

MEMORANDUM

TO: Mike Geisel, City Administrator

FROM: Justin Wyse, Director of Planning *JW*
James Eckrich, Director of Public Works/City Engineer *JW*

SUBJECT: Planning & Public Works Committee Meeting Summary
Thursday, November 10, 2022



A meeting of the Planning and Public Works Committee of the Chesterfield City Council was held on Thursday, November 10, 2022 in Conference Room 101.

In attendance were: **Chair Dan Hurt** (Ward III), **Councilmember Mary Monachella** (Ward I), **Councilmember Mary Ann Mastorakos** (Ward II), and **Councilmember Merrell Hansen** (Ward IV).

Also in attendance were: Jim Eckrich, Director of Public Works/City Engineer; Justin Wyse, Director of Planning; Shilpi Bharti, Planner; and Kathy Juergens, Recording Secretary.

The meeting was called to order at 5:30 p.m.

I. APPROVAL OF MEETING SUMMARY

A. Approval of the October 20, 2022 Committee Meeting Summary

Councilmember Hansen made a motion to approve the Meeting Summary of October 20, 2022. The motion was seconded by Councilmember Mastorakos and **passed by a voice vote of 4-0**.

II. UNFINISHED BUSINESS – None.

At Chair Hurt's request, the Committee agreed to discuss New Business Items A and B then Item E before discussing Items C and D.

III. NEW BUSINESS

- A. **FSP 57-2022 Verizon (13426 Olive Blvd.)**: A request for a new Facilities Siting Permit to install a new wireless telecommunications facility located along Olive Boulevard Right-of-Way on property addressed as 13426 Olive Blvd. (Ward 1)
- B. **FSP 58-2022 Verizon (1151 Marcus Aurelius Walk)**: A request for a new Facilities Siting Permit to install a new wireless telecommunications facility located along N Woods Mill Road Right-of-Way on property addressed as 1151 Marcus Aurelius Walk. (Ward 1)

STAFF PRESENTATION

Shilpi Bharti, Planner, stated that in 2018 Article 6 of the Unified Development Code (UDC) was amended to comply with State law that limited the ability of Missouri municipalities to regulate wireless communication facilities. Per Section 405.06.010, the regulations are as follows:

- New wireless support structures shall require a Facilities Siting Permit (FSP) prior to Municipal Zoning Approval by the City.
- An FSP for a wireless communication facility may be issued in all zoning districts.
- New wireless communication facilities shall be permitted within right-of-way areas, regardless of whether said right-of-way areas belong to the City or are currently under the jurisdiction of another entity.

Section 405.06.010 also sets forth the following design standards:

- All proposed installations must consist of a standard wood utility pole.
- Equipment and antennas are to be mounted on the pole.
- The total height of the pole with antennas mounted on top shall be 35 feet in height.
- Any wireless communication facilities located within the right-of-way shall not be located within 500 feet of another wireless communication facilities that is located on the same side of the street.

FSP 57-2022 Verizon (13426 Olive Blvd) – Verizon submitted an application to install a new wireless telecommunications facility within MoDOT right-of-way. The proposed installation is compliant with the requirements of the UDC and final approval of the installation must be granted by the City Council.

FSP 58-2022 Verizon (1151 Marcus Aurelius Walk) – Verizon submitted an application to install a new wireless telecommunications facility within the City's right-of-way on North Woods Mill Road. The proposed installation is compliant with the requirements of the UDC and final approval of the installation must be granted by the City Council.

DISCUSSION

Chair Hurt questioned the location of the new pole on Olive Boulevard as there is an existing pole across the street from it. Justin Wyse, Director of Planning, replied that the new pole is over 500 feet away and it is his understanding that the two poles act in relay at times thus adding additional capacity to the network.

Councilmember Monachella expressed concern with the number of poles and signs that currently exist on the south side of the street which block the Incarnate Word sign. Council would not give permission for Incarnate Word to enlarge their sign and now the additional pole will further restrict the view of their sign. She suggested that the pole be moved slightly to the west and asked that Staff determine whether such a relocation is possible.

Councilmember Hansen expressed concern with technical issues such as the loud noise emanating from the equipment. Mr. Wyse stated that this is a traditional cell tower and is different than what Councilmember Hansen was describing. In addition, any noise from Olive Boulevard will be drastically louder than anything produced from the pole.

Councilmember Mastorakos asked why this was brought to the Committee if the City has no control over the installation or placement. Mr. Wyse stated that he could work with the City

Attorney to draft a Code amendment so future requests would not come before the Committee. Councilmember Hansen stated that she felt the Committee should be aware of these requests and would not favor such a change.

Councilmember Mastorakos also commented that the pole on Marcus Aurelius Walk will be located close to the apartments and she wondered if the residents would object. Mr. Wyse stated that in his experience many people want additional service but at the same time do not want the tower in their backyard.

Councilmember Monachella made a motion to forward both FSP 57-2022 Verizon (13426 Olive Blvd.) and FSP 58-2022 Verizon (1151 Marcus Aurelius Walk) to City Council with a recommendation to approve, and to direct Staff to inquire as to whether the pole at 13426 Olive Blvd. can be moved further west. The motion was seconded by Councilmember Mastorakos and **passed by a voice vote of 4-0.**

Note: These are Facilities Siting Permits which requires a voice vote at the November 21, 2022 City Council Meeting.

[Please see the attached reports prepared by Justin Wyse, Director of Planning, for additional information on FSP 57-2022 Verizon (13426 Olive Blvd). and FSP 58-2022 Verizon (1151 Marcus Aurelius Walk).]

E Sewer Lateral Fund Budget Adjustment

STAFF PRESENTATION

Jim Eckrich, Director of Public Works/City Engineer, stated that this is a very popular program which addresses problems that residents have with their sewer lateral line between their house and the MSD connection.

Staff closely monitors expenditures in the Sewer Lateral Fund and to date, approximately \$420,000 of the \$440,000 authorized for sewer lateral expenditures within the 2022 Budget has been spent. Accordingly, Staff is requesting a 2022 Intra-Fund Budget Amendment within the Sewer Lateral Fund in the amount of \$45,000. This can be accommodated within the current Sewer Lateral Fund-Fund Balance of \$98,000. November is the low-point of the Sewer Lateral Fund Balance as most of the revenue in that fund is received in December and January. This will have no impact on the General Fund Budget.

Chair Hurt confirmed that this is a very popular program amongst residents who have used it and stated that we should continue the current program if possible.

Councilmember Monachella made a motion to forward to City Council a recommendation to approve an Intra-Fund Budget Amendment within the Sewer Lateral Fund in the amount of \$45,000. The motion was seconded by Councilmember Hurt.

Discussion After the Motion

In response to questions, Mr. Eckrich explained that each resident pays a sewer lateral fee of \$28 per year as part of their real estate taxes, however this amount does not fully fund the program costs. Therefore, the City charges residents a \$100 application fee. This fee was reduced from \$200 in 2013.

The above motion passed by a voice vote of 4-0.

[Please see the attached report prepared by Jim Eckrich, Director of Public Works/City Engineer, for additional information on the 2022 Sewer Lateral Fund Budget Adjustment.]

- C. **P.Z. 10-2022 City of Chesterfield (Unified Development Code – Article 4)**: An ordinance amending Article 4 of the Unified Development Code to revise regulations pertaining to Home Occupations.
- D. **Municipal Code (Home-Based Businesses)** – An ordinance of the City of Chesterfield creating Chapter 625 of the Municipal Code pertaining to Home Occupations

STAFF PRESENTATION

Justin Wyse, Director of Planning, stated that due to recent changes to the State statute amending the jurisdiction of municipalities in establishing regulations for home-based business, the City's Unified Development Code is now in conflict with the new regulations. Therefore, Staff is recommending approval of P.Z. 10-2022 to remove home-based business from the Unified Development Code (UDC) and to create a new chapter of the Municipal Code pertaining to home occupations.

P.Z. 10-2022 removes the requirement to permit or license a Home Occupation, which is no longer an authority permissible by the City, it also removes the development criteria subsection 18 and Table 1 of Section 405.04.140, and it adjusts the definition of Home Occupation to match what is in the statute.

Chapter 625 will be created in the Municipal Code pertaining to Home Occupations, which will provide qualifications of what makes a “no impact” business, provide a process for a violation and define the appellate process after a decision is made.

Currently, home businesses go through a process of an administrative hearing and determination. If there is an appeal to that administrative decision, the current zoning code requires that an appeal would go to the Board of Adjustment. In the Chapter 625 revision, the appeal process will go to City Council. Staff feels that it is more appropriate to have the appeal go to the elected officials than to the Board of Adjustment as they typically meet once a year. For example, if Staff makes a determination that a particular home business will have “no-impact” to the neighborhood, and the neighbors were to complain, they can appeal to the City Council. Structurally, this is the biggest change and why Staff is proposing two sections of Code.

Chair Hurt stated that there have never really been any problems in the past, however, the City must follow State law as it preempts local authority. He is not particularly in favor, but this approach allows the City to retain as much of its ability, as allowed by the State, to maintain our residential neighborhoods.

Chair Hurt made a motion to forward P.Z. 10-2022 City of Chesterfield (Unified Development Code-Article 4) to City Council and to create Chapter 625 of the Municipal Code pertaining to Home Occupations with a recommendation to approve. The motion was seconded by Councilmember Monachella.

Discussion after the Motion

With reference to P.Z. 10-2022, Councilmember Mastorakos asked how this would interact with subdivision covenants. Mr. Wyse replied that the State statute specifically states that it does not supersede deed restrictions or covenants. If a neighborhood did not want any home business, it would have to be addressed in the subdivision indentures.

Councilmember Mastorakos asked for clarification of Chapter 625, Section 625.010 2.c, which states: "The activities of the business do not cause a substantial increase in traffic through the residential area" and specifically the term Activities of the Business. Mr. Wyse stated the wording is taken from the State statute. Chair Hurt stated that this is where the Council comes in. He understands the intent of the State statute but the execution remains problematic.

The above motion was passed by a voice vote of 4-0.

Note: Two Bills, as recommended by the Planning Commission, will be needed for the November 21, 2022 City Council Meeting. See Bills #

[Please see the attached report prepared by Justin Wyse, Director of Planning, for additional information on P.Z. 10-2022 City of Chesterfield (Unified Development Code-Article 4) and Chapter 625 of the Municipal Code of Chesterfield (Home-Based Businesses)]

IV. OTHER – None.

V. ADJOURNMENT

The meeting adjourned at 6:03 p.m.