

CITY COUNCIL MEETING OF OCTOBER 10, 2022

A meeting of the Warrensburg City Council was held on October 10, 2022 at 7:00 p.m., at 200 S. Holden and via Zoom, with Mayor Kushner presiding. Mayor Kushner called the meeting to order and led in the Pledge of Allegiance. Roll was called as follows, Present: Osborne, Bentley, Uhler, Kushner. Absent: Lund.

The minutes of the September 26, 2022 meeting were considered. Osborne moved to approve the minutes. Yes: Osborne, Bentley, Uhler, Kushner. No: none.

The adoption of the agenda was considered. Bentley moved to adopt the agenda. Yes: Osborne, Bentley, Uhler, Kushner. No: none.

Mayor Kushner invited Erica Collins, Chair of the Diversity and Inclusion Commission, to come forward for the reading of the Hispanic Heritage Month September 15th-October 15th, 2022 proclamation.

Mayor Kushner invited 4-H youth and adult leaders, including Tourism Director Barnhart and Div. Chief-Fire Marshal VanWey, to come forward for the reading of the National 4-H proclamation as part of its celebration during the week of October 2-8, 2022.

Mayor Kushner invited Fire Chief Jennings, Div. Chief-Fire Marshal VanWey, Fire Captain Koons and all firefighters in attendance to come forward for the reading of the Fire Prevention Week October 9-15, 2022 proclamation.

Fire Captain Terry Hill, President, Warrensburg Firefighters Local 3923, presented t-shirts to city council and city clerk for Breast Cancer Awareness Month. Fire Captain Hill said Local 3923 had designed a special t-shirt for the past ten-to-twelve years to raise funds for the Johnson County Cancer Foundation and the firefighters wear them proudly every year. Mayor Kushner thanked him and Local 3923 on behalf of city council and said it was a worthy cause.

Mayor Kushner opened a public hearing on an ordinance authorizing a conditional use permit for a motor vehicle painting and body work facility at 812 E Young Street. Community Development Director Carroll said the property owner received a conditional use permit in 2020 under the same land use 9.400 approved as Ordinance 5595. Since that time, a business has operated under that conditional use permit and continues to operate at that location. This new permit application by NDS Investment, LLC proposes to split the lot into two smaller lots. The minor plat will be considered later in this meeting. If approved, new boundary lines will be established with the same land use and location and will nullify the 2020 conditional use permit. The applicant, however, would like the existing business to continue operating at that location. The applicant does not propose to enlarge the building or change the parking. The two existing buildings will be split with one building per lot and the bulk of the parking going to Lot 1 with an easement for parking on Lot 2.

City staff recommends approval based on GB: General Business District regulations, trends of development, the Future Land Use Plan for Industrial Use, that E. Young St. is an arterial street near the Highway 50 ramp and the street was designed to accommodate traffic without negatively impacting surrounding properties. There were two conditions written in the ordinance for final site plan approval and field inspection for parking lot tree compliance. The required

notice was given to surrounding property owners. The Planning & Zoning Commission considered the permit on October 3rd and held a general discussion on the fifty-foot frontage requirement along Young St. for Lot 2 and use of the existing driveway on the east side of Lot 1. The commission voted 3 in favor and 3 opposed with 1 abstention offering city council no recommendation. There has been no public comment received. The applicant was present to answer any questions. Mayor Kushner asked whether there were any comments in opposition or support for this permit and Carroll said no comments had been received. There being no further questions, Mayor Kushner closed the public hearing.

Mayor Kushner opened a public hearing on an ordinance authorizing a conditional use permit for multi-family apartments on the west side of the 1100 Block of S. Mitchell St. Community Development Director Carroll said the applicant requested the permit under land use 1.330 Multi-Family Apartment, Street Level, in a GB: General Business District for a development by Deer Run Cottages LLC. The applicant requests to develop the property of nine lots (six lots north of Deer Run and three lots south of Deer Run) with four duplexes, six triplexes and three fourplexes for a total of 38 units on the West side of S. Mitchell St. Earlier this year, the developer applied to rezone the lots as multi-family and that request was denied. The developer regrouped and submitted this conditional use permit for GB: General Business Use which allows multi-family if a conditional use permit is approved; and if approved, then R4 medium density multi-family requirements are used by staff to review the site plan. As in its last proposal, the applicant has applied for a replat of these nine lots to create two lots combining the six northern lots into one large lot and three southern lots into one large lot. Carroll stated that the site plan with conditional use permit is premised upon two large lots.

Carroll said in the site plan are what appears to be internal streets and pointed out that those are not public streets but private driveways and would not be accepted as streets for city maintenance or snow plowing. The private driveways were twenty-eight feet wide which would allow parking on one side. The site plan shows driveways from internal larger driveways into each individual unit leading up to a one-car driveway or one-car garage. Carroll referenced pictures in council's packet for an example of the internal driveways at the units. Carroll said there were seven comments in the staff report including a landscape buffer requirement with four sides bordering residential areas that developer plans to comply with in part by using an existing stand of trees. There were two public comments from Robert Shane II, 1403 Charleston Court, submitted by email and found in council's packet, who is opposed, and Anita Love, 1210 Deer Run, who attended the Planning & Zoning Commission meeting and voiced opposition with comments summarized in the staff report.

The Planning & Zoning Commission recommended approval by a vote of 7-0 with two conditions after a lengthy discussion of internal driveways, whether a need for sidewalks, age limit on renters, landscape buffer and stormwater requirements. City staff recommends approval as the developer has met the city's code requirements given the site plan provided at this point. City staff requests authority to approve the final site plan upon submittal of the building permit plans and does not anticipate any major changes. Carroll pointed out criteria for a conditional use permit and the intent for a general business district area and read the last sentence of the district's intent requirement, "To promote in-fill and sustain the mix of residential development within the community, certain residential uses are allowed in the CB district subject to conditions." Carroll also referred to the 2017 comprehensive city plan for the properties north of Deer Run showing that area as medium density residential and properties south of Deer Run as neighborhood commercial. The trend of development in the area is a mixture of single family, multi-family and industrial uses.

Carroll said the applicant, surveyor and engineer were present to answer any questions. Council Member Osborne asked for an explanation of "street level" and Carroll answered that it was referred to in the Table of Uses for land uses in multi-family street level and multi-family base-lower level and defines the different types of uses including street level as compared with second-story apartments found mainly in the downtown area district. Mayor Kushner asked how to annotate driveways that lead to driveways and Carroll responded that although the developer proposed names, it would be addressed to S. Mitchell St. and annotated as Buildings A, B, C, etc. instead. Mayor Kushner asked what the request was earlier this year and Carroll said the request was from GB to R4 change in designation but without specifications to the project. Further, Carroll said if the developer walked away from the project, it would have been zoned R4 for all time and anyone could have come in under R4. Carroll said with a conditional use permit, the City would know what the project looks like specifically and how a project impacts the neighborhood. Mayor Kushner asked if the development would be a managed group for snow removal or maintenance. The engineer for the development, Steve Warger, RL Buford Engineering, 7603 NW River Park Drive, Parkville, Missouri, answered that it will be owned and maintained by a management group for trash, snow plowing and maintenance. Warger said the rental units would be for 55 years and older and not income based. There being no further questions, Mayor Kushner closed the public hearing.

Mayor Kushner read an Ordinance Approving and Accepting the Minor Plat NDS Industrial, a Subdivision in the City of Warrensburg, Missouri, Located at 808 and 812 E. Young Street, for the first time by title. Community Development Director Carroll said the application is the same as the conditional use permit for 812 E. Young Street submitted by the parent property and is a large rectangle tract of land divided into two lots. The two lots are Lot 1 with the paint and body shop in an existing building and Lot 2 with an existing building on the south side of the property. There is a 50' wide strip of land on the west side that goes from Lot 2 north alongside of Lot 1 to frontage along Business 50 Young Street. The city requires that every lot in a GB: General Business District have at least 50' of frontage on a city street so that strip of land accomplishes that purpose. Due to the location of the existing building on Lot 1, the frontage measured only a 46.5' wide strip and not the required 50' on the city street. In remedy, the property owner put an ingress/egress over the existing driveway for access to Lot 2 and for technical compliance with the ordinance for a 50' wide strip on the west side of Lot 1. The plat is part of a multi-step request by applicant that includes a conditional use permit since a driveway entrance cannot be constructed on Lot 2 due to Public Works' driveway spacing requirements thereby a permanent 30 ft. ingress/egress easement is located along the east property line of Lot 1. The Planning & Zoning Commission considered the plat and recommended approval. City staff recommends approval. This will be considered again next meeting.

Mayor Kushner read an Ordinance Authorizing a Conditional Use Permit for Land Use 9.400 Motor Vehicle-Related Sales and Service Operation Motor Vehicle Painting and Body Work Facility in a GB: General Business District located at 812 E. Young Street in the City of Warrensburg, Missouri, for the first time by title. Community Development Director Carroll had no further information to add from the public hearing. The proposed ordinance will be brought back for a second reading in two weeks.

Mayor Kushner read an Ordinance Approving and Accepting the Final Plat of Deer Run Cottages, a Subdivision in the City of Warrensburg, Missouri, located on the West Side of the 1100 Block of S. Mitchell Street, for the first time by title. Community Development Director Carroll said the plat consists of six units north of Deer Run Road as a lot, and three units south of Deer Run Road as a lot, along the west side of S. Mitchell St. totaling two lots. The plat is part of a multi-step request by applicant that includes a conditional use permit that proposes a

network of internal private driveways that are intended to function similarly to public streets with parking on one side. The proposed project is consistent with the 2017 Comprehensive City Plan. City staff recommends approval. The Planning & Zoning recommended approval with staff recommendations. This will be considered again next meeting.

Mayor Kushner read an Ordinance Authorizing a Conditional Use Permit for Land Use 1.330 Multi-Family Apartments, Street Level, in a GB: General Business District on the West Side of the 1100 Block of S. Mitchell Street in the City of Warrensburg, Missouri, for the first time by title. Community Development Director Carroll had no further information to add from the public hearing. The proposed ordinance will be brought back for a second reading in two weeks.

Mayor Kushner made recommendation for the following mayoral appointments:

- (a) Appoint Dawn Gauvin as a Director of the Parks & Recreation Board filling an unexpired term through June 2023
- (b) Appoint Melissa Frey as Member of the Diversity and Inclusion Commission for a three-year term expiring in October 2025
- (c) Appoint Oscar Villarreal as Member of the Diversity and Inclusion Commission for a three-year term expiring October 2025
- (d) Change the appointment of Doug Christie from non-voting member to voting member of the Diversity and Inclusion Commission for the duration of the current term expiring in August 2024
- (e) Re-appoint Atsuki Mori as Member of the Diversity and Inclusion Commission for a three-year term expiring October 2025
- (f) Appoint Greg Hall as a Member of the Tax Increment Financing (TIF) Commission for a four-year term through October 2026
- (g) Appoint Jonna Albert as a Member of the Tax Increment Financing (TIF) Commission for a four-year term through October 2026
- (h) Re-appoint Linda Schnakenberg as a Member of the Tax Increment Financing (TIF) Commission for a four-year term expiring February 2026

Bentley moved to approve the recommendations. Roll was called for appointment as follows: Yes: Osborne, Bentley, Uhler, Kushner. No: none.

There were no Appearances to the Council Not Listed on the Agenda.

Mayor Kushner heard from several citizens who said it was great that Hawthorne Park was getting fixed instantly and appreciated seeing a contractor at the park daily. Mayor Kushner thanked public works. Mayor Kushner also said this year's Burg Fest was the largest and busiest with double the size of the car show and thanked city staff that stayed all day at the city's booth handing out information and prizes.

Finance Director McCoy said the preliminary numbers for the September Revenue Budget Report show the total collected posted receipts exceeded budgets for all funds by nearly two percent. These are preliminary numbers and will change through the audit process. Final numbers will be included in the annual audit report. General Fund revenues were exceeding budget by just under four percent and reflect sales tax collections, property tax receipts along with grants, donations, and fees. Capital Improvement ½ cent revenues were also exceeding budget by nearly fourteen percent. As part of year-end closing, encumbrances for projects and products ordered in September were completed. This will generate a budget amendment for 2023 in the first quarter of the fiscal year.

City Manager Dulin gave a presentation on a Community Revitalization Grant offered through the Missouri Department of Economic Development. Dulin said the City had applied for a RAISE grant offered by the U.S. Department of Transportation in both 2021 and 2022 for \$23.5 million in federal funding to match \$10.42 million of local funds. Dulin met with the US Department of Transportation regarding both applications and received feedback that the applications were highly recommended and highly rated as a project of merit status but not chosen as the pool of 300 applications was highly competitive and only 160 applications were approved. Dulin said there is no time to re-apply for a 2023 RAISE grant and did not hear anything in that conversation with the Department of Transportation that the city would be successful in the process. Dulin said it is important to expend the \$17 million in general obligation bond proceeds (drawn \$5 million in 2021 and \$12 million in 2022) and demonstrate a reasonable expectedness to spend down those funds in a timely manner. In speaking with bond counsel, the city needs to spend 30% in the first year, 65% in the second year and 85% by the fifth year. Additionally, when the bonds were issued, interest rates were low but have increased and the city needs to be careful not to earn income on bond interest.

Dulin said the Community Revitalization Grant was an opportunity to accomplish the expectations given to the voters to address the Maguire Street corridor. These expectations included an interchange to replace the current bridge, green spaces, sidewalks, stormwater and the condition of the pavement on Maguire. Dulin said the Community Revitalization Grant is funded with the State's American Rescue Plan Act (ARPA) money administered through the Department of Economic Development. Dulin recited the list of eligible activities for "impacted and disproportionately impacted households," eligible activities for "disproportionately impacted communities," eligible activities for "impacted and disproportionately impacted small business," and ineligible activities. Dulin explained that upon receipt of ARPA funds in an amount less than \$10 million, the city was able to spend the funds without showing covid impact or disproportionately impacted households, communities, and small businesses. The State of Missouri, however, did receive more than \$10 million and must show how those funds are being spent in those categories and is part of this grant process. Dulin said the grant offered the availability of \$15 million for central region, a 50/50 match, scoring higher if greater match, and a grant minimum of \$250,000 and maximum of \$3,750,000. The city would provide documentation of community support and narratives for the project, past performance for similar projects, budget, demonstrate community priority, provide justification for capital expenditures greater than \$1 million and be subject to a time-stamped application submittal.

Dulin said priorities on the Maguire Street corridor were discussed by city staff and it was proposed to pull out the Sidepath Trail along the corridor and crosswalk/sidewalk improvements. The estimated cost is \$998,000 and includes \$216,000 right-of-way acquisition and \$240,000 utility relocation. Dulin said much of the legwork had already been done with previous grant applications. The project will benefit disproportionately impacted communities with the length of the corridor in an opportunity zone and qualify with the census tracts. Council Member Uhler

asked the length of the Sidepath Trail and Dulin answered that originally the trail stretched the entire length of the corridor to the university's campus but this project will reduce the length from Young Street to Broad Street on the east side of Maguire. Council Member Uhler asked if the Sidepath Trail would be for walking or biking and Dulin answered the ten-foot-wide trail would be able to accommodate both. Mayor Kushner asked whether the right of way acquisition cost was estimated or actual and Dulin answered that it was an estimated cost. Mayor Kushner asked what amount was originally allocated to Sidepath Trail for right-of-way acquisition and Dulin answered that it was \$2 million dollars in the RAISE grant for the entire corridor length. Dulin said the grant application provided a great matrix to know what the score is upon submittal. For instance, Dulin said nine points are given with a 60-69% match and ten points with a 70-79% grant match. Dulin requested council feedback in the next week or so and look for action on October 24th to move forward with the grant application. There will be an extensive community engagement portion of this project since the original study was done eleven years ago.

Assistant City Manager/Public Works Director Villegas gave a presentation on Project Delivery Methods for the Maguire Street project. There are two paradigms for delivery methods. There is a traditional route for Design Bid Build (DBB) or plan specification. In this DBB paradigm, the owner would deal with either two or multiple contracts one with an engineer, contractor, architect and/or subcontractors. Conversely to the DBB delivery method, other methods are construed as Alternative Delivery. Within the alternative delivery, there is Design Build (DB), Progressive Design Build (PDB), Construction Manager at Risk (CMAR), and the list goes on. One of the key differences between DB and DBB is that there is a single contract that the engineer and contractor work under in the same room and the owner is involved in every step.

Villegas showed a timeline comparing the DB, DBB and PDB delivery methods. The DB method will have an overlap of design with the construction and accelerates a project by 60%. The DB also mitigates change orders and overruns in schedule. Villegas noted the PDB method was the same. There are some key differences in DB and PDB. In particular, the PDB is parsed into two phases. Phase 1 covers the preconstruction items such as utility coordination before the actual construction starts and Phase 2 covers the construction. Villegas said with a PDB, there is an off-ramp if the owner feels uncomfortable with the costs, the owner can bail out and proceed with the contract or proceed with construction under a normal DBB process. Another difference in DB and PDB, in PDB, the owner would not know what the construction dollar amount would be until the construction has started and that is a risk the owner would take but since the owner is involved in every step of the way the owner should have an idea of the cost. Villegas said in the DB method, the owner would know what the cost is before the construction starts. This is known as the guaranteed maximum price and a big benefit using the DB paradigm. With the current market and price fluctuations, prices are hard to estimate so having some type of assurance from the designer and the contractor for a two-year guarantee (e.g., any overrun not initiated by the owner would be borne by the designer/contractor).

Villegas pointed out some pro's and con's in delivery methods. On the pro's side for DB is a higher degree of value engineering. Value engineering is planning the project, detailed design of the project, utility coordination, etc. and intended to analyze how the net project net gains for the community. Another thing about DB, the method is very true to triple constraint of "scope, schedule and budget" since a DB project would offer a guaranteed maximum price, the contractor nor engineer want to exceed the guarantee. Some con's would be statutory drawbacks in Missouri of a three-phase qualifications-based procurement process. Villegas said if the city proceeds with any DB responder, and the city reviews their designs and the DB responder makes it to the final three choices then the city is required to pay them a stipend for

bidding on a city project. Per the statute, the stipend would be no less than ½ of 1% of the project budget. In addition to PDB and DB, another key difference is the DB is qualifications-based procurement and PDB is a best value process procurement wherein best value takes into account qualifications and cost. The State's statutes do require the procurement process to be a qualifications-based process.

Villegas summarized with trends and data from the Design Build Institute of America (DBIA) think tank. The DBIA analyzed DB vs. DBB project data from 1998 to 2018 and those that have utilized DB realized construction speed of 36% faster, delivery speed of 102% faster, 44% of projects (public and private) utilize DB for project delivery choice and 12% cost savings. It is the recommendation of city staff to utilize a DB approach for the guarantee of price and the assurance it provides to the city.

As there was no further business, the meeting adjourned at 8:15 p.m.

Jim Kushner, Mayor

Attest:

Jodi L. Schneider, City Clerk