

MINUTES
DES PERES BOARD OF ALDERMEN
May 13, 2019
DES PERES GOVERNMENT CENTER

The regular meeting of the Board of Aldermen of the City of Des Peres, Missouri was held at the Des Peres Government Center, 12325 Manchester Road commencing at 7:00 PM on Monday, May 13, 2019.

ROLL CALL

The City Clerk took roll with the following board members present: Alderman Pound, Alderman Sansone, Alderman Kleinschmidt, Alderman Fitzpatrick, Alderman Concagh and Alderman Barrett. Mayor Becker was also present.

Staff members present included the City Administrator, Assistant City Administrator, City Clerk, Interim City Attorney, Director of Public Safety, Director of Finance, Director of Parks and Recreation, and Director of Public Works. At this time the Board of Aldermen, staff and citizens rose for the Pledge of Allegiance.

PUBLIC HEARING –

Mayor Becker announced that following the Public Hearing held on Monday April 22, 2019 two additional exhibits have been submitted and he has added them to the record:

- Exhibit #1: Final Comments provided by Jane & Frank Melville dated 5/7/2019
- Exhibit #2: Letter from the Trustees of Spring Valley Woods Subdivision dated 4/29/19

With the addition of the exhibits, Mayor Becker welcomed Mr. O'Toole, attorney for the developer, to address the statements made by Mr. & Mrs. Melville and the Spring Valley Woods Trustees.

Mr. O'Toole disagreed with the Melville's comments that the development would intrude on their privacy, increase traffic, and place a burden on the existing infrastructure. Mr. O'Toole stated that the Melville's purchased a home adjacent to land that would like be developed, and that there would no encumbrance on the existing sanitary sewer. Mr. O'Toole added that the increase in traffic would be minimal, and that the proposed homes share a commonality and continuity of the adjacent subdivisions.

Mr. O'Toole stated that in reference to the Trustee's letter, their request to only permit one home, instead of two, on Ballas Road, would be unfair to the developer.

Mayor Becker called a Public Hearing to order at 7:09pm, to discuss the recommendation from the Planning & Zoning Commission to approve a Master Development Plan for an 0.97 Acre Tract of Land at 12239-12247 Manchester Road; Approving a Conditional Use Permit for the Village BHR-LLC for Operation of a Restaurant; Approving a Conditional Use Permit for Operation of a Craft Distillery as an Accessory Use; and Repealing Ordinance 2764.

The City Clerk read the following exhibits:

1. Notice of Public Hearing posted April 19, 2019 on the City Website and at City Hall
2. Publication of Notice of Public Hearing in the St. Louis Countian, a newspaper of general circulation, on April 24, 2019
3. Application for Conditional Use Permit Dated December 28, 2018
4. P&Z Commission Subcommittee Report dated March 28, 2019
5. Pictures provided by applicant dated April 10, 2019
6. Minutes from the April 10th, 2019 P&Z Meeting, recommending approval of the Conditional Use Permit as it applies to the Village Bar
7. Meeting Summary from the P&Z Commission dated April 10, 2019
8. Site Plan and Elevations as provided by Mesa Design Build dated April 1, 2019
9. Floor Plan and Elevations as provided by Mesa Design Build dated May 10, 2018
10. Bill 19-2855 an Ordinance approved a Master Development Plan, Approving CUP for operation of a restaurant, Approving CUP for operation of a craft distillery as an accessory use
11. Municipal Code of the City of Des Peres and all files related to.

Mr. Disper, owner Village Bar, stated that he is seeking approval for a micro-distillery at 12247 Manchester Road. Mr. Disper stated that the distillery would be located in the rear structure, behind the Village Bar, and would also hold an event space for up to forty guests which was previously approved by the Planning & Zoning Commission and the Board of Aldermen. Mr. Disper added that The Village Bar has recent acquired the adjacent property and will now have 27 additional parking spaces. Mr. Disper stated that he has agreed to construct a walkway in between the two parking areas.

Mr. Disper stated that he has submitted a light study and the foot candles meet the requirements of the City of Des Peres. Mr. Disper stated that they would be building a minor addition to the rear structure, as recommended by the Commission to screen the distilling equipment, and would be adding stone to the structure to make it more visually attractive.

Alderman Barrett asked if the lighting study included details on headlights that could potentially direct light onto adjacent or nearby properties. Mr. Disper stated that due to the elevations and screening that lighting from the building or from headlights would be contained to the site.

Alderman Barrett asked if additional plantings could be installed. Mr. Disper stated that the landscaping on their property is maximized, however, many of the trees planted have yet to mature, and that once they do it will offer additional screening.

Alderman Concagh asked Mr. Disper if he would be agreeable to a restriction on delivery and trash collection times. Mr. Disper responded in the affirmative. Alderman Concagh asked that no deliveries or trash collection occur between the hours of 6:30PM and 6:30AM.

Bryan McDonald, 1312 Bansbach, addressed the Board in opposition of the distillery operation. Mr. McDonald stated that he is a member of the Planning & Zoning Commission, and one of the descending votes on the recommendation for approval. Mr. McDonald submitted a handout to the Board and City Clerk, titled "Dissent Opinion". Mayor Becker accepted the document in to the record as Exhibit #12.

Mr. McDonald stated that the proposal does not adhere to the zoning code, the comprehensive plan, and doesn't preserve the character of the community. Mr. McDonald added that the proposed accessory use does not meet the requirements of city code Section 406.202, or Section 406.020.C.

Mr. McDonald stated that the petition should be denied as he believes it was incorrectly filed under the name of Village Bar BRH, and not under the distilling operation name, 1879 Distilling Co., LLC.

Alderman Fitzpatrick asked Mr. McDonald for the vote count on the zoning text amendment by the Planning & Zoning Commission. Mr. McDonald stated that vote was 7-4, in favor of the text amendment. Alderman Fitzpatrick asked Mr. McDonald for the vote count on the petitions for the conditional use permits. Mr. McDonald stated that the vote was 8-2, in favor of the petitions for conditional use permits. Mr. McDonald stated that it was his opinion that the Commission voted in favor of the petition, to pass the decision onto the Board.

Alderman Fitzpatrick asked Mr. McDonald if the Planning & Zoning Commission or its subcommittee were aware of Section 406.202 and 406.020. Mr. McDonald replied in the affirmative.

John Reinsel, attorney for Ms. Reinsel who resides at 12110 Georgian Trail, addressed the Board to speak in opposition of the petition. Mr. Reinsel stated that he is certain that light emanates from the property into the subdivision. Mr. Reinsel also stated that the requirements

listed under city code Section 406.020 could not be met, therefore the petition should not be approved.

Mr. Reinsel submitted two documents for distribution to the Board and City Clerk, item #1, a document entitled "Chapter 406: Supplementary Regulations", and item #2, an email dated September 25, 2018 from former City Attorney Kevin O'Keefe to members of staff. Mayor Becker accepted these documents in to the record as exhibits #13 and 14.

Alderman Barrett asked Mr. Reinsel if Section 406.202.1 was strictly enforced, prohibiting all accessory uses that may not commonly be used in conjunction with the primary, if it would exclude future petitions that are creative or unique.

Mr. Reinsel stated that as an administrative body the Board could not approve the petitions based on Section 406.202 of the city code.

Mr. Graville, Interim City Attorney, stated that the Board was not acting as an administrative body, but rather a legislative body, where they have the authority to create findings and base their determination on those facts and findings.

David Grone, 744 Bent Brook, spoke in favor of the distillery, stating he was pleased to have a non-chain establishment in the City and wished the owner success.

Mary Fikes, 1884 Candlewick Dr, asked the owner if any changes would be made to the drive aisle. Mr. Disper stated that the access would remain the same.

Sherry Price, 12112 Belle Meade, asked the owner why he had two entities, Village Bar BRH and 1879 Distilling. Ms. Price also inquired if the nearby church had been notified of the petition. Mr. Disper stated that the Village Bar and the Distilling Company would still continue under the Village Bar Liquor License, the business, 1879 Distilling LLC is for trademark, copy right and logo design. Mr. Disper added that St. Paul's Lutheran Church was aware of the petition and they have previously submitted a letter of recommendation in favor of the use.

Fred Schmidt, 12308 Dunmorr, stated that he believed that the owner was pushing the property to the extreme, and that he can see the lights of the Village Bar from his two story deck. Mr. Schmidt also stated that he would like for Mr. Disper state for the record, that if approved he would not request anything additionally from the Board in the future.

Mr. Disper stated that the lighting from the property isn't flooding on to adjacent properties or subdivisions. Mr. Disper added that the lights could be seen, as the lighting from the tennis courts at Des Peres Park could also be seen, but the lights were not shining on to other properties.

Richard Vehige, 12130 Georgian Trail, spoke in opposition of the petition, stating that the petition was inconsistent with the approved Comprehensive Plan and that he had concerns with approving a petition that was not required to submit an environmental or safety study. Mr. Vehige added that a third party study should be required prior to approval.

Mr. Disper stated that they will ensure all standards are met, and that safety is there top concern.

Mr. Schmidt asked Mr. Disper to state for the record that he would not attempt to modify or change the operation of the distillery in the future. Mr. Disper stated that the use and his applications would be reviewed annually, and if he were to modify the use without approval he would be in violation of the conditional use permit. Mr. Disper added that if approved, he does not intend to request an increase or modification to his conditional use permit.

Mayor Becker closed the public hearing at 8:47PM.

AMENDMENT OF AGENDA – None

CITIZEN COMMENTS

Frank & Jane Melville, 2103 Trailcrest, thanked Mayor Becker for adding their comments into the record, and again stated that they believe the proposed Blattner Subdivision would be an invasion of their privacy, and would create additional traffic and an added burden on to their utilities. Mr. & Mrs. Melville requested that the proposed home on lot #2 be restricted to a ranch style home.

James McEnroe, 2158 Trailcrest, stated he had concerns with the proposed Blattner Subdivision. Mr. McEnroe stated that he would like the indentures of the subdivision to be in sync with neighboring subdivisions, and would like an environmental assessment completed on the property.

David Grone, 744 Bentbrook, stated that he had concerns with a history of material dumping at the site of the Blattner Subdivision, and would too like an environmental study completed. Mr. Grone requested that the construction traffic remain on the subject property during construction of the first 6 homes.

Charles Bausino, 2119 Ballas View, stated that he also had concerns with the maintenance of the rain basins in the Blattner subdivision.

Alderman Concagh asked the petitioner if they would be favor of in addition to the 23' side yard setback requirement for lot #2, they would also consider a height limitation for the same lot. Mr. O'Toole responded in the affirmative.

Alderman Fitzpatrick moved to amend Bill 19-2854.2 to add language that the home to be constructed on Lot #2 be limited to a single story ranch style home with no living space above the first floor, second by Alderman Barrett. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Concagh, AYE; Kleinschmidt, AYE; Fitzpatrick, AYE. Motion passed 6-0.

REPORTS OF OFFICERS AND COMMITTEES

Report of Committees

The Mayor acknowledged the following written reports submitted to the Board of Aldermen:

- a) Report of the Audit & Finance Committee Meeting of Monday April 22, 2019
- b) Report of the Public Safety Commission Meeting of Monday May 6, 2019
- c) Report of the Planning & Zoning Commission Meeting of Wednesday May 8, 2019

Report of Mayor

Mayor Becker stated that he has appointed Chris Graville, as Interim City Attorney, and would be submitting his nomination of appointment to City Attorney to the Board under New Business.

Mayor Becker stated that Mr. Graville is a long-time resident of Deutschmann Acres, a graduate of the University of Missouri Law School, and currently serves as City Attorney in Chesterfield, Warrenton and Innsbrook. In addition, he also serves as Prosecuting Attorney in Ballwin and Fenton, and is the Municipal Judge in Oakland and Overland.

CONSENT AGENDA

Mayor Becker advised that the Consent Agenda consisted of eight (8) items. Under the Board Rules, all items on the consent agenda can be approved by a single motion and any item on the warrant list may be removed prior to the vote at the request of any individual member of the Board of Aldermen. Items on the consent agenda included:

1. Minutes of the April 22, 2019 Board of Aldermen Meeting
2. Warrant List dated May 9, 2019
3. R19-3303 Authorizing Renewal of Liquor Licenses Effective July 1, 2019
4. R19-3304 Authorizing Contract with HJ Glasser Construction Company for Replacement of the Garage Doors for the Salt Dome at the Street Garage
Fiscal Impact: \$ 12,386.00
5. R19-3305 Authorizing Contract with Right of Way Traffic Control for Construction of a Six

- Foot Sight Proof Fence at the Street Garage
Fiscal Impact: \$ 11,625.00
6. R19-3306 Authorizing a Contract with America's Parking Remarketing for Pavement Marking
Fiscal Impact: \$35,000.00
 7. R19-3307 Authorizing an Agreement with SLAIT-Health and Anthem for Renewal of
Employee Health Insurance Coverage Effective July 1, 2019.
Fiscal Impact: \$ 1,200,000 Annual Cost
 8. R19-3308 Authorizing the City Administrator to Execute a Maintenance Agreement with
the Metropolitan St Louis Sewer District for Maintenance of Certain Storm
Water Improvements Constructed in Conjunction with the Des Peres Park
Tennis Court Project
Fiscal Impact: Nominal

Alderman Kleinschmidt moved to approve the Consent Agenda as amended, second by Alderman Pound. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Concagh, AYE; Kleinschmidt, AYE; Fitzpatrick, AYE. Motion passed 6-0.

LEGISLATION (UNFINISHED)

1. **B19-2854.2** An Ordinance Rezoning a 4.85 Acre Tract of Land Located at 641 N. Ballas Road From "D" Single Family Residential to Planned Residential Development (PDR), Approving a Master Development Plan for the Development and Approving a Preliminary Plat for the Blattner Farm Subdivision

Alderman Concagh read Bill 19-2854.2 for the second time.

Alderman Fitzpatrick moved to amend Section Three (3.f) to Bill 19-2854.2 to limit the construction of the home on Lot #2 to a single story ranch style home with no living space above the first floor, second by Alderman Barrett. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Kleinschmidt, AYE; Concagh, AYE; Fitzpatrick, AYE. Motion passed 6-0.

Alderman Fitzpatrick moved to approve Bill 19-2854.2 as amended, second by Alderman Barrett. A roll call vote was then taken with the following results: Fitzpatrick, AYE; Concagh, AYE; Kleinschmidt, NAY; Pound, NAY; Sansone, AYE; Barret, AYE. Motion passed 4-2.

2. **B19-2855** An Ordinance Approving a Master Development Plan for an 0.97 Acre Tract of Land at 12239-12247 Manchester Road; Approving a Conditional Use Permit for the Village BHR-LLC for Operation of a Restaurant; Approving a Conditional Use Permit for Operation of a

Craft Distillery as an Accessory Use; and Repealing Ordinance
2764

Fiscal Impact: No Direct Impact

Alderman Concagh read Bill 19-2855 for the second time.

Alderman Concagh moved to amend Section Two and Section Three of Bill 19-2855 to restrict deliveries, trash collection or similar pick-up's from occurring on Sundays or between the hours of 6:30PM and 6:30AM, second by Alderman Barrett. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Kleinschmidt, AYE; Concagh, AYE; Fitzpatrick, AYE. Motion passed 6-0.

Alderman Pound moved to table Bill 19-2855. Not hearing a second, the motion failed.

Alderman Fitzpatrick moved to approve Bill 19-2855 as amended, second by Alderman Sansone. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, NAY; Pound, NAY; Kleinschmidt, NAY; Concagh, AYE; Fitzpatrick, AYE.

Pursuant to Section 2-41 of the Municipal Code, "in case of a tie vote the Mayor shall vote nay or aye on such bill".

Mayor Becker announced that he has attended all Board of Aldermen and Planning & Zoning Commission meetings on the proposal, and added that the Commission did exhaustive research on the project. Mayor Becker voted AYE. Motion passed 4-3.

- 3. B19-2856** An Ordinance Authorizing an STP-Urban Program Agreement with the Missouri Highway and Transportation Commission Relating to Improvements to Manchester Road, STP Project 5555-(614) (2nd Reading and Consideration for Final Passage and Approval)
Fiscal Impact: 2019: \$39,000; Total Project: \$420,800

Alderman Sansone read Bill 19-2856 for the second time.

Alderman Barrett moved to approve Bill 19-2856, second by Alderman Kleinschmidt. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Kleinschmidt, AYE; Concagh, AYE; Fitzpatrick, AYE. Motion passed 6-0.

LEGISLATION (NEW)

- 1. B19-2857** An Ordinance Authorizing the Mayor to Execute a Contract for Legal Services with the City Attorney Chris Graville; Graville Law Firm LLC
Fiscal Impact: \$30,000 Retainer

Mayor Becker announced his appointment of Chris Graville to City Attorney. Alderman Kleinschmidt moved to approve the appointment of Chris Graville to City Attorney, second by Alderman Concagh. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Kleinschmidt, AYE; Concagh, AYE; Fitzpatrick, AYE. Motion passed 6-0.

Alderman Fitzpatrick introduced Bill 19-2857, and read it for the first time.

Alderman Kleinschmidt moved to waive the rules and read Bill 19-2857 for a second time, second by Alderman Concagh. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Kleinschmidt, AYE; Concagh, AYE; Fitzpatrick, AYE. Motion passed 6-0.

Alderman Fitzpatrick read Bill 19-2857 for a second time, and moved to approve, second by Alderman Kleinschmidt. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Kleinschmidt, AYE; Concagh, AYE; Fitzpatrick, AYE. Motion passed 6-0.

REPORTS OF STAFF

City Administrator Harms reminded the Board that the second meeting in May fell on the Memorial Holiday, and the Board could reschedule or cancel the meeting as directed by the Mayor or a majority of the Board.

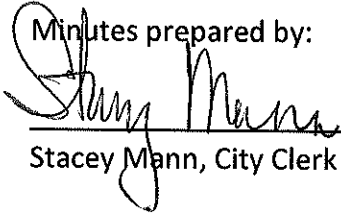
Mayor Becker rescheduled the meeting to Tuesday May 28th, 2019, and requested all Board members contact him regarding board assignments. Alderman Concagh announced that he would not be present at the May 28th meeting.

City Administrator Harms stated that the Board previously voted on cancelling the second meeting in both June and July.

ADJOURNMENT

There being no additional business to come before the regular session of the Board of Aldermen, Alderman Kleinschmidt moved to adjourn, second by Alderman Concagh at 9:40 PM. A roll call vote was then taken with the following results: Barrett, AYE; Pound, AYE; Kleinschmidt, AYE; Fitzpatrick, AYE; Concagh, AYE; Sansone, AYE. Motion passed 6-0.

Minutes prepared by:

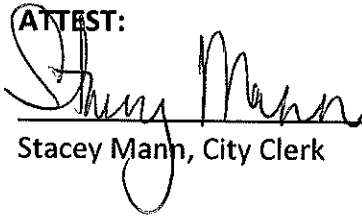


Stacey Mann, City Clerk



Mark Becker, Mayor

ATTEST:



Stacey Mann, City Clerk