

Hastings Planning Commission

January 8, 2018 - Regular Meeting Agenda
Hastings City Hall - City Council Chambers
7:00 p.m.

Chair Deaver called the meeting to order at 7:00 pm.

1. Call Meeting to Order

Planning Commissioners Present: Deaver, Alpaugh, Harvey, Johnson, Siebenaler, and Wallace

Planning Commissioners Absent: Barse

Staff Present: City Planner Justin Fortney

2. Oath of Office

Fortney administered the oath to Commissioners Deaver, Johnson, Harvey, and Siebenaler. (Barse absent)

3. Election of Planning Commission Chair and Vice Chair

Commissioner Alpaugh nominated Commissioner Deaver as Chair, seconded by Johnson. Motion approved 6-0.

Commissioner Wallace nominated Commissioner Alpaugh as Vice Chair, seconded by Commissioner Johnson. Motion approved 6-0.

4. Approval of Minutes

Commissioner Alpaugh motioned to approve the minutes from the meeting of November 27, 2017 as presented, seconded by Commissioner Johnson. Motion approved 6-0.

PUBLIC HEARINGS

OTHER ACTIONS

5. **Lee Zenner** – Type II Home Occupation Permit #2017-51 – Smart Ride – 1165 Sherman Way. Staff Report by Justin Fortney.

The City has been receiving nuisance complaints about Smart Ride taxi service operations from multiple residential addresses since 2011. The business may have changed hands a time or two. Among the complaints are: multiple business cars parked at the home and on the street, vehicles not being moved during snow emergencies and causing snow build up on the street and in front of the community

mailbox, large 15-passenger van parked on the street for multiple days without being moved, and drivers arguing with each other outside the property in the middle of the night and waking the neighbors.

The business appears to operate by having several cars at the home that are utilized for the business. These include two mini-vans in the driveway and a 15-passenger van that is sometimes present in the driveway and street. Drivers come to the home at different times between 8:00 a.m. to 3:00 a.m. on week days and 8:00 a.m. to 4:00 a.m. on Friday and Saturdays. They park their cars on the street and take a business vehicle and return it at the end of their shift. There may also be drivers using their personal vehicles.

The Zoning Ordinance can allow for the operation of home based business, so long as they do not negatively affect the residential character, health, safety, or general welfare of the surrounding neighborhood. There are two types of home occupations, Type I and Type II. A Type I is generally for office type businesses without any visitors or employees.

Home Occupation regulations that appear to be violated by the operation of this business include:

- Home Occupations may not negatively affect the residential character, health, safety, or general welfare of the surrounding neighborhood. 155.07(D)(1)
- There shall be no indication of offensive noise at or beyond the property line. 155.07(D)(2)(c)
- No home occupation causing additional parking or traffic than normally expected in a residential neighborhood shall be conducted between the hours of 8:00 p.m. and 7:00 a.m. 155.07(D)(2)(h)
- Only 1 vehicle and 1 trailer specifically used for a home occupation are permitted to be parked at the residence licensed for a home occupation. The parking of these vehicles must be off-street and in compliance with the parking regulations of the City Code. 155.07(D)(2)(j)
- No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of the home occupation shall be met off of the street in accordance with parking regulations of the City Code. 155.07(D)(4)(c)

Chair Deaver stated this is not a public hearing however he will allow a few people to speak and allow the applicant a chance to make his case.

Applicant Lee Zenner stated he has only owned business for 1.5 years, past complaints should not count against them. The 15 passenger van is now being parked off site in storage and will not be at the residence unless it is needed. He stated they were under the impression they are allowed 3 vehicles parked in the driveway. Fridays and Saturdays there are 2 drivers that come and park on the street and pick up the vans from in the driveway and leave. There are never more than 3 vehicles parked in the driveway at any given time. This service is valuable to

the City for safe rides home not only at night but also during the day.

Dan Dibble of 1160 Sherman Way addressed the Commission. His bedroom opens up to where vehicles are parked. He believes this business does negatively affect the surrounding neighborhood. He was the neighbor that was verbally abused when police were called to the residence. There has been offensive noise, neighbors have been woken at 4 am. This business just does not make sense in a residential area.

Greg Mikel of 1157 Sherman Way addressed the Commission. He lives 2 doors down from the business/residence. It's important to him to maintain the quality of neighborhood and wishes the best for Lee and his business but it does not fit well in the neighborhood. It is not a safe area for children because of the restriction of view. He added that the parking and traffic issues are right where the park path crosses the street.

Commissioner Alpaugh asked if this business has been operating without a Type II permit for the last 1.5 years.

Fortney replied yes, when the first complaints were received, staff contacted the applicant who claimed that the drivers were not employees and were only coming to the house for social reasons. The applicant said the business duties being carried out at the house were only administrative. Taking the applicant at his word, staff approved the business as a Type I home occupation. Complaints did not stop and they had seen a lot of Smart Ride vehicles on the property and found out that employees do in fact visit the home and leave their cars there to take Smart Ride vans.

Commissioner Wallace thanked the neighbors for their comments and said that he can appreciate that the neighbors are frustrated by this. It is not for the Commission to say whether it's fair to neighbors. Whether or not it's within the regulations of the City is clear and there are some violations. Employees that park their cars there, would be considered part of the business.

Fortney stated we know he has multiple vehicles there from time to time that are for the business. If there are cars there for the business they have to be parked off of the street.

Commissioner Johnson stated that it appears that vehicle count exceeds what is specified, but wants to endorse the business itself as it is important and valuable. He wishes they had a space that would better suit this business model.

Commissioner Alpaugh wanted to commend Mr. Zenner for running this business. Looking at a listing of these violations, it's obvious that it is not working in this location.

Commissioner Harvey asked if this application is not approved, would there be any

way to still operate this business.

Fortney replied that it could be administratively approved as a Type I home occupation, but they couldn't have people associated with the business coming to the property. If he wanted to pursue Type II again, he would have to reapply after 6 months. With either home occupation type they would only be able to have one work vehicle at the property.

Zenner stated that some of the vehicles present on the property are not solely used for the business so they should not count as "business vehicles".

Commissioner Deaver appreciated applicants trying to find ways to fix this. It's a valuable business, there are components that simply do not fit in a residential neighborhood. Hours of operation are a concern.

Commissioner Harvey motioned to deny the Type II Home Occupation Permit #2017-51 – Smart Ride – 1165 Sherman Way, based on the findings in the staff report, seconded by Commissioner Alpaugh. Motion approved 6-0.

This item will go before Council January 16, 2018

6. Other Business

Fortney update the Council has approved the Comprehensive Plan amendment and Rezoning for the property on the corner of Pleasant and Hwy 55. Ordinance amendment for crematoriums. No other pending business for PC coming up quite yet

7. Adjourn

Commissioner Alpaugh motioned to adjourn the meeting at 7:40 pm, seconded by Commissioner Siebenaler. Motion approved 6-0.

Next Meeting – January 22, 2018