mr. Fink stated that if staff determines that there is an issue, the case will go back to the Planning Commission where there will be an evidentiary hearing to determine compliance.

Ms. Edwards asked Ms. West to confirm that she is not selling firearms and ammunition, but rather, she is selling her services to perform a background check in order for the client to obtain their pre-purchased firearms.

Ms. West confirmed that is true.

Mr. Clapper questioned what the function of a responsible person is on the FFL application.

Ms. West stated that her husband, who is noted as a responsible person, can help her do anything except the background checks and log books.

Mr. Morris questioned the maximum number of transactions the applicant could complete in a week.

Ms. West stated it would be 25 maximum.

Mr. Morris questioned the timeframe that Ms. West would have the firearms in her possession and if there is a maximum number of firearms that she can hold.

Ms. West stated that there is no timeframe or maximum number of firearms that can be held.

Mr. Fink stated that home occupations are conditionally permitted uses in the R-4 zoning district subject to the conditions in Section 1171.01(19) listed below;

- (a) Such use shall be conducted entirely within the dwelling unit and no use of any accessory building or yard space shall be permitted.
- (b) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes.
- (c) Such use shall be conducted only by persons residing in the dwelling unit and not more than one other person.
- (d) There shall be no display nor stock in trade nor commodities sold except those which are produced on the premises.
- (e) The use shall not involve the use of more than thirty-three and one-third percent of the floor area of only one story.
- (f) One unlighted name plate not more than one square foot in area announcing the name of home occupation shall be permitted.
- (g) Such uses shall not create a nuisance by reason of noise, odor, dust, vibration, fumes, smoke, electrical interference or other causes.

Ms. Susel clarified with regards to condition (d), it has been the practice of the City to allow home occupations to include anyone who acts as a broker such as with an eBay business. She stated that the City does not hold a strict application of items being produced on site if you are bringing a product in and distributing it out to someone different. Staff considers this condition met.

Mr. Fink stated that condition (e) is in conflict with another standard, which requires the home occupation to be limited to 25% of the floor space; the more strict application applies.

Mr. Fink stated that in addition to the listed conditions for a home occupation, Section 1107.05 identifies the Basis of Determination, which applies to all conditionally permitted uses, must also be met. Mr. Fink read the text:

- (a) General Standards: The Planning Commission shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find that such use of the proposed location:
 - (1) Shall be harmonious with and in accordance with the general objectives or with any specific objective of the Land Use and Thoroughfare Plan (Comprehensive Development Plan) of current adoption;
 - (2) Shall be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use shall not change the essential character of the same area;

- (3) Shall not be hazardous or disturbing to existing or future neighboring uses;
- (4) Shall not be detrimental to property in the immediate vicinity or to the community as a whole;
- (5) Shall be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures; or that the persons or agencies responsible for the establishment of such use shall be able to provide adequately any such service including refuse disposal; and
- (6) Shall have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets or roads.

Mr. Clapper questioned what happens if the client does not pass the background check.

Ms. West stated that the firearm is returned to the supplier where it was purchased.

Mr. Clapper asked if Ms. West receives notification that a firearm is being sent.

Ms. West responded that she will receive an email from the supplier.

Public Comment

Jack Amrhein, Ward 2 Councilman, 346 Majors Lane, stated that he has received countless calls from concerned citizens largely worried about safety and property values. He stated that he is not for guns being picked up in a residential area.

Kate Medicus, 129 N. Prospect St., questioned the adult signature required delivery process and how long the background check process takes.

Gretchen Rinnert, 477 W. Main St., stated that her questions have already been answered in prior discussion.

Kristen Hilebrecht, 739 W. Main St., asked for clarification of 1171.01(19)(a) no use of the business in the yard space as it may pertain to completing paperwork and firearm delivery in the driveway.

Mr. Fink reread the requirement section and stated that this is the role of the Planning Commission to determine how this is applied.

Jeff and Camille Fauser, 730 W. Main St, stated that they also own a property on Grove Ave. Ms. Fauser questioned the crossover to a gun store given the applicant could have up to 25 guns on the property. She also questioned the security of the delivery process. She stated her concerns about what happens when a background check does not go through. She questioned if taking the firearms out to the car is leaving the premises. She stated that she doesn't feel that this blends with the nature of their neighborhood and would be a detriment.

Eric Asp, 845 Bryce, stated that he feels that it is a matter of whether it will be detrimental to the essential character of the neighborhood and community. He asked that someone speak to the fears of having this as a business.

Sandy and Tom Melucci, 1014 Stewart Rd, stated that their duplex is next to the driveway for the proposed business. She stated that there is very limited parking available and the applicant cannot park in their garage due to construction business materials that are stored there. She stated her concerns about the driveways and deliveries. Tom Melucci

stated that parking space has already been an issue and any added traffic is just more wear and tear on the property. He questioned why a background check isn't required before you purchase a gun. He stated that they are against the request.

Mary Kenneley, 1123 Elno asked for clarification of Section 1171 that states that all structures must be 100 feet from all property lines.

Ms. Susel stated that the actual conditions that apply to a proposed use are listed in 1171.01(19); not every item in Chapter 1171 applies to every conditional use so this does not apply in this case.

Mr. Fink further explained that Section 1135.02(b)(1) is where it states that Home Occupations are subject to 1171.01(19).

Ms. Kenneley stated that she doesn't feel that this type of business should be in a residential area, but rather, a more secure area.

Rebecca German, 176 E. Main St., stated that she would like more information on the delivery and shipping, assurances on how those are handled, safety concerns, and increased traffic.

Elizabeth Culotta, 338 Woodard Ave., questioned how they would accommodate disabled people in the driveway, number of deliveries to and from the property, additional traffic. She stated that she doesn't feel that this business is harmonious with the neighborhood. She asked what the Police Department's view is of this project.

Jerry Fiala, Mayor, stated that he has heard many comments against the project and agrees with Mr. Amrhein's comments.

Lisa Hirt, 116 N. Prospect St., stated her concerns were addressed.

Sarah Morgan, 422 Earl Ave., stated that she is concerned about transactions in the driveway and feels that background checks should be done prior to purchasing. She stated that it isn't keeping with the character of the neighborhood, which is a very family friendly neighborhood with many children and it is close to Davey Elementary. She stated that she feels that an office in a different setting would be better than a home business.

Roger Sidoti, 1257 Elno Ave., Councilman-at-Large, questioned how many other similar businesses are in the area and why is it important to have one in the City of Kent. He stated his concern for people from other communities coming into our neighborhoods. He questioned if Ms. West is a federal employee or contractor and to whom is she accountable.

Olivia Asp, 845 Bryce, stated that the process of handing out guns is detrimental to the community and does not conform to the essential character of the neighborhood as there are many children and a nearby school. She is not comfortable with this home occupation in this family community.

Elliot Asp, 845 Bryce, stated that he feels that this home occupation does not contribute to the safety of the neighborhood. He questioned the evening hours.

Melissa Polcha, 833 Bryce Rd., questions if there are children living in the house. She stated that she is concerned about safety for children and the neighborhood.

Sandy Melucci, stated that she has concerns that she will have trouble renting the duplex next door.

There were no further public comments.

Ms. Edwards read through the questions presented by the public and asked the applicant to address their concerns. She asked the applicant to describe the delivery process.

Ms. West stated that the deliveries are sent through certified mail and require a signature by an adult only or the parcel is returned. She stated that her husband is permitted to sign for the packages, which is one of the reasons that he is part of her business as a responsible person. She stated that the signature restriction is mandated by the ATF.

Mr. Morris questioned if the signature is from any adult or just the applicant and her husband; is ID required?

Ms. West stated that it is anyone who lives at the business address, which would be herself, her husband, and her 19 year old son.

Mr. Clapper questioned the delineation between the two sides of the duplex and if the deliveries could mistakenly be delivered to the tenants.

Ms. West stated that the units are clearly marked and they wouldn't be able to accept the package as it wouldn't be addressed to them.

Ms. Edwards asked for more information on the background check process.

Ms. West stated that the background check is through the ATF and is the same one that the FBI uses. She stated that the system is available 24 hours a day and usually takes between 15 to 45 minutes depending on the person or how busy the system is.

Ms. Edwards asked if the client is waiting at the house while they wait for the results.

Ms. West stated that the client waits. She explained that in the instance that the ATF needs to do a more in depth report due to similar social security number or similar name or other reasons, she will notify the client and they could return in up to three days.

Mr. Paino asked if a background check is required every time you purchase a gun or is it good for a certain period of time.

Ms. West stated that it is required every time even if it is the same client, which is the law.

Ms. Edwards questioned the difference in licensing needed for the services she is proposing and a firearms store.

Ms. West stated that it is the same FFL license that a gun store would carry.

Mr. Fink stated that if the applicant were to operate her home business outside of the terms and conditions as described in her application, staff would bring the case back to the Planning Commission to determine if she has exceeded the approved use. Mr. Fink stated that alternatively, it would be a clear violation and a separate zoning issue that

would not go before the Planning Commission if it is determined that more than half of the property is used for gun sales and not as a residential use.

Mr. Clapper stated that based on his Google search through the carrier websites, firearms can be shipped via USPS, UPS and FedEx with special labeling and requires an adult signature.

Ms. Edwards asked the applicant to address the concerns about the driveway tradeoff for individuals who are not able to enter the home.

Ms. West stated that Ohio law states that the client's car is their property and not part of her property. She stated that she would be walking across her yard to take it to the client just the same as if a client was carrying it to their car after they complete the transaction in the house.

Ms. Edwards questioned if the applicant has to speak with the Kent Police Department.

Ms. West stated that she is required to send them a copy of her FFL application when she applies. She stated that she believes that Chief Shearer has already signed off on his portion of the paperwork for the City and does not have any issues with her application for her permit.

Ms. Susel stated that Chief Shearer signed off with regards to the licensing but the issues with zoning are outside the purview of the Police Department.

Ms. Edwards questioned the vicinity that her clients would be coming from.

Ms. West stated that there are about 7 FFL dealers in her 5 mile radius; some are stores and some are private near residential areas and schools. She stated that she doesn't feel that it matters where her business is located as she will have the same level of security anywhere. She stated that clients can come from anywhere in Ohio.

Ms. Edwards questioned if the applicant is employed by the ATF or any other organization and why she decided to start this business.

Ms. West stated that she is not an employee of the ATF. She stated that she decided to start this business because her family is very passionate and knowledgeable about responsible gun ownership and with a 300% increase in gun sales, it is a smart decision.

Mr. Clapper questioned if she is acting as a federal agent in this process and who does the accountability fall back on.

Ms. West stated that she is not its employee, but would be representing the ATF. She stated that they will be constantly auditing her work and if it were to find an issue, the ATF would void her license.

Ms. Edwards questioned why the applicant chose to run the business from her home rather than a business location and the reasoning behind the proposed hours.

Ms. West stated that the proposed business hours are because she has a full-time day job, and it isn't feasible or necessary for her to have a separate office space. She stated that the closest commercial property is only five block away from her residence.

Planning Commission Discussion

Mr. Bruder stated that based on the information from the City and regulations, there isn't a way to deny this application and cite a specific chapter in the code.

Ms. Edwards reviewed the General Standards for the Basis of Determination for Conditional Zoning Certificate:

1. Shall be harmonious with and in accordance with the general objectives or with any specific objective of land use and Thoroughfare Plan.

The Board discussed and agreed that this refers to how the Thoroughfare Plan would be impacted and doesn't feel that this case will have any impact.

2. Shall be designed, constructed, operated, and maintained as to be harmonious an appropriate in appearance with the existing or intended character of the general vicinity and that such use shall not change the essential character of the area.

The Board agreed that no physical changes are being made.

3. Shall not be hazardous or disturbing to existing or future neighboring uses;

Mr. Morris questioned if traffic will be an issue with regards to parking, traffic flow, and ingress/egress given the confined area.

Ms. West stated that the delivery vehicles park on the street and do not come into the driveway.

Mr. Morris stated that his only concern is for potential traffic created in this family oriented neighborhood with many children in the area.

4. Shall not be detrimental to property in the immediate vicinity or to the community as a whole;

Mr. Clapper stated that this may be an issue as it pertains to the other rental owner's ability to find tenants. Mr. Clapper stated that they need to consider both opinions of whether or not the neighborhood believes it is safer with guns.

Ms. Edwards stated that because there will be no signage and is not an advertised use, no one will know what she is doing inside her home in the future unless someone looks up that information.

5. Shall be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures; or that the persons or agencies responsible for the establishment of such use shall be able to provide adequately any such service including refuse disposal; and

No discussion.

6. Shall have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets or roads.

Mr. Morris stated his concern regarding having enough parking for the business not including on street parking. He feels that increased traffic in and out of the driveway creates a dangerous environment for the neighborhood children. He feels that there will be overlapping times that will cause parking issues.

Mr. Paino stated that this is a public street, and there is a right to run a business out of this property when the conditions for a Conditional Use are met. He stated that he doesn't see parking legally on the street as detrimental. Mr. Paino stated that there are Amazon delivery trucks making deliveries every day while parking on the street throughout the whole City and that is not going to go away.

Ms. Edwards noted that there is a funeral home just a few doors down and doesn't feel that the traffic on the road from this business is going to create any bigger problems.

Ms. Edwards stated that there are chat messages coming through on the Zoom meeting but she is unable to communicate via chat as it is not part of the public meeting. Ms. Edwards reviewed the conditions in Section 1171.01(19) with the Board:

- (a) Such use shall be conducted entirely within the dwelling unit and no use of any accessory building or yard space shall be permitted.

Mr. Clapper stated that based on the applicant's plan to assist disabled clients in their car, he doesn't feel that she meets this requirement.

Mr. Morris stated that he agrees and feels that they should make the residence ADA compliant.

Ms. Edwards stated that it is up to the Chief Building Official as to whether or not a ramp is required and noted that a previous case where they made the ramp a condition of approval, they already knew that one was needed.

Mr. Fink stated that the Planning Commission always has the authority on a conditionally permitted use to add the conditions it sees as necessary and if they believe that ADA compliance is part of the basis in the determination, it can be added as a condition.

Mr. Clapper stated that he feels that there is a conflict and feels that they should leave it as the condition not being met.

- (b) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes.

No comments.

- (c) Such use shall be conducted only by persons residing in the dwelling unit and not more than one other person.

No comments.

- (d) There shall be no display nor stock in trade nor commodities sold except those which are produced on the premises.

No comments.

- (e) The use shall not involve the use of more than thirty-three and one-third percent of the floor area of only one story.

Mr. Morris questioned the applicant using both the kitchen and the basement. He feels that it needs to be one or the other.

Mr. Paino questioned what the allowable square footage is as he remembers a conflict with another part of the code.

Mr. Fink stated that under Section 1119.05(c), not more than 25% of the entire floor area of the structure can be utilized for a home occupation but only the main living area of the dwelling unit shall be counted and not garages, unfinished basements, and attic areas.

Mr. Morris stated that the kitchen is 50% of the first floor.

Mr. Clapper stated that the finished basement is 15' x 12'; both areas totaling 352 square feet.

Ms. West stated that it is a side by side duplex with a basement and two floors. She explained that pictures of the basement were included because originally she was going to use the basement for business but was told that she could not use that space. She stated that she changed her plan to use a chair and a laptop in the kitchen. She has the gun safe located in the basement for safety reasons.

Ms. Susel stated that staff's calculation of the used area is less than the allowed 25% square feet.

- (f) One unlighted name plate not more than one square foot in area announcing the name of home occupation shall be permitted.

No comments.

- (g) Such uses shall not create a nuisance by reason of noise, odor, dust, vibration, fumes, smoke, electrical interference or other causes.

No comments.

Mr. Clapper expressed his concern for the safe delivery to the business.

Mr. Morris expressed his concern for some of the "what if's" such as a client who doesn't pass the background check, facilitating a transaction outside of the structure, and delivery issues.

Mr. Paino stated when an able bodied person comes to the business, they will leave carrying the gun across the yard to their car and leave. He stated that it is up to the building department to determine if ADA compliance is required.

Ms. Edwards stated that the gun going to the front porch with the delivery driver isn't different than Ms. West walking out with a firearm in a box and handing it to the person in the car. She stated that they would not be having this conversation if they were talking about Tupperware. She stated that the building official will need to make the proper call if any improvements are needed.

Mr. Clapper disagreed and feels that where the business happens is two different issues.

Ms. West stated that the transaction would happen in the house. She would give them the form to complete in their car or they could complete the form online and bring it with them.

Mr. Bruder stated that if business was conducted outside of the dwelling, then she would need to go back before the Planning Commission.

Mr. Clapper questioned the proposed stacked parking.

Mr. Paino stated that the presented site plan shows 4 parking spaces; 2 spaces for each dwelling unit of the duplex. He questioned if they need one additional space for visitor parking.

Ms. Barone stated that that is the way she would interpret it: 4 spaces for residents plus one space for business. She explained that what is being proposed is one space being stacked to leave one open for the client.

Mr. Clapper proposed that there has been a practice in the past to allow the stacked parking similar to the practice to allow anyone who acts as a broker rather than requiring that items be produced on site.

Ms. Susel read her response to Mr. Clapper's earlier question regarding Production on Site. She stated that it has been the practice of the Community Development Department to include agents who act as vendors/distributors between wholesale, producers, manufacturers and the public as being in compliance to this criteria.

Mr. Clapper suggested that not allowing stacked parking could be a reason to deny the application. He stated that stacked parking is discouraged.

Ms. West stated that the cars can be moved around to accommodate the one visitor at a time.

Mr. Bruder stated that the visitor could park behind Ms. West as she will not be leaving during the transaction; it would not impede traffic.

Mr. Morris stated that they could block the neighbor's car.

Mr. Clapper stated that the visitor parking is not designated on the site plan.

Mr. Bruder suggested making the location of visitor parking a condition of the motion.

Ms. Edwards stated that she doesn't see how even stacked parking would impede the other tenants parking.

There was further discussion regarding the intent of the code with regards to stacked parking.

Mr. Fink read Section 1167.04 "Ingress and Egress driveways shall not be used to meet the requirements of Section 1167.05: Minimum Number of Parking Spaces, and thereby block the reasonable flow of vehicles to parking spaces. Parking arrangements within ingress and egress driveway areas shall be approved by Planning Commission."

Mr. Paino noted that the proposed parking area is not in the ingress/egress area.

Mr. Bruder suggested adding a condition that says that the residents of the business unit must stack park freeing up the other space for visitors and also add signage designating the layout.

Ms. West stated that the parking is designated in the rental contract for the property. She agreed that signs would be helpful.

MOTION: *Mr. Bruder moved that in Case PC20-016, West Arms FFL, LLC, 772 West Main Street, the Planning Commission approve the Conditional Zoning Certificate and Site Plan to allow a home occupation to operate a firearms business subject to the following conditions:*

- 1. Technical Plan Review*
- 2. The approval of inspections by both the Chief Building Official and Fire Prevention Officer*
- 3. Evidence to the City that a Federal Firearms License has been issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives*
- 4. Parking space signage be identified for tenants, occupants, and visitors*

The motion was seconded by Mr. Paino.

Roll Call Vote: Mr. Morris: nay, Mr. Bruder: aye, Mr. Clapper: nay, Ms. Edwards: aye, Mr. Paino: aye

The motion carried 3-2.

VII. Minutes

MOTION: *Mr. Morris moved to approve the October 20, 2020 and October 27, 2020 Planning Commission minutes as presented. Mr. Bruder seconded the motion. The motion carried 5-0. Mr. Clapper abstained.*

IX. Adjournment

MOTION: *Mr. Morris moved to adjourn. The motion was seconded by Mr. Paino. The motion carried 5 – 0. The meeting adjourned at 10:00 p.m.*