City of Lawrence

 **Common Council**

**September 3, 2019**

**Special Meeting**

MEMBERS PRESENT: Council Members Lisa Chavis, Tom Shevlot, Sherron Freeman, William Tyrrell Giles, Bob Jones, Becky Parker, Rick Wells and Matt Hall were present.

ALSO PRESENT: Clerk Kathleen Walton and Attorney Kristina Wheeler (Bose McKinney & Evans LLP)

STAFF PRESENT: None

Council President Lisa Chavis called the meeting to order at 5:30 p.m. and announced a quorum was present. The special meeting was called pursuant to notice to hear zoning case 2019-ZON-067.

2019-ZON-077 5104 North Franklin Road

Ruby and Pearl Property LLC, by David Kingen and Justin Kingen requests approval of a rezoning of 5.12 acres, from the C-3 District to the C-S district to provide for a wholesale/retail outlet, multi-family dwellings and C-3 uses, except for daily emergency shelter; check cashing or validation service; outdoor advertising off-premise sign; tattoo parlor; bar or tavern; pawn shop; wireless communication facility; plasma blood center; vape shops; bed and breakfast facility;

coin laundry; liquor sales; methadone clinic or treatment facility; substance abuse treatment facility; garden as a primary use; funeral home/mortuary; night club or cabaret; adult entertainment business retail; hotel, motel or hostel; firearms sales; fireworks sales; automobile

and light vehicle wash; and automobile, motorcycle and light vehicle repair

Mr. David Kingen, Sharon Thompson (Keller Williams, director commercial division) and Iqbod Siddique made a presentation to the Council for the petitioner. Mr. Kingen distributed 3 handouts to support his comments:

1. A list of C-3 permitted uses
2. Attachment C (Development Plan and Site Plan); Attachment D (List of Petitioner commitments); Attachment E (List of excluded uses by the petitioner)
3. Plan of Operation for SE Imports & Wholesale

 He discussed:

* Ruby and Pearl Property LLC is the present owner
* Activities at the site would include the sale of goods for resale and to tax-exempt entities, including churches, schools and nonprofits.
* The site would attract both truck and pedestrian traffic
* Limitations on property use that are outlined in the commitments do not currently exist in C-3 districts.

In conclusion, Mr. Kingen requested that the Common Council approve the petition.

Sharon Thompson, who is marketing the property on behalf of Ruby and Pearl, sought either to lease or sell the property. She attempted to bring in a grocery store but was unable to because there are 18 vacant grocery stores in the Indianapolis area. There was also discussion of a possible charter school, but the current buyer offers the best option.

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Iqbod Siddique, the prospective buyer, expressed hope that he could buy the property and use it as described in the zoning petition. He assured the Council that he is supportive of local businesses and that he would have good tenants.

QUESTIONS AND COMMENTS FROM COUNCIL: Mr. Kingen responded to questions from the Council.

Following the presentation, remonstrators and others were given the opportunity for comments and questions. There were 3 remonstrators:

* William Parson, 7948 Ashton Drive
* Valerie Ellis, 4820 Atwell Drive
* John Frame, 4985 N. Franklin Road

Sharon Thompson re-emphasized that she had exhausted all possibilities for a grocery store. Furthermore, the site has proven to be not conducive to a Dollar General store. She noted that the current owners benefited from the Marsh store. She noted that the Village Pantry would remain.

Mr. Larry Calloway, staff planner representing the Department of Metropolitan Development (DMD), recommended denial of this rezoning petition. His concerns included:

* The vagueness of “wholesaling”
* The type of items available on a wholesale basis
* A wholesale use is inconsistent with the comprehensive plan that calls for commercial retail uses. He can not support petitions that contradict the plan.
* He acknowledged the various commitments but noted he had only seen them this morning for the first time. Though some changes were made, he is still recommending denial.

Mr. Calloway responded to questions from the Council.

In rebuttal, Mr. Kingen and Sharon Thompson said:

 It was difficult to communicate information about this project because there was no

 neighborhood association in the area. He did receive and respond to emails from various

 residents. He repeated that, at one time, there was consideration of multi-family residential

 unit with lots of parking but that option was dropped. Sharon Thompson said the site is one

 of several examples of food deserts located in older style buildings.

In response to a question about activity at the site, Iqbod Siddique estimated that 7 delivery trucks would arrive daily, and 15 to 20 customers would frequent the site.

In rebuttal, 2 remonstrators spoke:

* William Parson, 7948 Ashton Drive
* Irvin Moellman, 7947 Ashton Drive

There being no further presentation or discussion, the petition was voted upon and resulted in the following vote of the Council: Two (2) votes to grant (Giles and Shevlot) and six (6) votes to deny (Councilors Wells, Freeman, Chavis, Jones, Hall and Parker). Petition 2019-ZON-077 was given an unfavorable recommendation.

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ADJOURNMENT: There being no further business to come before the Council, the meeting was adjourned, at 6:35 p.m., by the unanimous vote of the Council

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Lisa Chavis, President Kathleen A. Walton, Clerk