



CITY OF WARRENSBURG, MISSOURI
PLANNING AND ZONING COMMISSION MINUTES
April 3, 2023

1. Call to Order

Vice Chair Andy Kohl called the meeting to order at 5:30 p.m. at the Warrensburg Municipal Center.

2. Roll Call

Community Development Director Carroll called the roll, as follows: Commissioners Lund, Terry, Nimmer, Kohl and Jackson were present. Commissioners Uhler, Westhead, Bax and Steel were absent. Vice Chair Kohl declared a quorum. Carroll said that Steel was relocating from Whiteman Air Force Base and would not be able to serve out his term. Also present were Enrico Villegas, Assistant City Manager/Public Works Director, Danielle Dulin, City Manager and Jodi Schneider, City Clerk.

3. Minutes of Previous Meetings

The Commissioners reviewed the February 6, 2023 minutes. Nimmer said there was a typographical error under Item 5.1 at the end of the second line. The line should read "once" and not "one a." Lund moved to approve the amended minutes. Nimmer seconded. By show of hands, Commissioners approved the amended minutes, as follows: Yes: 4. No: none. Jackson abstained from the vote. Motion carried 4-0.

4. Requests and Petitions Presented

- 4.1 Request for Conditional Use Permit (CUP) for a Single-Family Detached, Site Built Dwelling (Land Use 1.111) in a CB: Central Business District
210 E. Gay St

Carroll summarized the history of the structure originally built as a single-family residence but operating as a bed & breakfast business most recently. Carroll said single-family use had ceased in the 1970's when it became a bed & breakfast business, and that use has been abandoned since it has not been in operation for over 365 days. Carroll said the table of permissible uses in Section 27-200 allows a single-family dwelling with an approved CUP in a CB District. The applicant, Joyce Barnes, has listed the property for sale, and the potential buyer is seeking to use the property as a single-family residence. Carroll said surrounding property owners within 300 feet were notified of the April 3, 2023 meeting. Three public comments were received by staff prior to the meeting as follows:

Towanda Lawler, 216 NE 51st Rd, contacted City Hall on March 21, 2023, for a copy of the letter to be e-mailed since she is out of the country. Staff e-mailed the letter on March 22, 2023, and no further comments have been received as of this writing.

Jason Sharpe, on behalf of Salsbury House LLC, 217 E. Gay St., visited City Hall on March 22, 2023, for general information regarding the CUP.

George Hout, 216 E. Gay St., visited City Hall on March 27, 2023, for general information regarding the CUP.

City staff recommended approval of the CUP for the following reasons:

1. The request is in keeping with the 2017 Future Land Use Map for Neighborhood Mixed Use.

2. The Neighborhood Mix Use category allows for “greater flexibility in uses and building design to allow either mixed use or single-use buildings.”
3. The request is in keeping with the mixture of uses and residential character of the properties along the 200 block of E. Gay St.

City staff recommended approval of the CUP with the condition that staff be granted authority to approve the final site plan. Vice Chair Kohl asked if there was any public comment. Kevin Martin signed up to speak but said he did not have a comment at this time. George Hout was present and asked if there were any plans to build onto the house or property? Carroll said staff was not aware of any plans to alter the building or the property.

4.II Request to Rezone GB: General Business District to R3: Low-Density Multifamily Resident District
115 & 117 W. Oak St

Carroll said 117 W. Oak St is developed with a single-family home and the property at 115 W. Oak Street is vacant (a previously existing multi-family structure has been demolished). The applicants, Brian and Kristin Dyer, have requested to rezone from General Business District to R3 Low Density Multi-Family Residence District. Carroll reviewed the information in the staff report and read the two public comments received prior to the meeting as follows:

John Angel, 625 NE State Route 13, called City Hall on March 21, 2023. Mr. Angel is against the request and stated the request is no advantage or benefit to him. He stated the 30 ft. setback on his GB property from the future R3 property would make it hard for him to use his 75 ft. wide lot. Mr. Angel said his current GB setbacks are 0 ft. on the South side and 10 ft. on the East side.

Kevin Faudi, 600 ½ N. Holden St. visited City Hall on March 27, 2023. He had a general question about the nature of the rezoning request and stated he didn't care about the request as long as it would not impact his business or business license.

City staff recommended approval of the rezoning request for the following reasons:

1. The proposed zone is an extension of an existing R3 District and a downzoning to a less intensive zoning district.
2. The proposed zone is consistent with the adopted Comprehensive City Plan and Future Land Use map.
3. The proposed land use is in keeping with the general development trend of the area.

Applicant Kristin Dyer spoke and said there were no plans to develop or change the property and it would be used only as a single-family residence. Dyer cited some of the many improvements made to the property which help to preserve their property and the residential character of the neighborhood. Dyer said as a single-family use in a GB district, the property is subject to R4 regulations which requires a 12.5 ft. setback for a three-story structure instead of the 0 ft. side and 10 ft. rear setback required for non-residential structures in a General Business District. Dyer stated the sign, lighting and 30 ft. setback buffer requirements do not apply to protect their property since it is a residential use in a GB district as opposed to a residential use in a residential district. Dyer said a billboard could be placed 5 ft. from the side lot line and 10 ft. from the front lot line of an adjacent GB property and shine into their bedroom and they could do nothing about it.

Public comment was received during the meeting as follows:

John Angel, 625 NE State Route 13, stated he is opposed to the request. He stated his property is 75 ft. wide and 143.5 ft. deep and with a 30 ft. setback from property lines adjacent to R3, he would not have free use of his property. Angel said if he wanted to sell for commercial use, 40% would be gone or 2/5ths unusable for a future buyer. Angel noted Kristin Dyer works in the City's Community Development department. Angel stated that while moving a shed from the back of his property to the front last week, there was an exchange with Brian Dyer in which Dyer spoke of purchasing Angel's property in the future and taking pleasure in destroying the building with a bulldozer.

Vice Chair Kohl questioned if an existing building in the 30 ft. setback would be grandfathered if rezoning is approved. Carroll said yes, and it could be repaired or maintained up to 75% of the fair market value prior to the damage occurring or repairs commencing. Over 75%, it would have to come into compliance with the setback requirements. Any new structure or addition to the grandfathered structure would have to meet the setback requirements.

Vicki Carey spoke as a Trustee of the Vaughn Trust. The Vaughn Trust owned 111 and 113 W. Oak. Carey sought general information and asked what prompted the rezoning change and how it affected the Trust's property. She asked if R3 would allow duplexes or other multi-family units if the rezoning request was approved.

Larry Jennings spoke as Fire Chief on behalf of the Johnson County Fire Protection District (JCFPD) at 122 W. Young Street. Jennings said the property was zoned GB for many years before it was purchased by the applicants and questioned why they bought it if the zoning didn't work for them. Jennings stated the City's Comprehensive Plan is subject to change in the future. Jennings said while future needs are unknown, JCFPD did not want to have further restrictions by the 30 ft. setback along their south property line where it is adjacent to 115 W. Oak St. Jennings questioned and Carroll confirmed that as an entity that can levy taxes, the JCFPD is sovereign and would not have to comply with the setback requirements. Jennings said if the JCFPD would sell the property, the setback would become a problem for a future owner. Jennings stated there is no real advantage to the City to rezone the properties.

Vice Chair Kohl asked if there was any further public comment.

Applicant Brian Dyer came forward and stated he purchased the property through a VA loan when he retired from the Marine Corps. There was no issue with getting the loan and he was not aware it was zoned GB when he bought it. Dyer said he loved the house since childhood, and he bought it and has put \$130,000 worth of improvements into the house. He purchased the adjacent lot when it was discovered through a survey that part of the 117 W. Oak driveway and garage were on 115 W. Oak. Dyer is concerned if they ever want to sell, future buyers might have trouble getting a loan because it is a residential use in a GB district. In reference to the conversation with Angel the week prior, Dyer said Angel placed the shed on the property line to preserve the 0 ft. setback because of this request to rezone. Dyer said that he told Angel that he would buy the lot to tear the old shed down.

There was a general discussion following the public comment concerning the requirements for rebuilding a house or structure in a General Business District following damage exceeding 75%. Carroll stated if the damage is under 75% of the fair market value immediately prior to the damage occurring, then it could be repaired in the same location with a building permit. That would not require a Conditional Use Permit. If a

house in a GB district is damaged beyond 75% of the fair market value, then it would have to apply for a Conditional Use Permit to be rebuilt. If the house that was damaged was in the 30 ft. setback adjacent to a residential district, it would not be allowed to be built back in the same location. The new construction would have to meet the 30 ft. setback requirement. This would also be true of a garage or other structure on the property with the house. There was further discussion about the specifics of rebuilding structures on Angel's property and the Vaughn Trust property. Seeing no other comments, Vice Chair Kohl closed the public comments.

5. Motions, Resolutions, and Recommendations

5.I Request for Conditional Use Permit (CUP) for a Single-Family Detached, Site Built Dwelling (Land Use 1.111) in a CB: Central Business District *210 E. Gay St*

Jackson moved to approve the conditional use permit with the condition that staff is granted the authority to approve the final site plan. Lund seconded. Roll call vote, as follows, Yes: Lund, Nimmer, Kohl, Jackson. No: none. Terry abstained from the vote. Motion carried 4-0. Vice Chair Kohl read and completed the Findings and Recommendations.

5.II Request to Rezone GB: General Business District to R3: Low-Density Multifamily Resident District *115 & 117 W. Oak St*

Jackson moved to approve the rezoning request. Lund seconded. Roll call vote, as follows: Yes: none. No: Lund, Nimmer, Kohl, Terry, Jackson. Motion failed 0-5. Vice Chair Kohl read and completed the Findings and Recommendations.

5.III Southwest Estates, Lots 12A & 13A (Minor Plat) *317, 323, & 325 Jones Ave.*

Carroll said the applicants Brandon & Jessica Whitney and Victor & Kristen Lowe, have submitted a revised minor plat for a lot line adjustment between the properties at 323 and 325 Jones Ave. The application was submitted in November of 2022 and applicants were notified in December of numerous required plat corrections. There was no response from the applicants in January. With no response by the applicants, action was taken by the Planning & Zoning Commission and City Council in early February 2023 to deny the request. A revised plat making the corrections was then submitted by the surveyor on February 14, 2023. The shared lot line moves to the east and provides 325 Jones with a larger lot. The plat proposed to vacate a utility easement located between the original Lot 11 and Lot 12. The plat calls out a 10 ft strip of land on the east side of Lot 12A.

Terry moved to approve the minor plat with staff recommendations, as follows:

1. Label the 20' easement along the rear of the lots as S.D & U.E. so it is covered and rededicated by the Dedication statement on the plat.
2. The City will not vacate the northernmost 20 ft. of the 15' easement between original Lots 12 and 11. On both the plat and the easement exhibit, do not put the gray color on the northernmost 20 ft. of the side lot line easement. This is the same 20 ft. that is the existing Drainage Easement that will be rededicated as a 20 ft. S. D. & U. E. on this plat.

Jackson seconded. Roll call vote, as follows: Yes: Lund, Nimmer, Kohl, Terry, Jackson. No: none. Motion carried 5-0. Vice Chair Kohl read and completed the Findings and Recommendations.

6. Other Business and Appearances by the Public

6.I Overview of the New Residential Sidewalk Improvement Program

Enrico Villegas, Assistant City Manager/Public Works Director, gave a presentation on the City's new Sidewalk Improvement Program. Villegas said the previous program was a cost-share wherein the property owner would request a sidewalk repair; a city inspection and repair estimates would be determined; and once determined, the property owner would pay a cost share of a \$1.50 a square foot and the city paid the remaining cost of the repair. The city would only receive three to five repair requests per year. Villegas discussed some cons of the previous program including that it did not address problems such as connectivity, walkability, and accessibility.

The new Sidewalk Improvement Program divides the city into 9 separate zones. Each zone would be inspected by city staff and evaluated based on best practices, and guidance provided by the A.D.A. accessibility guidelines (ADAG) and Public Rights of Way accessibility guidelines (PROG). The City would then bid out the work in each zone and the City would cover all costs for that contract. The evaluations for Zone 1 for this year are complete and it is estimated 9,000 linear feet of sidewalk will be repaired in this zone. Villegas estimated that it would take about 10 years to address the whole City.

Villegas stated the City Council had approved a new policy with the sidewalk program changes. The policy covers how costs would be allocated for property owners that want a sidewalk repair outside the zone currently being addressed by the City and historical sidewalk repairs. There was a general discussion about the need for any right-of-way acquisition. The commissioners showed appreciation for the City taking a proactive approach to connectivity and walkability.

6.II FY24 Budget Request

Carroll presented three training options for consideration as part of the FY24 Budget as shown in the staff report. Option 1 is Commissioners' attendance at the annual Missouri APA conference held during October at a cost of \$1,300 each (includes hotel stay and registration). Option 2 is a current webinar training series and still available for unlimited viewing for two years (no additional funding required in FY24). Option 3 is budgeting \$500 for board training by the City Attorney. Terry moved to approve Options 2 and 3. Nimmer seconded the motion. By show of hands, Commissioners approved the motion, as follows: Yes: 5. No: None. Motion carried 5-0

7. Comments of Commissioners and Staff—None

8. Adjournment

Jackson moved to adjourn the meeting. Kohl seconded. By show of hands, Commissioners adjourned the meeting, as follows: Yes: 5. No: none. Motion carried 5-0.

The meeting adjourned at 6:51 p.m.

Date: July 3, 2023


Chair