

On March 20, 2020, City Manager Gregory Rose declared a State of Emergency for the City of University City due to the COVID-19 Pandemic. Due to the ongoing efforts to limit the spread of the COVID-19 virus, the meeting will be in person at City Hall for members of staff and Council. **The public may observe and/or listen to the June 14, 2021 meeting as it has been able to do since on or about March 20, 2020.**

STUDY SESSION

Parks Special Events Policy and The Process to Regulate Businesses Along Olive Blvd.

CITY HALL, Fifth Floor, University City, Missouri 63130

June 14, 2021

5:30 p.m.

AGENDA

Requested by the City Manager

1. MEETING CALLED TO ORDER

At the Study Session of the City Council of University City held via videoconference, on Monday, May 24, 2021, Mayor Terry Crow called the meeting to order at 5:31 p.m.

In addition to the Mayor, the following members of Council were present:

Councilmember Stacy Clay
Councilmember Aleta Klein
Councilmember Steven McMahon; (*Arrived at 5:42 p.m.*)
Councilmember Jeffrey Hales
Councilmember Tim Cusick
Councilmember Bwayne Smotherson

Also in attendance were City Manager, Gregory Rose, and City Attorney, John F. Mulligan, Jr.

2. CHANGES TO REGULAR AGENDA

Mr. Rose informed Council that he would be making some minor modifications to Bill 9434 prior to its introduction.

3. PARKS SPECIAL EVENT POLICY (DISCUSSION & DIRECTION)

Mr. Rose stated after receiving several questions regarding the Parks Special Event Policy, he asked Mr. Dunkle to provide Council with an overview of this policy.

Purpose

To better manage the finite resources of the Department and to assist organizations in staging successful special events without impacting other park users or risking the public's health and safety.

What is a Special Event?

- A special event is defined as an activity or series of activities, specific to an identifiable time and place, most often produced in conjunction with community organizations, held on park property, and generally occurring once a year.

This activity generally occurs outside the framework of the specific general public's use of the park; (i.e., pavilion rental, ball field rental, basketball courts, tennis courts, playgrounds, trails, swimming pools, community centers, recreation centers, dog parks, etc.).

- Special events can include any activity involving entertainment, amplified sound, food, beverage, merchandise sales, or any activity such as a festival, fair, circus, parade, classes, lessons, camps, clinics, walks, runs, rides, trade shows, craft shows, public dance, concert or performance.

The Policy

1. Events must be planned by U City residents or a501c (3) non-profit organization based within U City.
2. The proposed activity or use of a specific park, park area, facility, or trail shall not reasonably interfere with or detract from the general public's enjoyment of a specific park, park area, facility, or trail.
3. The location of the proposed activity or use must be in an area deemed suitable by the City.
4. The proposed activity or use shall not entail unusual, extraordinary, or burdensome expenses on the City's police, fire, or maintenance operations.
5. Event requests for fundraisers organized by for-profit businesses are prohibited.
6. Event organizers must successfully apply and submit a non-refundable \$100 special event fee to the Parks, Recreation, and Forestry Department at least three (3) months prior to their tentatively scheduled date; to cover the time spent on reviewing the application, and a \$1,000 security deposit one (1) month prior to the event.
7. All fees must be paid for any area of the park that will be closed or inaccessible to the general public, and any well-defined general open spaces.

Permits & Licenses

The issuance of Permits and Licenses are governed by State, University City, and County Ordinances.

1. **Special Use Permit:** (University City) – For any event/activity taking place within a City R.O.W.
2. **Consumption Permit:** (University City) – For any event/activity where the consumption of intoxicating liquor may be present.
3. **Business License:** (University City) – Required to operate a business within the City.
4. **Revenue Licensing:** (St. Louis County) - Required to operate a business or sell goods and services within St. Louis County.
5. **Vendors and Solicitor's Permit:** (University City) – Required to sell food and beverages.
6. **Liquor License:** (City, County, State) -Required to sell intoxicating liquor within the City.
7. **Picnic License:** (University City) – Required for the sale of all kinds of intoxicating liquor (packaged or by the drink) for no more than three days.
8. **Amplified Sound Permit:** (University City) – Required for any use of loud-speakers or amplified sound.
9. **Health Permit:** (St. Louis County) – Required to sell or handle food (i.e., Food Concessions).
10. **Portable Sanitation Permit:** (St. Louis County) – Required for events with over 100 people where portable restrooms are needed.
11. **Amusement Rides and Inflatable's:** (St. Louis County) – Permit and inspections required.
12. **Temporary Structure Permit:** (St. Louis County) – Required to erect tents, canopies, stages, etc.

Mr. Dunkle stated after a review of the City's current policies, as well as the policies implemented by other municipalities, and St. Louis County, staff has made several recommendations.

Recommended Changes

- Events must be planned primarily to benefit U City residents.
- Events may only be planned and rented by:
 - 501c(3) non-profit organizations based in U City
 - University City recognized subdivisions/homeowner associations
 - Churches and schools located within U City; and
 - University City residents for birthday parties and family reunions
- Organizations that charge a registration or attendance fee are required to pay the fees listed below, in addition to all other fees and charges that may apply:

<u>Anticipated Crowd Size</u>	<u>Proposed Fee</u>
1-200 People	\$50.00
201-1,000	\$120.00
1001 – 2,000 PEOPLE	\$300.00
2,001 – 5,000 PEOPLE	\$420.00
5,001 + PEOPLE	\$600.00

- Vendors must also provide the City with fifteen (15%) of their gross receipts.

Councilmember Clay posed the following questions to Mr. Dunkle:

Q. Earlier this year there was some ongoing dialogue with folks interested in sponsoring youth sports. Would this be considered a special event?

A. In general, it would not be. That would go through the City's regular permitting process for renting a baseball field. However, if they wanted to rent a ball field for a tournament and they were selling goods it would fall under the category of a special event.

Q. Could a for-profit entity rent out an area under the City's regular rental policies?

A. Yes, if they just want to rent the field for a game or practice. But the City also has other Ordinances related to their level of insurance, paid instructors, etc., that they might have to comply with.

Q. Are only non-profits are allowed to utilize the Special Event Policy?

A. That is correct.

Q. Has there ever been an instance where a for-profit entity utilized this policy?

A. No, not that he is aware of.

Q. Does the fact that for-profit organizations are not allowed to utilize this policy mean the City could potentially be losing revenue?

A. It has not been an issue since my employment at U City, and in talking with staff, their experience has been the same. The main issue with opening the doors to for-profits or non-residential entities is that once you start you become inundated with tons of requests to use your facilities; which could be either good or bad. But the most important aspect is that the City does not have the infrastructure or staff to provide these kinds of special events, so it's a way of controlling the use of City facilities.

Q. Based on the list of Permits and Licenses, it seems like someone interested in having a neighborhood picnic with perhaps a drink or two, would have to go through a pretty complex process?

A. Most of these requirements are in conjunction with specific ordinances established by the City.

Councilmember Clay stated he would strongly advocate seeking the input of current users to get feedback on their experience and suggestions for streamlining the process.

Mr. Rose stated an item has been placed on tonight's regular Agenda where staff will be recommending that Council give consideration to referring this policy to the Parks & Recreation Commission with a request that they drill down on ways to make improvements.

Councilmember Smotherson questioned whether the Parks Special Event Policy was similar to the City's Charter and policies? For instance, are protests, like the one that recently occurred in the Loop, required to go through the Special Event, Permit or License process? Mr. Rose stated these are two distinct issues. One deals with the City's typical course of business where someone wants to rent a facility and the other deals with someone wanting to exercise their freedom of speech rights; which the City is limited in its capacity to manage. So, if a group of two hundred people shows up in The Loop to protest, they are not required to go through the Special Events process. Although staff would like the leaders to contact the Public Safety Department to ensure that its residents are safe, they are not required to do so.

Mr. Mulligan stated you have to look at the particular property involved. What Mr. Dunkle has been talking about are requirements that deal with park facilities. But when it comes to public sidewalks and streets the City has a permitting process that is handled by Public Works.

Councilmember Smotherson asked how the City would have handled the protest if it had taken place in Heman Park?

Mr. Mulligan stated the intent is to get as much information as possible to help you evaluate the particular use. So, with a group of two hundred people showing up at Heman Park, you want to know things like, where in Heman Park, and what is the intended use. So, there is some regulatory authority, but it has to be determined on a case-by-case basis and balanced with an individual's First Amendment Rights.

Mayor Crow stated he is not sure there have ever been many protests of any size in the neighborhood parks, but it is an interesting question.

Councilmember Smotherson stated what he wanted to make sure everyone understands is that there are different forms of protests which could lead to a group showing up in a park. But he definitely understands the principle of First Amendment Rights.

He stated he would also like to get an understanding of why University City residents are being restricted to birthday parties and family reunions when there are other occasions when families might want to utilize a park? Mr. Dunkle stated it could be expanded to include weddings and other types of functions.

Councilmember Cusick asked if it was correct that residents, non-profit organizations, subdivisions/homeowner associations, churches, and schools, would all have to pay a \$1,000 security deposit and if so if this has always been the policy? Mr. Dunkle stated the policy has been in place for some time, but he is not sure if the amount has always been the same. He stated the rationale for the deposit is to ensure the City receives reimbursement for any damages that may occur,

Mr. Rose asked Mr. Dunkle if had changed the dollar amount? Mr. Dunkle stated he does not believe it was changed in October, but he can look into it.

Mayor Crow stated his perspective is that it has probably always been there, just not enforced consistently.

Councilmember Klein questioned if someone wanting to have a family picnic would have to go through the same process as someone wanting to conduct a fair or some larger event?

Mr. Dunkle stated if an event is outside the general use of a park then they would need to go through that process. Birthday parties or picnics that request the use of a pavilion would only need to go through the Pavilion Rental process. Bigger crowds seeking to use specific areas of the park must go through the Special Use Event process.

Councilmember Klein stated she thinks the message for residents who simply want to have a neighborhood picnic but are required to fill out ten pages of paperwork and submit a \$1,000 deposit, is that the City really does not want them to use these facilities. So, while she does understand that processes have to be in place that is not the message she wants to send out to residents. She stated one possibility could be to streamline the paperwork so that they don't have to sift through countless questions that don't apply to simple gatherings like a picnic or birthday party. Residents need to feel as though these parks are there for them and the City should work to establish procedures that make it easy for them to utilize these resources.

Mr. Dunkle stated customer service is what his department is all about and most of the feedback they have received in the past two years has been very positive. Oftentimes people never give much thought to the little things that can help make their event a success, so the intent of the questions is to help staff identify what an applicant's needs are so that they can adequately prepare for each specific function.

Councilmember Hales asked if a family picnic fell under the category of a special event? Mr. Dunkle stated a picnic in the park is a normal use unless there will be 50 to 60 people in attendance. Then it becomes a special event because it's outside the normal use. Councilmember Hales questioned whether any new park-related policies had been established over the last few years or if these were simply policies that have been on the books and either underutilized or enforced?

Mr. Dunkle stated the vast majority of the City's policies are from 2004. So, while his staff has worked to clarify and enforce policies that may have been modestly enforced, they have not changed any. For example, the permits and licenses displayed here today have all been in place for a number of years, but most people were probably not even aware of their existence.

Mr. Rose stated one of the challenges staff face is that they don't have the luxury of saying, *"We think this is a bad policy so we're just going to ignore it,"* because their role is to make sure these policies are enforced. It is the Mayor and Council that decides the policies and when staff believes that a policy could be improved, it is brought before Council for consideration.

Councilmember McMahon stated it seems like what the Special Use Event Policy is dictating is exclusive use of specific areas of a facility. Because even though the City's overriding policy is that its parks are open and accessible to everyone, if anyone wants the benefit of this exclusive use then these policies have to be in place to ensure that staff not only understands how to accommodate their needs but the needs of other residents who want to enjoy the park as well.

Mr. Dunkle stated the policies are another measure of making sure that staff can provide safety and the proper amenities for these special events that people have come to expect.

Councilmember McMahon asked how the 15% of gross profits from vendors shall go to the City was derived? Mr. Dunkle stated the percentage was adopted from St. Louis County's policies. But to be honest, he has only had a few requests for events with vendors which were all canceled because of COVID. So, it's just something to consider down the road.

Mayor Crow stated he thinks everyone recognizes that the City is operating under some old ordinances and guidelines, but he does think the recommendation to submit a non-refundable \$100 special event fee to the Parks, Recreation, and Forestry Department at least three (3) months prior to the event is a little too far in advance. And he would also like the Purpose statement to lead with welcoming people into the City's parks before it provides an explanation of the intent.

He stated even though the application may be designed to help staff identify the needs of an applicant; it may also be the reason why people would rather run the risk of having an event versus going through this process. Mayor Crow stated while the thrust of these policies and guidelines are probably associated with the need to control outside organizations, he solely believes that a neighborhood association should not have to go through such a tedious process. If they need a security deposit, that's okay. But citizens should be entitled to some form of expedited treatment. That said, he thinks this policy should go to the Parks Commission and even be included in the next Citizen's Survey.

Councilmember Clay stated he appreciates the recommendation to send this back to the Parks Commission who he believes is well-positioned to opine on this topic, but they are not going to have the same perspective as someone who does not do this on a regular basis. So, he would not abandon the idea of testing some of these guidelines out on some of our residents or neighborhood associations; and would encourage staff to do so, because that's ultimately where the rubber meets the road.

4. PROCESS TO REGULATE BUSINESSES ALONG OLIVE BLVD.

Requested by Councilmembers Smotherson and Clay

Mr. Rose stated this item was originally requested by Councilmembers Smotherson and Clay, who were seeking a better way to regulate discount businesses along Olive Blvd. So, tonight Mr. Cross will be presenting a proposed process to hopefully accomplish that objective.

Conditional Use Permit Process & Prospective Amendments

Staff researched Tulsa, Oklahoma's Healthy Neighborhoods Ordinance, which is identified as an Overlay District. This tool was not designed as a permitted or conditional use, but to accommodate a better quality of life throughout individual neighborhoods.

A review of Tulsa's Dispersal Standards led staff to the conclusion that the best way to handle regulating businesses along Olive was the Conditional Use Permit (CUP) Process. The positive aspect of utilizing a CUP when considering an individual site is that it provides the Plan Commission and Council with the opportunity to review each discount store and reach a conclusion; (finding of facts), on exactly how it will impact the neighborhood.

Tulsa, Oklahoma

- Overlay District:
- Healthy Neighborhoods Overlay:

Section 20.060 Healthy Neighborhoods Overlay

Purpose and Intent

The regulations of this section are established for properties located within the boundaries of the healthy neighborhoods overlay (HNO) district. The purpose of the healthy neighborhoods overlay (HNO) is to modify and supplement regulations in a specified area where there is a desire for greater diversity in retail options and convenient access to fresh meats, fruits and vegetables. These regulations are intended to:

- Avoid and reduce over-concentration of small box discount stores in the area.
- Encourage and streamline grassroots access to fresh meats, fruits and vegetables.
- Encourage a greater diversity of retail activity and purchasing options within the area.
- Allow for a more community-based approach to distributing and purchasing fresh meats, fruits and vegetables in a specified area.
- Promote investment and development in a community where change is desired.

Example CUP Standards

Dispersal Standards – Healthy Overlay District

Section 20.060-C Dispersal Standards for Small Box Discount Stores

To avoid over-concentration, a small box discount store, as defined in Section 35.050-1.4, within the overlay area must be separated from another small box discount store within or outside the overlay area by a minimum distance of 5,280 feet. The required separation distance must be measured in a straight line from the nearest point on the lot line of the property occupied by a small box discount store to the nearest point on a lot line of the other property occupied by a small box discount store. The separation distance requirements of this section may be reduced if approved through the special exception approval process.

PC Recommendation & City Council Actions

Process – Required City Approvals

Plan Commission. Section 400.2700.C of the Zoning Code requires that C.U.P. applications be reviewed by Plan Commission. The Plan Commission shall make a recommendation to the City Council for their consideration. A public hearing is required at the Plan Commission meeting.

City Council. Section 400.2700.D of the Zoning Code requires that C.U.P. applications be reviewed by City Council for the final decision, subsequent to the public hearing and recommendation from Plan Commission. In conducting its review, City Council shall consider the staff report, Plan Commission's recommendation, and application to determine if the proposed C.U.P. application meets the requirements of the Zoning Code.

Review Criteria

Review Criteria

When evaluating a Conditional Use Permit the applicant is required to ensure that the following criteria is being met in accordance to the provisions set forth in Section 400.2710 of the Zoning Code. The Criteria is as follows;

- 1. The proposed use complies with the standards of this Chapter, including performance standards, and the standards for motor vehicle oriented businesses, if applicable, as contained in Section 400.2730 of this Article;
2. The impact of projected vehicular traffic volumes and site access is not detrimental with regard to the surrounding traffic flow, pedestrian safety, and accessibility of emergency vehicles and equipment;
3. The proposed use will not cause undue impacts on the provision of public services such as police and fire protection, schools, and parks;
4. Adequate utility, drainage and other such necessary facilities have been or will be provided;
5. The proposed use is compatible with the surrounding area;
6. The proposed use will not adversely impact designated historic landmarks or districts; and

Findings of Fact

Findings of Fact (Section 400.2720)

The Plan Commission shall not recommend approval of a conditional use permit unless it shall, in each specific case, make specific written findings of fact based directly upon the particular evidence presented to it supporting the conclusion that the proposed conditional use:

- 1. Complies with all applicable provisions of this Chapter;
2. At the specific location will contribute to and promote the community welfare or convenience;
3. Will not cause substantial injury to the value of neighboring property;
4. Is consistent with the Comprehensive Plan, neighborhood development plan (if applicable), the Olive Boulevard Design Guidelines (if applicable), and any other official planning and development policies of the City; and
5. Will provide off-street parking and loading areas in accordance with the standards contained in Article VII of this Chapter

Recommended Process

- Input from City Council
- Work with Plan Commission - Code Subcommittee
- Formal Text Amendment Request to Plan Commission
- City Council Approval

Councilmember Smotherson asked if the Tulsa Dispersal Standards were being considered in the Proposed Amendment since his proposal was for a mile and a half of separation? Mr. Cross stated based on his research the footage provided in this standard is pretty common and if adopted will provide four or five key locations for development. But based on how the boundaries are established and the current number of stores already in existence, a mile and a half would be very restrictive.

The other thing you have to look at is the fact that the Ordinance already requires convenience stores to get a CUP, but it does not contain any dispersal standards. And convenience stores are very similar in square footage and the type of items sold.

So, if the Ordinance intends to promote a better quality of life in the neighborhood through the sale of fresh foods and products, then the one-mile radius needs to be considered.

Councilmember Smotherson stated his objective is to place controls on the prolific spread of these establishments in his neighborhood. Recently, one of their restaurants transformed into a convenience store, and if Council concedes to a mile that means they will be conceding to having Family Dollar as a part of the 1-170 development. Mr. Cross informed Councilmember Smotherson that his staff was addressing the restaurant's conversion. However, to gain a better understanding of how to draft the conditions for the CUP one question that needs to be answered is what are the major concerns with discount stores? Is it the square footage, the architectural standards, or the model and how it fits into a neighborhood? Because once you set predetermined conditions in a CUP, and an applicant meets those requirements, you'll have a tough time denying their request.

Councilmember Clay stated by saying they only want healthy products within a specific category, Tulsa very cleverly created exclusion via inclusion. So perhaps, that's the same approach the City should take. Olive has five-dollar stores and there is research associated with these types of businesses on why they come to certain areas, in what he thinks, could be considered a predatory design. Councilmember Clay stated he would rely on Mr. Cross, his staff, and the City Manager to figure out how these thoughts can be enshrined similar to the way the City approached payday loans and check-cashing stores.

Mr. Cross stated payday loans are not specifically addressed in the Zoning Ordinance. In this case, what it comes down to is the Zoning Administrator's interpretation, which could theoretically be a problem if they find that an application is similar in use. So, looking at the uses considered detrimental to a neighborhood and clearly defining them as part of the CUP amendment is a good point. And that's how New Orleans approached it when they had 40 discount stores and three grocery stores that were preying on their underserved communities. But the one issue you have to look at when you create an Overlay District is that you're also creating a land-use action by assigning a land-use to individual properties. And the beauty of a CUP is that it is a designed action that gives you the flexibility to review each application on a case-by-case basis.

Mr. Cross stated, for now, this is a quick fix. However, once the City moves forward with the new Comprehensive Plan and Unified Land Development Code, staff and Council can take a hard look at establishing permitted uses within certain areas throughout the City.

Councilmember Clay questioned what process would be followed under this amendment if a dollar store makes a request to locate on Olive? Mr. Cross stated staff would review the application and make a determination about the underlying zoning and whether the applicant is required to apply for a CUP. The appropriately certified notices of a Public Hearing are disbursed to property owners within 185 feet of the proposed location and posted in the newspaper.

The Public Hearing is conducted by the Plan Commission who then considers the various characteristics of the proposal, conducts findings of facts, and makes a recommendation that is submitted to Council for a final decision.

Councilmember Cusick stated Tulsa's Dispersal Standards refer to "*small box discount stores*". Does the City already have a specific definition for these stores, and if so, what is the difference; if any, between that definition and a "*small box discount store*"?

Mr. Cross stated specific definitions for a "*small box discount store*" or a small grocery store will have to be worked out if this proposal is accepted.

But his guess is that a "*small box discount store*" would consist of 3500 square feet or less and be similar to other CUP applications required in a Limited Commercial District.

Councilmember McMahon stated he just read some articles that talked about how several discount chains have started offering more healthy products like fresh meats and fruits. So, regardless of their predatory nature, they are now starting to make these changes to their product line to make sure they are in compliance with these new Overlay Ordinances. As a result, he stated the question that came to his mind is how does the City identify and define the real problem in a way that prevents this kind of cat and mouse game, which at some point, will prohibit the Plan Commission and Council from rejecting an application? Mr. Cross stated Councilmember McMahon is absolutely right. Dollar General is changing its architectural standards by incorporating fresh produce and meats, and the use of those standards will defeat the purpose of this amendment. So, it is going to take some brainstorming by the Plan Commission to come up with a model that addresses the underlying problem.

Mr. Mulligan stated to pick up on Mr. Cross' discussion of payday lenders; as a result of a court case several years ago that restricted small loan establishments and pawn shops to the Industrial Commercial District (ICD), the City grandfathered in the establishments located on Olive Blvd. and required that new businesses within this category be limited to the ICD. So, this is another approach that could be utilized with dollar stores.

5. ADJOURNMENT

Mayor Crow thanked Mr. Dunkle and Mr. Cross for their presentations and adjourned the Study Session at 6:30 p.m.

LaRette Reese
City Clerk

