

CITY OF WARRENSBURG
COMMUNITY DEVELOPMENT

January 7, 2020

Honorable Mayor and
Members of the City Council
City of Warrensburg, Missouri

Dear Mayor and Council Members:

SUBJECT: A Public Hearing on an Ordinance Approving a Conditional Use Permit to Use the Property Located at 123 E. Young Street, Warrensburg, Missouri for a Conforming Purpose Without Correcting the Non-Conforming Situations That are Not Reasonably Possible to Eliminate

BACKGROUND:

The applicants, William G. Norvell and Pakaruedee Norvell a/k/a Pat Norvell, Trustees of the Norvell Revocable Trust u/t/a dated June 29, 2011, is requesting a Conditional Use Permit (CUP) to use the property located at 123 E. Young St., for a conforming purpose without correcting the non-conforming situations that are not reasonably possible to eliminate. This request involves a request to use the property for Land Use 4.120 MANUFACTURING, PRINTING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLING OF GOODS, MERCHANDISE AND EQUIPMENT: Majority of dollar volume of business not done with walk-in trade, and the existing building setbacks as the non-conforming situation. This request involves Section 27-28 (g) (2) of the City Code of Ordinances.

Four Seasons HVAC would like to purchase the property and remodel the existing building, resurface the parking lot with striped parking, and relocate and construct a dumpster enclosure. Use of the building as a repair shop is a use allowed by right in the GB: General Business district.

The property is currently classified as a non-conforming situation because it does not meet the setback requirements between the existing building and dumpster and Young St. and College St., the parking spaces do not meet design and size requirements, and landscaping requirements. Currently, the existing building, as shown on the preliminary site plan, is 27 ft. from E. Young St., and 26 ft. from N. College St. The required setback is 40 ft. from E. Young St. and 30 ft. from N. College St.

Once a non-conforming situation has been discontinued for more than 12 months, the property must comply with zoning regulations to be used again or can apply for a conditional use permit to use the building for an allowed use without correcting the non-conforming situations that are not reasonably possible to eliminate. This property lost its grandfathered status on August 4, 2016.

Four Seasons HVAC has provided the attached development site plan showing they can meet all the current zoning code requirements, including parking and landscaping, except they can't reasonably do anything to move the building to meet the setback requirements. They are not proposing to change the footprint of the building or in anyway make the building closer to College St. or Young St. They will be moving the dumpster enclosure so it

is no longer in the College St. setback. In addition to the zoning requirements, the redevelopment of the site triggers right-of-way improvements to the north side of E. Young St., and the west side of N. College St. to include curb, gutter, and sidewalk.

Adjacent Zoning

The property is located in a GB: General Business District and all surrounding properties are in the GB district. The surrounding areas include College Park shopping center to the north, NAPA Auto Parts to the east, Big Boy's Toys Auto Sales to the south, and Enterprise Rent-A-Car to the west

Site Plan

Conditional use permits require preliminary and final site plans be prepared and submitted to the Planning & Zoning Commission and City Council for review and approval. Attached is the preliminary site plan submitted by the applicant on December 17, 2019. The site plan shows the lot is of a sufficient size to accommodate the proposed use and will be able to meet the code requirements except for setbacks. As such, staff requests the authority to approve the final site plan as part of the building permit process.

Public Comments Received

As a land use issue that can have an impact on surrounding property owners, CUP's are required to receive input from adjacent property owners. The attached list of property owners within 300 feet of the site were notified of the January 13, 2020 meeting before the City Council. At the time of this writing, the following public comment has been received:

Rick Mills on behalf of The Grizzley LLC, 707 N. Holden St., contacted City Hall on December 23, 2019 for general information regarding the request. Mr. Mills stated he did not have an issue with the proposed request.

Gregory Smith, 90 SW County Rd BB, contacted City Hall on January 2, 2020 for general information regarding the request.

Criteria for Considering a Conditional Use Permit

Section 27-300 (c) (2) outlines the criteria to be considered by the City Council when making considering a Conditional Use Permit.

- a. The statement of intent for the GB district, Sec. 27-118(b), states "The GB district is designed to allow general trades and commercial services on major thoroughfares outside of central or neighborhood business districts. 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."
- b. The 2017 Comprehensive City Plan Update shows the property as neighborhood commercial.

Planning and Zoning Commission Action

The Planning and Zoning Commission discussed the request at their meeting on January 6, 2020, and voted to recommend approval of the request for a CUP to allow the use of the existing building and property located at 123 E. Young St., for a conforming purpose, Land Use 4.120 MANUFACTURING, PRINTING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLING OF GOODS, MERCHANDISE AND EQUIPMENT: Majority of dollar volume of business not done with walk-in trade, without

correcting the non-conforming situations that are not reasonably possible to eliminate which are specifically limited to the existing setbacks between the existing building and the property lines adjacent to Young St. and College St. with the following condition:

1. Staff be granted the authority to approve the final site plan as part of the building permit process.

ISSUE:

To approve an ordinance approving a CUP that would allow Four Seasons HVAC to use the existing building at 123 E. Young Street if they come into compliance with all City codes except the setback requirements from Young St. and College St.

STRATEGIC PLAN:

The request is not addressed in the Strategic Plan.

FISCAL IMPACT:

N/A

ECONOMIC BENEFITS/IMPACT:

N/A

RECOMMENDATION:

Staff recommends approval of the ordinance for the following reasons:

1. The proposal is in keeping with the intent of the GB: General Business District and the general trend of development in that area.
2. The property is located on E. Young St., an arterial street. Staff does not anticipate negative impacts on the surrounding properties or the public health or safety from using the space for Land Use 4.120 or any additional traffic it may generate.
3. Land Use 4.120 MANUFACTURING, PRINTING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLING OF GOODS, MERCHANDISE AND EQUIPMENT: Majority of dollar volume of business not done with walk-in trade is a conforming use in the GB district.
4. The property with the existing building cannot be developed for any use including the proposed use without setback deviations.
5. The proposed use and redevelopment of the site does not increase the extent of the nonconformity of the nonconforming situation, does not increase the total amount of space devoted to a nonconforming situation, or create a greater nonconformity with respect to the dimensional setback requirements.

Sincerely,



Barbara Carroll, AICP
Director of Community Development

CC: City Manager

- Attachments:
1. Ordinance
 2. Planning and Zoning Commission written recommendation
 3. Zoning information
 4. Aerial photograph of site
 5. Future Land Use Map from 2017 Comprehensive Plan Update
 6. Section 27-300 (c) (2) of the Code of City Ordinances
 7. Section 27-28 (g) (2) of the Code of City Ordinances
 8. List of property owners within 300 ft
 9. Letter to property owners within 300 ft.
 10. Publisher's Affidavit
 11. Application
 12. Preliminary site plan

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT TO USE THE PROPERTY LOCATED AT 123 E. YOUNG STREET, WARRENSBURG, MISSOURI FOR A CONFORMING PURPOSE WITHOUT CORRECTING THE NON-CONFORMING SITUATIONS THAT ARE NOT REASONABLY POSSIBLE TO ELIMINATE

WHEREAS, pursuant to Section 27-28 (g) (2) of the City Code of Ordinances, William G. Norvell and Pakaruedee Norvell a/k/a Pat Norvell, Trustees of the Norvell Revocable Trust u/t/a dated June 29, 2011 filed a request for a Conditional Use Permit to use the property located at 123 E. Young St., for a conforming purpose without correcting the non-conforming situations that are not reasonably possible to eliminate. This request involves a request to use the property for Land Use 4.120 MANUFACTURING, PRINTING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLING OF GOODS, MERCHANDISE AND EQUIPMENT: Majority of dollar volume of business not done with walk-in trade, and the existing building setbacks as the non-conforming situation. The property is legally described as follows:

Tract 1: The South 125 feet of Lot 41 in Hedges' Addition, as shown by the plat recorded in Plat Book 2, Page 22, in Warrensburg, Johnson County, Missouri, and Part of the Northeast Quarter of the Northwest Quarter of Section 24, Township 46, Range 26, described as: Beginning at the Southwest corner of said Lot 41, thence West, along the North line of Business Route U.S. Highway No. 50, 25 feet, to a point which is 70 feet West of the Southeast corner of said Lot 41; thence North, parallel with the East line of said Lot 41, 125 feet; thence East, parallel with the North line of said highway, 25 feet, to the West line of said Lot 41; thence South, along the West line of said Lot 41, 125 feet, to the point of beginning.

Tract 2: Part of the Northeast Quarter of the Northwest Quarter of Section 24, Township 46, Range 26, in Warrensburg, Johnson County, Missouri, described as: Beginning at the Southeast corner of Lot 41 in Hedges' Addition, as shown by the plat recorded in Plat Book 2, Page 22, thence West, along the North line of Business Route U.S. Highway No. 50, 200 feet; thence North, at right angles, thereto, 125 feet; thence East and parallel with the North line of said Business Route U.S. Highway No. 50, 200 feet, to the East line of said Lot 41; thence South, along the East line of said Lot 41, 125 feet, to the point of beginning; except that part, thereof, conveyed to Chuen Fun Ng, by deed recorded in Book 1434, Page 75, and, further except that part, thereof, conveyed to Tile Time, Inc., by deed recorded in Book 1677, Page 263.

WHEREAS, public notice of the Planning and Zoning Commission's open public meeting to consider the request was given by letter to property owners within 300 feet of the subject tract on December 20, 2019; and

WHEREAS, the Planning and Zoning Commission, at its meeting on January 6, 2020, recommended the approval of the Conditional Use Permit with a condition; and

WHEREAS, public notice of the City Council's public hearing to consider the request for a Conditional Use Permit was given by publication in the Daily Star Journal on December 27, 2019; and

WHEREAS, the public hearing was held on January 13, 2020 by the City Council.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WARRENSBURG AS FOLLOWS:

Section 1. Following the consideration of the public comments received on the proposed Conditional Use Permit and upon careful consideration of the evidence before the City Council, the City Council finds as follows:

- A. The Conditional Use Permit requested would promote the health, safety, and general welfare of the citizens of the City.
- B. The existing building on said property is approximately 27 ft. from E. Young St. and 26 ft. from N. College St. The required setback is 40 ft. from E. Young St. and 30 ft. from N. College St. The existing building cannot be developed for any use including the proposed use without setback deviations.
- C. The proposed use and redevelopment of the site does not increase the extent of the nonconformity of the nonconforming situation, increase the total amount of space devoted to a nonconforming situation, or create a greater nonconformity with respect to the dimensional setback requirements.
- D. The applicant has demonstrated all other non-conforming situations, except setbacks, can be brought into compliance with the current zoning code.
- E. Eliminating the non-conforming setback violations between the existing building and the property lines adjacent to Young St. and College St. is not reasonably possible.

Section 2. That a Conditional Use Permit to allow the use of the existing building and property located at 123 E. Young St., for a conforming purpose, Land Use 4.120 MANUFACTURING, PRINTING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLING OF GOODS, MERCHANDISE AND EQUIPMENT: Majority of dollar volume of business not done with walk-in trade, without correcting the non-conforming situations that are not reasonably possible to eliminate which are specifically limited to the existing setbacks between the existing building and the property lines adjacent to Young St. and College St., is hereby granted with the following condition:

- A. Staff is granted the authority to approve the final site plan as part of the building permit process

Section 3: This ordinance shall be in full force and effect after passage by the City Council.

Read two times and passed by the City Council for the City of Warrensburg, Missouri, this ____ day of January, 2020

Attest:

Casey Lund, Mayor

Cindy Gabel, City Clerk

**PLANNING AND ZONING COMMISSION
REZONING FINDINGS AND RECOMMENDATION**

Property owned by: William G. Norvell and Pakaruedee Norvell a/k/a Pat Norvell, Trustees of the Norvell Revocable Trust u/t/a dated June 29, 2011

Request for Conditional Use Permit to use the property located at 123 E. Young St., for a conforming purpose without correcting the non-conforming situations that are not reasonably possible to eliminate. This request involves a request to use the property for Land Use 4.120 MANUFACTURING, PRINTING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLING OF GOODS, MERCHANDISE AND EQUIPMENT: Majority of dollar volume of business not done with walk-in trade, and the existing building setbacks as the non-conforming situation. This request involves Section 27-28 (g) (2) of the City Code of Ordinances. The property is legally described as follows:

Tract 1: The South 125 feet of Lot 41 in Hedges' Addition, as shown by the plat recorded in Plat Book 2, Page 22, in Warrensburg, Johnson County, Missouri, and Part of the Northeast Quarter of the Northwest Quarter of Section 24, Township 46, Range 26, described as: Beginning at the Southwest corner of said Lot 41, thence West, along the North line of Business Route U.S. Highway No. 50, 25 feet, to a point which is 70 feet West of the Southeast corner of said Lot 41; thence North, parallel with the East line of said Lot 41, 125 feet; thence East, parallel with the North line of said highway, 25 feet, to the West line of said Lot 41; thence South, along the West line of said Lot 41, 125 feet, to the point of beginning.

Tract 2: Part of the Northeast Quarter of the Northwest Quarter of Section 24, Township 46, Range 26, in Warrensburg, Johnson County, Missouri, described as: Beginning at the Southeast corner of Lot 41 in Hedges' Addition, as shown by the plat recorded in Plat Book 2, Page 22, thence West, along the North line of Business Route U.S. Highway No. 50, 200 feet; thence North, at right angles, thereto, 125 feet; thence East and parallel with the North line of said Business Route U.S. Highway No. 50, 200 feet, to the East line of said Lot 41; thence South, along the East line of said Lot 41, 125 feet, to the point of beginning; except that part, thereof, conveyed to Chuen Fun Ng, by deed recorded in Book 1434, Page 75, and, further except that part, thereof, conveyed to Tile Time, Inc., by deed recorded in Book 1677, Page 263.

The Planning and Zoning Commission has considered the request for a conditional use permit at an open public meeting on January 6, 2020 and makes the following findings and recommendations based upon the evidence presented with respect to these matters:

1. The site plan required to be submitted by Section 27-350 (e) is

Not waived _____

Waived because the use will not affect existing drainage, circulation, relationship of buildings to each other, landscaping, buffering, lighting, and other conditions of site plan approval, and the existing facilities do not require upgraded or additional site improvements.

2. The proposed conditional use permit is consistent with the goals of the City's Comprehensive Plan Update and will or will not further the applicable objectives of the plan.

3. The effect of the conditional use permit upon the existing uses of land within the general area could be minimal, major.

4. The impact the change would have on the character of the neighborhood should be _____ minimal, major.
5. Public health and safety _____ will will not be jeopardized if the permit is granted.
6. The existing building on said property is approximately 27 ft. from E. Young St. and 26 ft. from N. College St. The required setback is 40 ft. from E. Young St. and 30 ft. from N. College St. The existing building cannot be developed for any use including the proposed use without setback deviations.
7. The proposed use and redevelopment of the site does not increase the extent of the nonconformity of the nonconforming situation, increase the total amount of space devoted to a nonconforming situation, or create a greater nonconformity with respect to the dimensional setback requirements.
8. The applicant has demonstrated all other non-conforming situations, except setbacks, can be brought into compliance with the current zoning code.
9. Additional Comments: Inclusion of Staff recommendations
(and sidewalk, curb, & gutter conditions)

The Planning and Zoning Commission

Recommends Approval of the Conditional Use Permit to allow the use of the existing building and property located at 123 E. Young St., for a conforming purpose, Land Use 4.120 MANUFACTURING, PRINTING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLING OF GOODS, MERCHANDISE AND EQUIPMENT: Majority of dollar volume of business not done with walk-in trade, without correcting the non-conforming situations that are not reasonably possible to eliminate which are specifically limited to the existing setbacks between the existing building and the property lines adjacent to Young St. and College St.

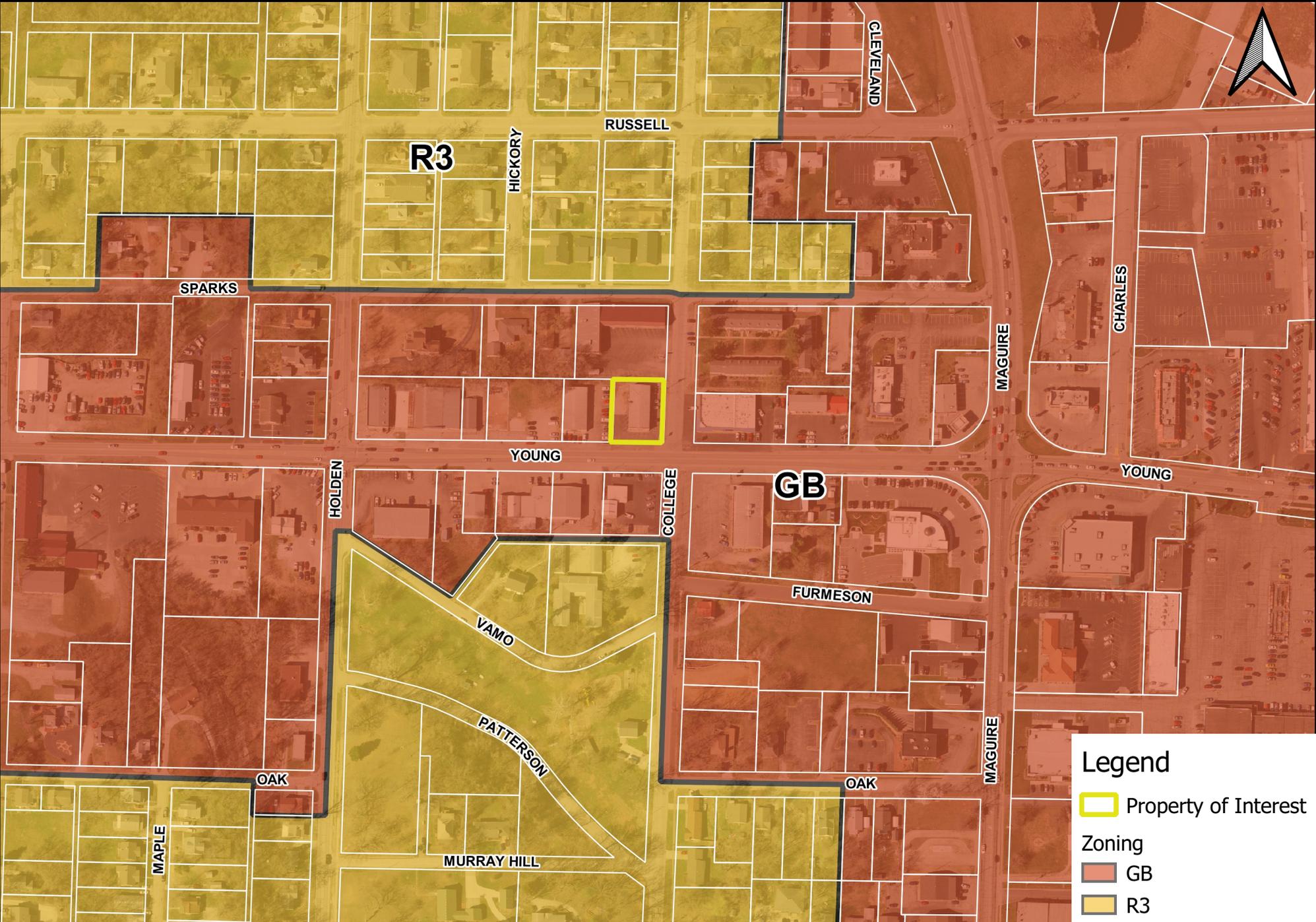
_____ Does Not Recommend Approval of the Conditional Use Permit to allow the use of the existing building and property located at 123 E. Young St., for a conforming purpose, Land Use 4.120 MANUFACTURING, PRINTING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLING OF GOODS, MERCHANDISE AND EQUIPMENT: Majority of dollar volume of business not done with walk-in trade, without correcting the non-conforming situations that are not reasonably possible to eliminate which are specifically limited to the existing setbacks between the existing building and the property lines adjacent to Young St. and College St.

Accepted this 6th day of January, 2020.

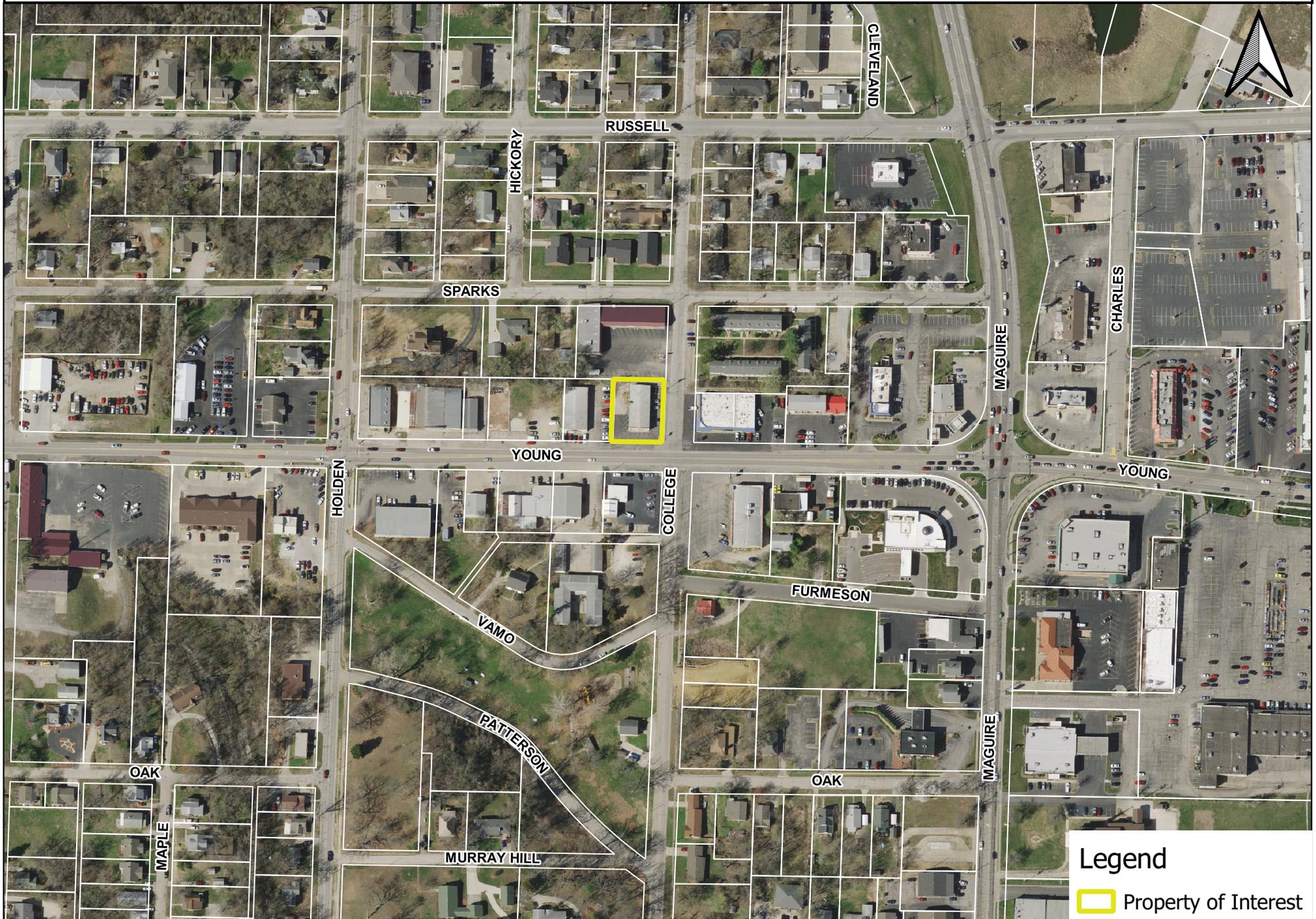


Chairperson, Planning and Zoning Commission

123 E. Young St. Current Zoning Designation

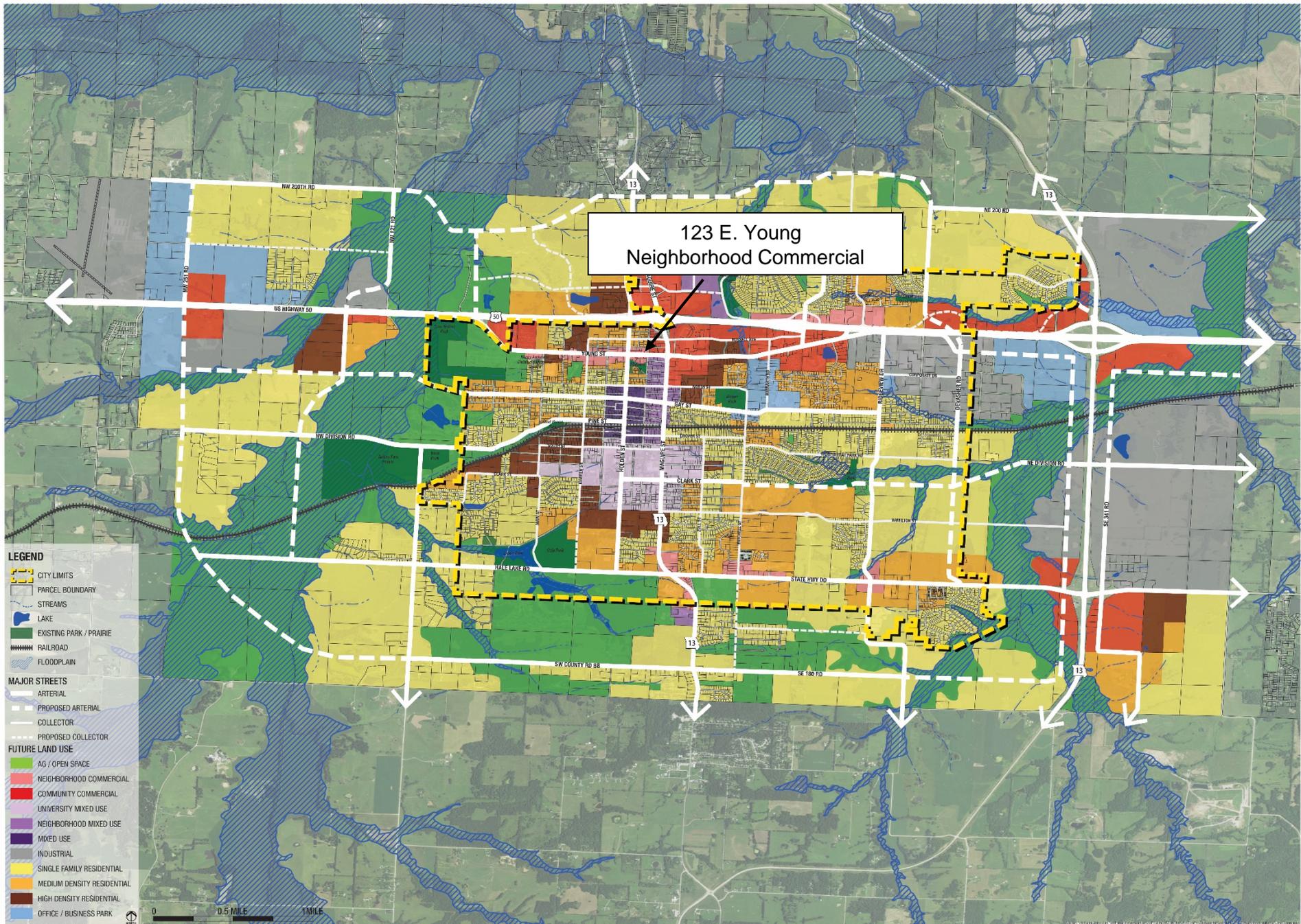


123 E. Young St. Aerial Map



Legend

 Property of Interest



- (c) Accessory structures shall not intrude into any public right-of-way and all portions of the structure and supports shall be at least five (5) feet from any front, side, or rear lot line.
- (d) The accessory structures shall meet the sight triangle requirements of section 27-231.
- (e) Accessory structures shall not serve or enhance a commercial purpose.
- (f) Only one (1) de minimis accessory structure within the setback shall be permitted for each lot.

Accessory structures that do not meet the above requirements are allowed per the requirements of the underlying zoning district. (Ord. No. 4977, § 1, 7-14-14)

Sec. 27-245. Pet daycare centers.

Pet daycare centers, as defined in section 27-6 shall meet the following performance standards in order to operate within the City of Warrensburg:

- (a) Maximum occupancy shall be one (1) domestic animal per seventy-five (75) square feet of indoor pet dedicated space.
- (b) The pet daycare shall provide at minimum one (1) staff person per twenty (20) pets or fraction thereof.
- (c) If a notice of violation is issued for animal noise or general nuisance, the zoning official may require measures to be taken by the provider to mitigate adverse impacts.
- (d) Outdoor areas shall be located in the rear yard behind a solid barrier constructed to a minimum height of six (6) feet.
- (e) Pet daycare centers shall conform to the provisions of Chapter 5, Article III when dogs are kept on the premises.
- (f) All remaining requirements of the underlying zoning district shall apply.

(Ord. No. 5171, § 3, 9-28-15)

Secs. 27-246—27-299. Reserved.

ARTICLE VI. CONDITIONAL USE PERMIT

Sec. 27-300. Conditional use permit procedure (CUP).

(a) *Scope of provisions.* This section contains the regulations of the conditional use permit procedure. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this chapter which are incorporated as part of this section by reference.

(b) *Statement of intent.* It is hereby declared that certain land uses and developments present unique problems with respect to their proper location and relationship to other land uses. Therefore, analysis and judgment of the consequences of each development and use is necessary to preserve and to promote the public health, safety, and general welfare. Such land uses and developments are identified in the table of permissible uses (section 27-200) by the notation "C."

(c) *Procedure.* The granting of a conditional use permit may be initiated by a verified application of one (1) or more of the owners of record of a lot or tract of land, or their authorized representatives, or by a resolution by the planning commission or the city council. Procedures for application, review and approval of a conditional use permit shall be as follows:

- (1) *Application.* Application for a conditional use permit for a specific tract of land shall be filed in the office of zoning official. The application shall be filed on forms prescribed for that purpose by the zoning official and be accompanied by the following:
 - a. Filing fee.
 - b. The correct legal description of the property.
 - c. The present zoning district for the property.

- d. The typewritten names, addresses and telephone numbers of all owners and their attorney and their designated representative, if any.
- e. The signatures of all owners, their attorney or their designated representative.
- f. The designated representative shall present proper power of attorney signed by all owners and notarized showing authorization to act on behalf of all owners.
- g. Attached to the application shall be a plat showing the real estate for which a conditional use permit is desired. The plat shall be drawn to scale and shall show the dimensions of the property along with sufficient neighborhood information to readily identify the property's boundary lines.
- h. Names and addresses of adjacent property owners within three hundred (300) feet of the subject property.
- i. Preliminary development plan, including, but not limited to the following:
 - i. Proposed uses. Approximate location and designated uses of buildings and other structures as well as parking and open areas shall be indicated.
 - ii. Proposed ingress and egress to the site, including adjacent streets.
 - iii. Preliminary plan for provisions of utilities.
 - iv. Proposed landscaping and screening.
- j. The application for a conditional use permit shall be filed with the zoning official. After checking the application for accuracy, the zoning official shall file one (1) copy of the application with the city clerk and

place the matter on the agenda of the planning and zoning commission for their review and recommendation. To be considered by the commission at their next regular meeting an application shall be received by the dates and times established by the commission.

- (2) *Review by planning commission.* Before making a recommendation to the city council, the planning and zoning commission shall review and consider the application for a conditional use permit in an open public meeting. At such meeting, both those in favor of and those opposed to the conditional use permit will be given reasonable opportunity to be heard. The commission shall transmit its recommendations to the city council in writing. The criteria to be considered by the planning commission shall include, but not be limited to the following:
 - a. If the proposed conditional use complies with all applicable provisions of chapter 27 and will conform to the general intent and purpose of chapter 27 and the zoning district in which the proposed conditional use will be located;
 - b. If the proposed conditional use is in accordance with the intent of, and furthers and promotes the goals of the City's Land Use Plan;
 - c. If the proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public;
 - d. If the proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located;
 - e. If the location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it

arc such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will dominate the immediate neighborhood, consideration shall be given to:

1. The location, nature and height of buildings, structures, walls, and fences on the site; and
2. The nature and extent of proposed landscaping and buffering on the site.

f. If adequate utility, drainage, and other such necessary facilities have been or will be provided; and

g. If adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

- (3) *Public hearing.* A public hearing on the application shall be held by the city council in accordance with the provisions of section 27-29, Procedure for amending the zoning ordinance, except that the public notices (published and posted) shall indicate that the public hearing is for conditional use permit. The public hearing shall be held within sixty (60) days of verification by the zoning official that the petition meets the minimum application.

(Ord. No. 2748, § 2, 6-22-92; Ord. No. 3792, § 1, 6-9-03; Ord. No. 4465, § 2, 6-8-09)

Secs. 27-301—27-349. Reserved.

ARTICLE VII. SITE PLAN REQUIREMENTS

Sec. 27-350. Site plan review.

(a) *Purpose.* For the purpose of assuring good arrangement, appearance, function, harmony with surrounding and adjacent uses and the objec-

tives of the comprehensive plan, and compliance with the requirements of these regulations, site plans shall be submitted and reviewed in accordance with the requirements and procedures of this section.

(b) *Application.* A site plan shall be submitted in each of the following instances:

- (1) With every building permit application received by the city under Chapter 6 of this Code.
- (2) Redevelopment of existing nonresidential uses.
- (3) The conversion of a single-family or two-family use to another use.
- (4) The demolition or removal of any structure or building.
- (5) The addition of dwelling units to an existing dwelling unit.
- (6) To change a building location or size.
- (7) New construction of residential and nonresidential uses, structures, and buildings.
- (8) Addition of accessory uses, structures and buildings to lots.
- (9) Addition or reconfiguration of parking lots.
- (10) Addition or change in location or configuration of freestanding or ground mounted signs on lots.

(c) *Reviewing authority.*

- (1) *Administrative site plans.* Administrative site plans may be reviewed by the city's plan review team. The approving authority for compliance with Chapters 21 and 27 of this Code for administrative site plans shall be the city planner or his or her designee. Decisions of the public works director may be appealed before the board of adjustment in the manner outlined in sections 27-56 through 27-63.
- (2) *Major site plans.* Conditional use permits and planned unit developments shall be reviewed by the city's plan review team,

(g) Abandonment and discontinuance of nonconforming situations.

- (1) When a nonconforming use is discontinued for a continuous period of twelve (12) months, whether or not any existing personal property or fixtures are removed, the property thereafter shall be used only for uses permitted in the zoning district in which the property is located.
- (2) If the principal activity on property where a nonconforming situation (other than a nonconforming use) is discontinued for a continuous period of twelve (12) months the property may thereafter be used only in conformity with a new zoning authorization or conditional use permit. The conditional use permit may allow the property to be used for a conforming purpose, without correcting the nonconforming situations, and may only be issued if the permit-issuing authority finds that eliminating a particular nonconformity is not reasonably possible. The permit shall specify which nonconformities need not be corrected in order for the use to occur. The permit-issuing authority shall find that the proposed use will not be in violation of subsection (d) of this section before the permit is issued.
- (3) For purposes of determining whether a right to continue a nonconforming situation or nonconforming use is lost pursuant to this section, all of the buildings, activities and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one (1) apartment in a nonconforming apartment building for twelve (12) months shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.

- (4) When a structure or operation made nonconforming by this chapter is vacant or discontinued at the effective date of this chapter, the twelve-month period for purposes of this section begins to run on the effective date of this chapter.

(h) *Existence of a nonconforming use.* Whether a nonconforming use exists shall be a question of fact and shall be decided by the board of adjustment after public notice and hearing and in accordance with the rules of the board.

(Ord. No. 2748, § 2, 6-22-92; Ord. No. 4164, § 1, 8-26-06; Ord. No. 5198, § 1, 2, 1-11-16)

Sec. 27-29. Change of zoning district and other amendments to the zoning ordinance.

(a) *Amendments in general.* The city council may from time to time amend, supplement, or change the district boundaries or regulations contained in this chapter. Proposals for amendments to the text of this chapter or to the official zoning map, including zoning district boundaries, classification of property, or conditional use permits may be made in accordance with the provisions of this section.

(b) *Initiation of amendments.*

- (1) Whenever a request to amend this chapter is initiated by the city council, the planning commission, the board of adjustment, or the city administration, the city counselor in consultation with the zoning official shall draft an appropriate ordinance and first present that ordinance to the planning commission for review and recommendation.
- (2) Any other person may also petition the City of Warrensburg to amend this chapter. The application shall be filed with the zoning official. The application shall be upon forms prescribed for that purpose, and shall be filed at least thirty (30) calendar days before the commission meeting at which consideration is desired. The petition shall be accompanied by the following:
 - a. Filing fee as set by resolution of the city council.

Request for Conditional Use Permit: Use the property for a conforming purpose without correcting the non-conforming situations
123 E. Young St.

The following property owners own land within 300 ft. of the property in question.

ACTION ESTATES INC
PO BOX 431
WARRENSBURG MO 64093-0431

APG PROPERTIES LLC
PO BOX L
WARRENSBURG MO 64093

BRENTWOOD DEVELOPMENT LLC
PO BOX 632
WARRENSBURG MO 64093

BRIAN GILLESPIE
506 ASPEN WAY
WARRENSBURG MO 64093

CENTRAL MISSOURI COMMUNITY
CREDIT UNION
620 N MAGUIRE ST
WARRENSBURG MO 64093

CHRISTIAN LEE SCHWENSEN
6852 CORAL GUM CT
GARDEN GROVE CA 92845

CYNTHIA A JONES
400 E HALE LAKE RD
WARRENSBURG MO 64093

DAVID E & KATHY L OSBORN
10510 HWY D
NAPOLEON MO 64074

DIANE L BURNETT
2514 STEPHENSON AVE
SEDALIA MO 65301

DIEHL TIRE CENTER INC
401 NW 21ST RD
WARRENSBURG MO 64093

DONALD L & GERTRUDE L QUIBELL
249 NE STATE ROUTE 13
WARRENSBURG MO 64093

ERIC J SHAWVER
710 HICKORY ST
WARRENSBURG MO 64093

FRANCIS M & LAURA E FITZGERALD
633 RIVER BEND ESTATES DR
ST CHARLES MO 63303

GREGORY H & CARYEE D SMITH TRUST
90 SW COUNTY ROAD BB
WARRENSBURG MO 64093

HUGH A HANNA GST TRUST &
RAGLAND FAMILY TRUST
C/O RYAN LLC
15 W 6TH ST STE 2400
TULSA OK 74119

JEROME J & JANET A RICHTER
15 SW 600TH RD
WARRENSBURG MO 64093

JL GROUP HOLDINGS I LLC
C/O TASTY KING LLC
6701 CENTER DR W STE 1450
LOS ANGELES CA 90045

LEROY H & KAREN K WEGNER
C/O CENTRAL MO STATE AUTO PART
203 E YOUNG AVE
WARRENSBURG MO 64093

LINDEMUTH INC
PO BOX 67028
TOPEKA KS 66667

LOVERTA DEGRAITIS
706 HICKORY ST
WARRENSBURG MO 64093



CITY OF WARRENSBURG, MISSOURI
NOTICE TO PROPERTY OWNERS WITHIN 300 FEET

December 20, 2019

«NAME»
«IN_CARE_NAME»
«ADDRESS»
«CITY_STATE_ZIP_CODE»

Dear Property Owner (s):

The City of Warrensburg has received an application from William G. Norvell and Pakaruedee Norvell a/k/a Pat Norvell, Trustees of the Norvell Revocable Trust u/t/a dated June 29, 2011 for a Conditional Use Permit to use the property located at 123 E. Young St., for a conforming purpose without correcting the non-conforming situations that are not reasonably possible to eliminate. This request involves Section 27-28 (g) (2) of the City Code of Ordinances. This request involves a request to use the property for Land Use 4.120 MANUFACTURING, PRINTING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLING OF GOODS, MERCHANDISE AND EQUIPMENT: Majority of dollar volume of business not done with walk-in trade, and the existing building setbacks as the non-conforming situation. The property is legally described on the back of this letter.

The Planning and Zoning Commission will consider the request at an open public meeting on **Monday, January 6, 2020, at 5:30 p.m.** at the Warrensburg Municipal Center, 200 S. Holden Street, Warrensburg, Missouri. At this meeting and after receiving public comments, the Planning & Zoning Commission will vote to make a recommendation to the City Council.

The City Council will consider the request at a public hearing on **Monday, January 13, 2020, at 7:00 p.m.** at the Warrensburg Municipal Center, 200 S. Holden Street, Warrensburg, Missouri.

At one or both of these meetings, you may submit your views in person, by writing, or by representative. For further information, please contact Kristin Dyer, City Planner, at 660-747-9135.

Sincerely,

CITY OF WARRENSBURG

BY: Kristin Dyer, City Planner

NOTE: The property in questions is legally described as:

Tract 1: The South 125 feet of Lot 41 in Hedges' Addition, as shown by the plat recorded in Plat Book 2, Page 22, in Warrensburg, Johnson County, Missouri, and Part of the Northeast Quarter of the Northwest Quarter of Section 24, Township 46, Range 26, described as: Beginning at the Southwest corner of said Lot 41, thence West, along the North line of Business Route U.S. Highway No. 50, 25 feet, to a point which is 70 feet West of the Southeast corner of said Lot 41; thence North, parallel with the East line of said Lot 41, 125 feet; thence East, parallel with the North line of said highway, 25 feet, to the West line of said Lot 41; thence South, along the West line of said Lot 41, 125 feet, to the point of beginning.

Tract 2: Part of the Northeast Quarter of the Northwest Quarter of Section 24, Township 46, Range 26, in Warrensburg, Johnson County, Missouri, described as: Beginning at the Southeast corner of Lot 41 in Hedges' Addition, as shown by the plat recorded in Plat Book 2, Page 22, thence West, along the North line of Business Route U.S. Highway No. 50, 200 feet; thence North, at right angles, thereto, 125 feet; thence East and parallel with the North line of said Business Route U.S. Highway No. 50, 200 feet, to the East line of said Lot 41; thence South, along the East line of said Lot 41, 125 feet, to the point of beginning; except that part, thereof, conveyed to Chuen Fun Ng, by deed recorded in Book 1434, Page 75, and, further except that part, thereof, conveyed to Tile Time, Inc., by deed recorded in Book 1677, Page 263.

AFFIDAVIT OF PUBLICATION

NPG Newspapers, Inc., P.O. Box 29, St. Joseph, MO 64502

Reference: 235287
Ad ID: 6630967

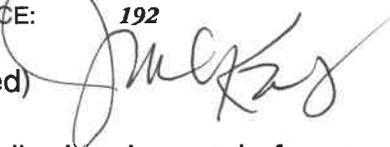
P.O. :
DESC. :Public Hearing Notice:BZC

Toni Yost
CITY OF WARRENSBURG
102 S HOLDEN
WARRENSBURG, MO 64093

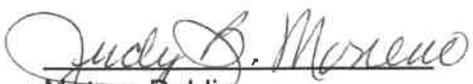
County of Johnson
State of Missouri

I, Jeré McKay, being duly sworn according to law, state that I am an Agent of THE DAILY STAR JOURNAL, a daily newspaper of general circulation in the County of Johnson, State of Missouri, where located; which newspaper has been admitted to the Post Office as periodical class matter in the City of Warrensburg, Missouri, the city publication; which newspaper has been published regularly and consecutively for a period of more than three years and has a list of bona fide subscribers, voluntarily engaged as such who have paid or agreed to pay a stated price for a subscription for a definite period of time, and that such newspaper has complied with the provisions of Section 493.050, revised Statutes of Missouri 2000, and Section 59.310, revised Statutes of Missouri 2000. The affixed notice appears in said newspaper on the following consecutive dates:

Run Dates: 12/27/19 to 12/27/19
Appearances: 1
AD SPACE: 192

(Signed) 

Subscribed and sworn before me this 27 day of Dec. 2019


Notary Public
JUDY B. MORENO
Notary Public - Notary Seal
State of Missouri
Commissioned for Buchanan County
My Commission Expires: June 23, 2020
Commission Number: 12544882

My Commission Expires: 6/23/20

(Published in the Daily Star-Journal Fri. 12/27/2019)

CITY COUNCIL

PUBLIC HEARING NOTICE

Public Notice is hereby given that the City Council of the City of Warrensburg, Missouri, will meet on **January 13, 2020, at 7:00 p.m.**, at the Warrensburg Municipal Center, 200 S. Holden St., to consider the following matters:

1. A public hearing to consider a request from William G. Norvell and Pakaruedee Norvell a/k/a Pat Norvell, Trustees of the Norvell Revocable Trust u/v/a dated June 29, 2011 for a Conditional Use Permit to use the property located at 123 E. Young St., for a conforming purpose without correcting the non-conforming situations that are not reasonably possible to eliminate. This request involves a request to use the property for Land Use 4.120 MANUFACTURING, PRINTING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLING OF GOODS, MERCHANDISE AND EQUIPMENT: Majority of dollar volume of business not done with walk-in trade, and the existing building setbacks as the non-conforming situation. This request involves Section 27-28 (g) (2) of the City Code of Ordinances. The property is legally described as follows:

Tract 1: The South 125 feet of Lot 41 in Hedges' Addition, as shown by the plat recorded in Plat Book 2, Page 22, in Warrensburg, Johnson County, Missouri, and Part of the Northeast Quarter of the Northwest Quarter of Section 24, Township 46, Range 26, described as: Beginning at the Southwest corner of said Lot 41, thence West, along the North line of Business Route U.S. Highway No. 50, 25 feet, to a point which is 70 feet West of the Southeast corner of said Lot 41; thence North, parallel with the East line of said Lot 41, 125 feet; thence East, parallel with the North line of said highway, 25 feet, to the West line of said Lot 41; thence South, along the West line of said Lot 41, 125 feet, to the point of beginning.

Tract 2: Part of the Northeast Quarter of the Northwest Quarter of Section 24, Township 46, Range 26, in Warrensburg, Johnson County, Missouri, described as: Beginning at the Southeast corner of Lot 41 in Hedges' Addition, as shown by the plat recorded in Plat Book 2, Page 22, thence West, along the North line of Business Route U.S. Highway No. 50, 200 feet; thence North, at right angles, there-to, 125 feet; thence East and parallel with the North line of said Business Route U.S. Highway No. 50, 200 feet, to the East line of said Lot 41; thence South, along the East line of said Lot 41, 125 feet, to the point of beginning; except that part, thereof, conveyed to Chuen Fun Ng, by deed recorded in Book 1434, Page 75, and, further except that part, thereof, conveyed to Tile Time, Inc., by deed recorded in Book 1677, Page 263.

nance Amending Section 27-6 of Chapter 27 of the Code of City Ordinances Pertaining to the Definition of Halfway Houses and Prerelease Centers.

3. A public hearing to consider An Ordinance Amending Chapter 27 of the Code of City Ordinances Regarding Minimum Lot Size, Setback, and Driveway Requirements for Reduced Size Lots.

The public hearings will give all interested parties an opportunity to provide input on these matters. The full text of the proposed amendments may be obtained by contacting the City Clerk. For further information, please contact Barbara Carroll, Director of Community Development 660-747-9135.

Publish on December 27, 2019
PO # 20-01313

2. A public hearing to consider An Ord-

RECEIVED JAN 0 1 2020

CONDITIONAL USE PERMIT APPLICATION
PLANNING & ZONING COMMISSION

Date: 11/26/2019

To the Honorable Mayor and City Council
City of Warrensburg, Missouri

The undersigned hereby state that they are the owners of the following described real estate:
123 E. Young St., Warrensburg, MO 64093

HEDGES^LT 041 S 125' . PT NE NW BEG SW COR LT 41 55'X125' ^ ^ ^

(Legal description of real estate and location map may be attached as exhibits)

The undersigned hereby petition the City Council of the City of Warrensburg, Missouri, for a
Conditional Use Permit for the above described real estate for the following purpose:

The owner is requesting the property be used for a conforming purpose without correcting the
nonconforming situations that are not reasonably possibly to eliminate, referencing
Section 27-2B(2) of the Code of City Ordinances.

Included with this application are the following attachments:

1. The names and addresses of ALL property owners within 300 feet of the above described real estate determined by lines drawn parallel to and three hundred (300) feet distant from the property lines of the property in question; and,
2. A development site plan; and
3. Filing fee as follows:
 - a. General Conditional Use Permit = \$200 per application
 - b. Conditional Use Permit for a Telecommunications Tower = \$500
 - c. Conditional Use Permit for an Adult Use = \$500
 - d. Planned Unit Development Conditional Use Permit = \$300 base fee + \$15/lot

OWNER (S) OF REAL ESTATE: (Attach additional sheets if necessary.)

Wm G Norvell
Name (type or print)

[Signature]
Signature
Trustee

Name (type or print)

Signature

36023 Horseshoe Ct. (925) 461-6806
Address Phone No.
Wildomar, CA 92595

For Office Use Only: Submit completed application to Planner

Case Number: CUP 42-2019

Date Paid: _____

RECEIVED
DEC 17 2019

BY: KD

Young St.

PL

30'

27'

Parking Stall #5 18' x 16'

26'

Parking Stall #4 25' x 6'

Parking Stall #3 23' x 6'

College St.

Front Building Sidewalk 124 sq'

Unamed space 507 sq'

Unamed space 187 sq'

Unamed space 1268 sq'

Shop 1 558 sq'

Employee Parking Stall #1 11' x 11'

Employee Parking Stall #2 23' x 11'

Shop 2 / Garage 519 sq'

Public Bathroom / ADA Comp 49 sq'

Employee Bathroom 92 sq'

Breakroom 109 sq'

Conference / Training Room 182 sq'

Parking Stall #6 w/ ADA 19' x 14'

Parking Stall #7 19' x 14'

Unamed space 25 sq'

Unamed space 19 sq'

Unamed space 25 sq'

Unamed space 22 sq'

Unamed space 17 sq'

Unamed space 35 sq'

Unamed space 39 sq'

Unamed space 45 sq'

14'

14'

14'

14'

34'

30'

13'

Dumpster 49 sq'

Tree

10'

RECEIVED DEC 17 2019

BY: KD