

RS 2021-024

Case 058-21: 905, 909, and 913 W. 7th St. - A request for a Special Use Permit (1st Request) for the operation of an outdoor recreation and entertainment use – Serita Eldridge

Serita Eldridge, 715 Ella Street, Webb City, MO. We have opened a food park call Food Park 66, it is a unique outdoor experiential shopping. We will have different food vendors out there, food trucks, will hold special events, birthday rental, food, shopping, and entertainment vendors basically. There is no zoning changes requested; the property is zoned for what we are doing already. No changes to the building. I do have a disagreement with the conditions that have been put in the special use by the City. First off, the Health Department wants to limit the number of times that a temporary vendor can come to our special events. Also, I have a disagreement with the hours that the Police Department is trying to impose. They are wanting us to close our business at 9:30pm. I do realize there is a possibility concerning the noise ordinance since we are an outdoor park. There are some neighbors and we have been out there after those times and had no complaints. I also notice that there is a 2-year time frame put on this. In my business plan I won't have a profit until the 3rd year.

Ms. Bruckner-Sears stated that for all our Special Use Permits the time frame is 2 years for reevaluation. We did make note of your concerns. Do the commissioners have any questions? There were none. Would anyone like to speak in favor of this proposal? There was not. Is anyone against this proposal. There was not.

Ms. Steele asked Ms. Eldridge to come back to the podium for a question. Ms. Steele stated that she did have some legitimate complaints or concerns. Do you want to wait to get those amended until we send it on?

Ms. Eldridge stated that she didn't think that is a possibility. She has called the Sergeant and he isn't in to be able to discuss it with him. I don't know if he is willing to work with us or not. Then the Health Department stated that it isn't fair that other people have put money into their food trucks, so they are adamant that they are not changing.

Ms. Steele stated to Ms. Eldridge that even with that you're willing to go ahead of this?

Ms. Eldridge stated that she doesn't even know why she needs a Special Use Permit because she isn't doing anything special. This is the same kind of thing that goes on everywhere. I have concerns of the conditions that they are trying to impose.

Mr. Stanton stated he would like to address the concerns of the noise. The conditions don't state 9:30pm, it states half hour before the noise ordinance takes effect.

Ms. Eldridge stated that is 10:00pm so it would be 9:30pm.

Mr. Stanton stated that the regular operation you have there would not be included under that. It is when you have live music or abnormally large gatherings.

Ms. Eldridge stated that is not what it states either. It stated live music, large gatherings, festivals, and then when it comes down to the food trucks it says they must close at the same time outlined.

Ms. Steele asked Ms. Eldridge again you wish to go ahead with this even though you have concerns?

Ms. Eldridge asked what her options were.

Mr. Stanton stated that you would have to go through and receive a Special Use Permit from the City Council to continue operating. You can ask this commission and City Council to amend these conditions. Once it leaves here there is no guarantee that it will pass with the amended conditions.

Ms. Eldridge is requesting an amendment for the time that you would need to close and how many times a temporary food vendor can come to the park.

Ms. Bruckner-Sears asked staff if that is something we can do here with a temporary vendor is that only through the Health Department.

Mr. Stanton stated that there are some Health Department members here for any questions you might have.

Ryan Talken, Director of the Joplin Health Department and Devin Blankenship, Asst. Director of the Joplin Health Department. Mr. Talken stated that he thought it was important to differentiate between the categories in the food code. Non-brick and mortar vendors, there are two basic categories. There is a temporary event vendor, those are what you would associate with fairs and festivals. Vendors that can operate with the bare minimum. The other category is a mobile food vendor. Mobile food vendors were put in place and voted into its existence by the City Council in 2014. That is more of your food trucks, licensed vendors. You can operate anytime, anywhere, 365 days of the year. The mobile food vendors do have a food permit, they are licensed the same as a restaurant. They pay a health permit fee.

Mr. Eastman asked why the restriction on time?

Ms. Steele asked why the restriction on closing time and how many times they can go?

Mr. Talken stated that the time restriction is the Police Department, not the Health Department's restriction. The way the food code is written it doesn't truly define temporary food vendors. What we have done in the past is go off intent. The intent of a temporary event is an event. Start/stop. Mobile food can operate 365 days. The biggest difference is food safety. You can have an event once a month.

Ms. Phillips stated that she has been open for at least 6 weeks maybe longer. Has there been any complaints or infractions?

Mr. Talken stated that we have done temporary food inspections out there, we have worked with the vendor. As far as complaints go, he had no idea.

Mr. Stanton stated that Planning and Zoning has not received any complaints.

Ms. Phillips asked if Fire or the Police have received any complaints.

Mr. Stanton stated that they have not mentioned any complaints. They did have other concerns which made it into the conditions.

Ms. Eldridge stated they were planning on being open 365 days a year. We also plan on having different special events out there. They are some that go from Spring to Fall, but other events going on.

Ms. Steele asked if Ms. Eldridge was the food vendor.

Ms. Eldridge stated that she was not the food vendor. We don't do food; we make our money from the vendors paying rent space on the land.

Ms. Phillips asked if she is the applicant or the not-for-profit organization?

Ms. Eldridge stated that she is part of the not-for-profit organization.

Ms. Steele stated she has one more question. You are applying for this as an individual not as the non-profit?

Ms. Eldridge stated she was applying for this as Food Park 66 that is the park itself. The business makes money off the vendors. Some of the things, some of the events we are doing, those are related to the non-profit.,

Ms. Bruckner-Sears asked the commission if there were any other questions for Ms. Eldridge and the Health Department. Is there anyone here that would like to speak in favor of this case?

Kim Owen, 635 N Moffet, Joplin, MO. She wants to wish Ms. Eldridge the best of luck and she thinks it is a grand idea.

Ms. Bruckner asked if there was anyone who would like to speak against this case? There was not.

Ms. Phillips asked when would be put in the amendments?

Ms. Stanton requested that you have an amendment to consider, that a separate motion, second and vote for each amendment proposed would need to occur.

Ms. Phillips asked staff if we suggest an amendment, wouldn't that be going over the heads of the Health Department, Police and Fire Departments' conditions?

Mr. Stanton stated as staff we cannot make specific recommendations on cases. The conditions that are in here are almost the foundation to work with. If you feel the need to amend them, you can.

Ms. Steele asked staff if there are not amendments, and it goes to Council as is, then Ms. Eldridge can petition or appear before Council for the amendments she wishes?

Mr. Stanton mentioned that was correct. She would go through an identical process at Council as it is here. She will have the opportunity to address council with her concerns and request any changes.

Mr. Bolander stated that we recommend any amendments be made in this body.

Ms. Steele asked if I said we would like the City Council to reconsider the time and the food trucks for business would that satisfy what you would need?

Mr. Bolander stated that he recommends that Ms. Steele make that amendment.

MR. EASTMAN MOVED, SECONDED BY MS. STEELE THAT CASE 058-21 BE FORWARDED TO THE CITY COUNCIL WITH THE RECOMMENDATION FOR APPROVAL. MOTION CARRIED WITH MS. BRUCKNER-SEARS, MR. EASTMAN,

**MR. MCCULLOUGH, MS. STEELE, AND MS. WARREN “AYE” MS. PHILLIPS “NAY”,
(5 IN FAVOR, 1 OPPOSED, 1 ABSENT)**