

**AGENDA
DAYTON PLANNING COMMISSION**

DATE: THURSDAY, DECEMBER 10, 2020
PLACE: VIRTUALLY VIA ZOOM
TIME: 6:30 PM

ITEM	DESCRIPTION	PAGE #
A.	CALL TO ORDER	
B.	APPROVAL OF ORDER OF AGENDA	
C.	APPEARANCE OF INTERESTED CITIZENS	

This time is reserved for questions or comments from persons in the audience on any topic.

D.	APPROVAL OF MINUTES	
	November 12, 2020	1 - 3
E.	PUBLIC HEARING	
	SIMU 2020-01 Staff Report	4 - 9
	Sportech Application Letter	10
F.	OTHER BUSINESS	
G.	ADJOURN	

Posted: 12/04/2020
By: Cyndi Park, Planning Coordinator

Persons with hearing, visual or manual impairments who wish to participate in the meeting should contact the City of Dayton at least 32 working hours (4 days) prior to the meeting date in order that appropriate communication assistance can be arranged. The Dayton City Hall Annex is accessible to the disabled. Please let us know if you need any special accommodations to attend this meeting.

Next Scheduled Meeting Date
Thursday, January 14, 2021

City of Dayton, PO Box 339, 416 Ferry Street, Dayton Oregon 97114
Phone: (503) 864-2221 Fax: (503) 864-2956
Email: cityofdayton@ci.dayton.or.us Website: www.ci.dayton.or.us

MINUTES

DAYTON PLANNING COMMISSION MEETING November 12, 2020

PRESENT: Jim Maguire
Ann-Marie Anderson
Tim Parsons
Larry Smurthwaite
Gary Wirfs

ABSENT:

STAFF: Jim Jacks, Senior Planner
Kiel Jenkins, Associate Planner
Cyndi Park, Librarian/Planning Coordinator

A. CALL TO ORDER

Chairperson Jim Maguire called the meeting to order at 6:35 p.m.

B. APPROVAL OF ORDER OF AGENDA

There were no changes to the order of the agenda.

C. APPEARANCE OF INTERESTED CITIZENS

None present for general comments.

D. APPROVAL OF MINUTES

Chairperson Maguire asked for a motion to approve the minutes of the November 12, 2020 meeting as written. Gary Wirfs moved that the minutes be approved, Ann-Marie Anderson seconded the motion, motion passed unanimously.

F. PUBLIC HEARING

Chairperson Maguire opened the public hearing at 6:38 p.m.

The meeting was turned over to Senior City Planner Jim Jacks. Mr. Jacks provided a summary of the Staff Report for CUP 2020-04. Commissioner Smurthwaite arrived at 6:42 p.m., just after the required notices opening the public hearing were read. Mr. Jacks moved that the contents of the Staff Report be admitted to the record in this matter, there were no objections. Mr. Jacks read each of the conditions of approval from Dayton's Municipal Code and explained how the Baker Rock property met each of those conditions.

Commissioner Smurthwaite asked if noise from the temporary plant would be an issue for surrounding residents, and if they were noticed about the proposal and the public hearing. Mr. Jacks explained that all residents within 100 feet of the property were notified of the application and the public hearing. Mr. Jacks also indicated that the plant had been in production for years with no known noise complaints.

Chairperson Maguire asked a question to clarify why the City Engineer's comments were not included

in the staff report, Mr. Jacks explained that many of the comments included information that was well outside the area of the temporary plant and were not necessary for the approval of the permit, the remaining comments are a part of the conditions of approval because they are included in the city code or state laws.

Chair Maguire inquired whether the City normally included all of the Engineers comments in Planning decisions and I explained that the Planning Commission typically only includes the planning/land use portions of the code in their decisions, and relies upon the building permit and inspection process to enforce those portions of the code and the Public Works Design Standards.

Mr. Jacks said that it was the opinion of staff that the permit should be approved, with conditions about the months in which the plant could be used, and that the plant would be temporary.

Commissioner Smurthwaite inquired what kind of recourse citizens had if they were negatively impacted by the temporary plant. I explained the Code Enforcement process and assured the Commission that citizens have recourse that can be addressed under Dayton code. Chair Maguire noted that part of the approval requires that the residents surrounding the temporary plant not preclude the use of their property, and that gives the citizens recourse if needed.

Chair Maguire and Mr. Jacks discussed how the city enforces a conditional use permit. Enforcement in Dayton is handled through the code enforcement process as outlined in the municipal code.

Commissioner Anderson asked for clarification on where the proposed plant would sit – city land or county land? Mr. Jacks explained that the site is both inside and outside of city limits, the applicant will explain.

Mr. Todd Baker, President of Baker Rock, resides at 21880 Farmington Rd SW Beaverton, OR 97007. He explained that the company originally decided to ask for this application when there was an ODOT job that they were not awarded. They decided to continue with the permit process in case other jobs come along in the future that require the additional capacity that a temporary plant would afford them. He spoke about DEQ noise standards, both daytime and nighttime, that this plant meets and that the temporary plant would be required to meet as well. Mr. Baker was not sure where the city property line is, Mr. Jacks was able to clarify that there is a small portion in the north of the property that appears to be outside of the city limits. After reviewing the map, the group agreed that the plant is within city limits and the stockpiles are outside of city limits.

There were no citizens present in favor of the application.

Randall Wilt of 205 Church St, Dayton, OR 97114 opposed the application. He has concerns about the noise if both plants run simultaneously. He also asked about the DEQ requirements for measurement of particle matter emitted by the temporary plant.

The Commissioners had no questions for Mr. Wilt or for Mr. Baker. Chair Maguire asked for Mr. Baker to explain air discharge at the plant and the DEQ enforcement. He explained the yearly process of permit renewal and the inspection process which occurs every five years. He clarified that temporary plants were subject to these processes as well.

Chairperson Maguire closed the public hearing at 7:42 p.m.

Discussion of CUP 2020-04 continued. Ann-Marie Anderson made a motion to approve the Conditional Use Permit with conditions 1 and 2 in the Staff Report to be included in the signed document. Seconded by Commissioner Wirfs. Motion passed unanimously.

G. OTHER BUSINESS

There was no other business to be discussed.

H. ADJORN

There being no further business, the meeting adjourned at 7:53 pm.

Respectfully submitted:

**APPROVED BY PLANNING COMMISSION
on**

As Written **As Amended**

By: Cyndi Park
Librarian/Planning Coordinator

CITY OF DAYTON

416 Ferry Street – P. O. Box 339
Dayton, OR 97114-0039
503-864-2221 fax 503-864-2956

TO: DAYTON PLANNING COMMISSION
FROM: KIEL JENKINS, CITY PLANNER
SUBJ: SIMILAR USE PERMIT 2020-01 (SIMU 2020-01)
DATE: DECEMBER 10, 2020

I. GENERAL FINDINGS

The property contained in the application is currently vacant. The applicant is seeking to obtain a similar use permit. The applicant seeks similar use approval to determine if the applicant’s business is allowed as a conditional use. Should the similar use permit application be approved by the Planning Commission, the applicant will have to submit for a Conditional Use Permit and Site Development Review.

REPORT DATE: DECEMBER 2, 2020

FILE NUMBER: SIMU 2020-01

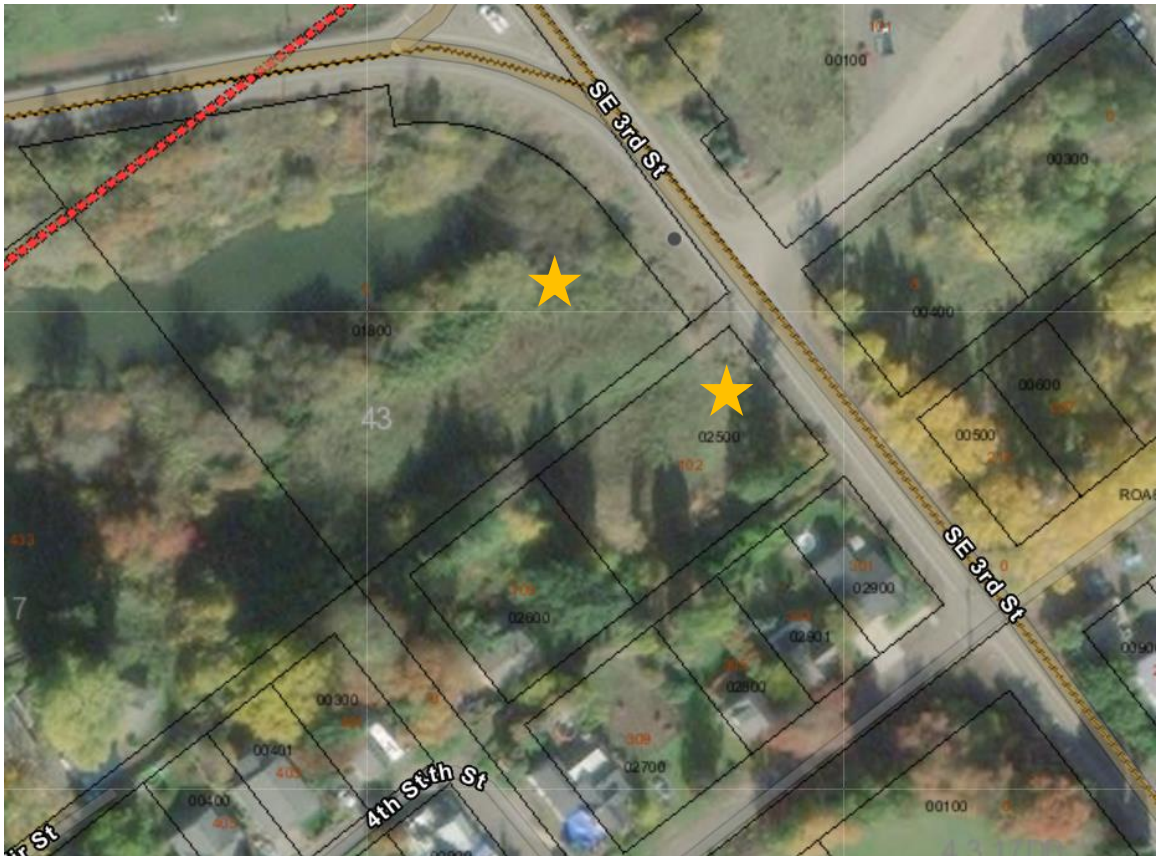
APPLICANT: Sportech Construction and Excavation, LLC

OWNER: Sportech Construction and Excavation, LLC

REQUEST: A similar use permit request to the planning commission to interpret the list of conditional uses in the Commercial Zone (C) to determine if the applicant’s construction business specializing in residential and commercial synthetic turf installation is permitted as a conditional use in the C zone.

PROPERTY LOCATION: 100 3rd Street (Assessor’s Map 4 3 17 AD 2500 and 4 3 17 1800)

North is to the top. 3rd Street is to the east (right side). The parcels with orange stars are those included in the application.



PROPERTY SIZE: 2.34 acres.

ZONING: Commercial (C)

SURROUNDING ZONING: North: Across the Highway 18 Bypass, County zoning.
 East: I- Across SE 3rd Street, Baker Rock (to the East of Lot 1800), C-R (to the East of Lot 2500).
 South: Abutting Oak Street, R-2.
 West: R-1 (to the west of Lot 1800), R-2 (to the west of Lot 2500)

CURRENT USE: Both properties are vacant and undeveloped.

APPEAL PROCESS: The appeal process shall follow the provisions of Section 7.3.202.02 (I) of the LUDC.

CRITERIA: Dayton Land Use and Development Code (LUDC):
 Section 7.3.114.04: Similar Use Review criteria.

II. APPLICABLE APPROVAL CRITERIA

The Dayton Land Use and Development Code (LUDC), Subsection 7.3.114.04, A – B, lists the approval criteria.

7.3.114.04 Criteria for Approval

A similar use may be authorized provided that the applicant demonstrates that the proposed use satisfies the following criteria:

7.3.114.04, A.

The use is consistent with the purpose of the underlying zoning district and is similar in character, scale and performance to permitted uses specified in the underlying district.

FINDINGS:

The applicant's response to criterion A states:

“Per the City's Land Use and Development Code section 7.2.106.04, property in the C Zone can be used for:

- *Special trade contracting facilities such as; floor laying, building equipment, masonry and stone, plumbing, electrical, metal work or painting.*

Installation of synthetic turf is classified as a soft floor covering by the state of Oregon: Construction Contractors Board (CCB)”

LUDC Section 7.2.106.04(i) lists “Special trade contracting facilities such as; floor laying, building equipment, masonry and stone, plumbing, electrical, metal work or painting” as conditional uses, a list that includes several types of contractor, but omits excavation contractors. Per the applicant, the proposed use is primarily meant for storage of synthetic turf and equipment. While the applicant is proposing a store front on 3rd Street, the proposed use has more traits in common with an industrial use than a commercial use. The applicant has also indicated that two trucks and multiple flatbed trailers will be stored on site, requiring additional outdoor storage space. LUDC Section 7.2.106.01 defines the purpose of the commercial zone as “specifically designed to provide area for commercial activities to serve the residents of the City and the surrounding area.” The proposed use is a primarily industrial activity rather than a commercial activity. Because the proposed use is more aligned with the industrial zone than the commercial zone in terms of character, scale, and performance, criterion 7.3.114.04.A is not met.

7.3.114.04, B.

The use is capable of conforming with the applicable standards and limitations of the underlying zoning district.

Findings:

The following lists applicable standards for the commercial zone as written in section 7.2.106.05 of the LUDC.

7.2.106.05: Dimensional Standards

- A. Lot Dimension and Height Requirements
 - 1. The parcel size shall be adequate to comply with setback requirements and applicable development standards.
 - 2. Maximum Height. The maximum height shall be 35 feet.
- B. Minimum Yard Setback Requirements
 - 1. Front: None
 - 2. Side, Rear Yard: None, provided the setback shall be no less than the minimum rear yard setbacks of the zone on the adjacent property

7.2.106.06: Development Standards

- A. Development Exemptions: Commercial property located in the Central Business Area shall be subject to the requirements in Section 7.2.111.
- B. Use Restrictions. The following use restrictions shall apply:
 - 1. No permitted, special permitted or conditionally permitted use shall in any way involve any of the slaughter, rendering or processing of animals. The processing of grains, fruits, vegetables, or dairy products for breads, wines, jams, cheeses and similar products may be allowed as part of a commercial business or small-scale manufacturing where permitted in the zone. (Amended ORS 583), Effective 9/6/07) Dayton Land Use and Development Code- (Revised 07/02/18) 7.2.1-20 2. All business, service, processing, or merchandise displays shall be conducted wholly within an enclosed building, except for the following:
 - a. Off-street parking and loading.
 - b. Walk-up and drive-through windows as part of a permitted use with the window meeting the required standards of Sections 7.2.414 and 7.2.415 respectively. (Amended ORD 610 effective 4/2/12)
 - c. Temporary display and sales of merchandise; provided it does not interfere with pedestrian or automobile circulation, or area used for an approved drive-through or walk-up window. (Amended ORD 610 effective 4/2/12)
 - d. Outdoor cooking and seating for a permitted eating and drinking establishment, subject to screening and buffering

provisions of the Section 7.2.306.04. The greater of 12 seats or 75 percent of the indoor seating capacity of the establishment is allowed for outdoor seating. (Amended ORD 630, Effective 12/2/15)

e. Outdoor display customary to a business (e.g. auto sales).

C. Unless otherwise exempted, all development in the C Zone shall comply with the applicable provisions of this code. The following references additional development requirements:

1. Off-Street parking: Parking shall be as specified in Section 7.2.303.
2. Yards and lots: Yards and lots shall conform to the standards of Section 7.2.308.
3. Site Development Review: Development within the C Zone shall be subject to the Site Development Review requirements and procedures in Section 7.3.1.
4. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be 90 percent. (Amended ORD 610 effective 4/2/12)
5. Landscaping: All required yards shall be landscaped. Landscaped areas shall be landscaped as provided in Section 7.2.306. A minimum 10 percent of the property shall be landscaped. (Amended ORD 610 effective 4/2/12).

All applicable dimensional standards, development standards, and potential site improvements would be addressed at the time of Site Development Review should this Similar Use Permit Application be approved. The proposed use is capable of meeting these requirements. Criterion 7.3.114.04 (b) is met.

III. RECOMMENDATION

Based upon the above findings, staff recommends the Planning Commission adopt the staff report with its findings and direct staff to prepare a Planning Commission Order denying Similar Use Permit 2020-01 for the Commission Chair to sign.

IV. PLANNING COMMISSION ACTION – Sample Motions

- A. I move the Planning Commission adopt the staff report and direct staff to prepare a Planning Commission Order for the Chairperson to sign approving the Similar Use Permit application, OR

- B. I move the Planning Commission adopt the staff report as changed by the Planning Commission to support a denial (state the changes) and direct staff to prepare a Planning Commission Order for the Chairperson to sign denying the Similar Use Permit application, OR

- C. I move the Planning Commission continue the hearing to a date and time certain to allow the parties to provide more information regarding...and state the information to be provided.

Arley Hughes
8720 SE Morgan Ln.
McMinnville, OR 97128

City of Dayton
Planning Commission
416 Ferry Street
Dayton, OR 97114

To Whom It May Concern:

I am a potential buyer for the property located at 100 N 3rd. Street (4, 3, 17AD Tax Lots 2500, 2600, 2700, 2800, 2900, and 2901 and 4, 3, 17, tax lot 1800). I am writing to express my interest in pursuing a conditional use permit for the above-mentioned property. As part of my due diligence I would like to request a hearing in front of the Planning Commission to further discuss the intended use of this property, and the ability to obtain a conditional use permit.

I own a small construction business, Sportech Construction & Excavation, LLC, which is based in McMinnville. Sportech specializes in residential and commercial synthetic turf installation, for yards and putting greens.

Per the City's Land Use and Development Code section 7.2.106.04, property in the C Zone can be used for

- ***Special trade contracting facilities such as; floor laying, building equipment, masonry and stone, plumbing, electrical, metal work or painting***

Installation of synthetic turf is classified as a soft floor covering by the State of Oregon: Construction Contractors Board (CCB).

The above-mentioned property would be used as Sportech's primary site of business, and would include a storefront location as well as storage for synthetic turf and equipment. The approximate size of the building would be 60x100 or 6x80, with business access facing 3rd Street.

Potential offers on this property are contingent upon Sportech obtaining a conditional use permit. Further discussion may be needed between the Planning Commission and Sportech to determine exact architectural requirements.

Arley Hughes