

**CITY OF WARRENSBURG**  
**COMMUNITY DEVELOPMENT**

April 19, 2021

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

Dear Mayor and Council Members:

**SUBJECT:** Second Reading of An Ordinance Approving a Conditional Use Permit at 201 N. Maguire Street for a Fraternity Use (Land Use 1.520) Without Correcting the Non-Conforming Situations That are Not Reasonably Possible To Eliminate

**BACKGROUND:**

At the April 12 City Council meeting, a public hearing was held regarding a request from Sheehan Property Holdings LLC, for a Conditional Use Permit (CUP) to use the property located at 201 N. Maguire St. for a fraternity use (Land Use 1.520) in a GB: General Business District and to use the property for a conforming purpose without correcting the non-conforming situations that are not reasonably possible to eliminate. Public comment was received by the applicant David Sheehan and Colby Crowder, UCM Student Government Association. Both individuals spoke in support of the request.

Land Use 1.520 Fraternity/Sorority requires a CUP in order to operate in a GB district. The existing building setback along Maguire St. and the north parking lot drive aisle are the non-conforming situations. This request involves Section 27-28 (f) of the City Code of Ordinances. Section 27-28 (f) allows that if all of the requirements of Chapter 27 applicable to the proposed use cannot be reasonably complied with, then the change is permissible if the permit-issuing authority for that particular use issues a permit authorizing the change.

The Tau Kappa Epsilon Chapter Housing Corporation would like to lease the property from Sheehan Property Holdings LLC and operate a fraternity in the existing structure. Based on the floor plan, the proposed fraternity use will house 14 occupants with accompanying kitchens, living rooms, and study rooms. Three parking spaces including one van accessible parking space and aisle will be provided on site as well as an additional 12 parking spaces as part of the parking agreement with AutoZone Auto Parts at 208 N. Maguire Street. Required parking is calculated as 1 space required per bed for Land Use 1.520.

The property is currently classified as a non-conforming situation because it does not meet the setback requirements between the existing building and Maguire St., and the north parking lot does not meet the design and size requirements. Currently, the existing building, as shown on the site plan, is 32 ft. from Maguire Street. The required setback is 40 ft. from Maguire Street. The north parking lot drive aisle is 21 ft., and the required drive aisle behind 90-degree parking is 24 ft.

The applicant has provided the attached site plan, floor plan, and parking agreement with AutoZone Auto Parts located at 208 N. Maguire St. The development site plan and parking agreement show they meet all the current zoning code requirements except they cannot 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 Maguire St. or Culton Street. The existing north parking lot will be striped to incorporate a van accessible parking space and aisle, but they cannot meet the 24 ft. drive aisle width requirement for 90-degree angled parking. The parking agreement with AutoZone Auto Parts supplies the additional parking spaces required for the property. Currently AutoZone Auto Parts has 50 legal parking spaces, and they are required to provide 35 parking spaces. Therefore, there are 15 surplus parking spaces. The parking spaces along Culton Street will be allowed to remain on the property, but they do not meet the required parking dimensions by code and are not counted toward satisfying the required parking spaces.

#### *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 a single-family houses to the north and east, Central Plaza shopping center to the south, and AutoZone Auto Parts to the west.

#### *Site Plan*

Conditional use permits require preliminary and final site plans be prepared and submitted to the Planning & Zoning Commission for review and approval. Attached is the site plan submitted by the applicant on March 17, 2021. 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 and the north parking lot drive aisle. Staff is not asking for authority to approve the final site plan as staff does not expect there to be a future building permit process associated with the project. The site plan is attached to the proposed ordinance as Exhibit 1.

#### *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 April 12, 2021 meeting before the City Council. The following public comment was received prior to the April 12, 2021 hearing.

Lisa Gulick, 304 E. Culton St., contacted City Hall on March 25, 2021 and stated she could not attend the meeting and requested information to submit a letter to express her concerns in writing.

Charlie Rutt, 401 Grover St., contacted staff on March 30, 2021 and asked for general information about the request. He did not state if he was for or against the request.

Rhonda Gelbach, 300 S Holden Street, contacted staff on April 5, 2021. She owns property at 315 E. Culton St. and is concerned about parking and increased traffic on Culton Street. She did not feel occupants would use the parking at Auto Zone.

Cory Davis, spoke as an alumni representative of TKE Fraternity in favor of the request. The intent is to give alumni a place to come back to and visit and not to provide a party house.

Tom Carey, 512 Broad, appeared at the Planning and Zoning Commission meeting on behalf of Vaughn Trust which owns property at 303 E. Culton Street. He stated the tenants are already parking in the driveway at 303 E. Culton Street. He also was

concerned about the safety issue of fraternity members parking at Auto Zone and crossing Maguire Street when they are drunk.

*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 mixed use.

*Planning and Zoning Commission Action*

The Planning and Zoning Commission discussed the request at their meeting on April 5, 2021. The Commission discussed concerns for the safety of fraternity members parking at Auto Zone and crossing Maguire Street to get to the fraternity, partying, and the increased potential for pedestrian-vehicle accidents. Following discussion, the Commission voted to recommend approval of the request for a CUP to allow the use of the existing building and property located at 201 N. Maguire St. for a fraternity use (Land Use 1.520) in a GB: General Business District and to use the property for a conforming purpose without correcting the non-conforming situations that are not reasonably possible to eliminate. The existing building setback along Maguire St. and the north parking lot drive aisle are the non-conforming situations.

**ISSUE:**

To approve an ordinance approving a CUP and site plan that would allow Tau Kappa Epsilon Chapter Housing Corporation to use the existing building at 201 N. Maguire Street for a fraternity use if they come into compliance with all City codes except the setback requirement from Maguire Street and the north parking lot drive aisle.

**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 proposal is in keeping with the intent of the Neighborhood Mixed Use category of the 2017 Comprehensive Plan. Neighborhood Mixed Use allows for “greater flexibility in uses and building design to allow either mixed use or single-use buildings and developments. Allowable uses include multifamily residential, office and retail as

- well as convenience stores, fast-food restaurants, and other uses with vehicle drive-up and drive-thru service. Buildings may be one to three stories in height with shared off-street surface or structured parking.”
3. The property is located on Maguire St., which is an arterial street.
  4. The property with the existing building cannot be developed for any use including the proposed use without setback deviations or parking dimension 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, create a greater nonconformity with respect to the dimensional setback requirements, or create additional nonconformities.

Sincerely,

A handwritten signature in black ink that reads "Barbara Carroll". The signature is written in a cursive, flowing style.

Barbara Carroll, AICP  
Director of Community Development

CC: City Manager

Attachments: 1. Ordinance with Exhibits 1, 2, and 3