

**PLANNING AND ZONING COMMISSION AGENDA**  
**300 Hoven Drive Pacific, MO 63069**

**Tuesday, October 25, 2022**  
**7:00 P.M.**

**This meeting is open to the public.**

**The meeting will be streamed live on the City of Pacific YouTube channel:**

**<https://www.youtube.com/channel/UC9dxzhHQWbPulQJC1N6TSig>**

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF MINUTES: From September 27, 2022
4. PUBLIC HEARING
5. NEW BUSINESS
  - a. PZ 2022-12 Waivers and Exceptions request, Gallagher Properties LLC. Indian Trails Road, Lots 1-2-3 Nottingham Ridge subdivision.
6. OLD BUSINESS
  - a. Home Occupations text amendment.
7. COMMITTEE REPORTS
  - a. Board of Aldermen
  - b. Board of Adjustment
  - c. City Administrator
8. ADJOURNMENT

This Meeting is Open to The Public Note: The Planning and Zoning Commission will consider and act upon these matters listed above and any such others as may be presented at the meeting and determined appropriate for discussion at that time.

**CITY OF PACIFIC  
PLANNING & ZONING MINUTES  
September 27 2022 at 7:00 p.m.**

**Call to order:** The meeting of the Planning & Zoning Commission was called to order by Chairman Bruns at 7:00 PM on Tuesday, September 27, 2022.

**Roll Call:** Commissioner Flannery, Commissioner Bates, Commissioner Graham, Alderman Eversmeyer.

**Absent:** Commissioner Koelling, Commissioner Miles, Commissioner Brocato, Commissioner Madrigal.

**City Staff:** Community Development Director Myers, Administrator Roth, City Clerk Barfield.

**Approval of Minutes:** Regular meeting on September 13, 2022.

City Clerk Barfield stated those minutes were emailed out. Motion made by Alderman Eversmeyer, seconded by Commissioner Flannery. A voice vote was taken with an affirmative result. Opposed: none.

**Public Hearing:**

- a. **PZ 2022-10 Text Amendment, Section 400.170. The City of Pacific is seeking a text amendment to Section 400.170 to align its regulations regarding Home Occupations with recent changes in Missouri Law.**

Chairman Bruns read the public hearing into the record. She opened the public hearing for comments.

Staff report: Administrator Roth stated there were recent changes in Missouri law that requires the City to amend its zoning code regulations pertaining to home-based business. The City Attorney brought this to our attention and drafted the bill, which is before you tonight. This required a public hearing and then ordinance approval of the Board of Aldermen. There is a staff report in the board packet. The state law allows a "no impact" business subject to certain limitations. The bill is drafted to adhere to the state law. The effect of the bill is to allow home based businesses, unless they have a noticeable impact, and more or less incidental and invisible to the neighbors, they would be permitted. We have been accommodating in our code to them. As long as the business is conducted in the home and there is no impact, he has no objection to this being a permitted use. The staff does recommend approval, and it is state law. The state law prohibits the city to require any occupancy permit, for example, it does not call it out but that is the intent of the law. The business license portion he believes would still be required, but don't think we can require a commercial occupancy permit or an inspection of the premises. The bill as drafted is in a form that is ready for approval. This is subject to interpretation because the law is not explicit. In his opinion it is pretty clear that we cannot conduct a commercial occupancy inspection but he believes we can issue business licenses. A no sales tax due certificate is required before a license can be issued, and don't believe this bill preempts that. Commissioner Eversmeyer thought it was spelled out, there is no outside storage, excessive noise etc. Commissioner Bates asked what is defined as a commercial vehicle. He sees home businesses now that have a vehicle in the driveway and a company logo on it. This doesn't offend him, but down the road this could come up. Administrator Roth stated the bill references the code, but would have to look it up. Commissioner Bates don't want to make trouble for anyone, but there are businesses in town that the service truck is drove home every day. He

doesn't have a problem with that either, but where does it start and stop. Commissioner Flannery stated in his travels to different communities there are some in St. Louis County that prohibit parking a company truck in their own driveway, even though it's a company truck. He thought this was a bit far, as that was a benefit of the company. Conversely, we don't want a big box truck that looks like a loading dock. He thought this was a slippery slope. Once something is on paper, it could become stricter. Commissioner Bates would rather make it easier for people, until it becomes a real problem. People buy property to live there and use it, and he don't want to impeded people's freedoms. Administrator Roth stated commercial vehicle is defined in Section 300.020 of the Municipal Code as "every vehicle designed, maintained or used primarily for the transportation of property". That is subject to interpretation, from a zoning perspective, if we received a complaint, he would not include a work truck in that definition, but a box truck might. Commissioner Bates didn't want to hold this up, but just more clarification. Discussion followed. Commissioner Bates stated this is a working-class town, we don't want to make it difficult. Chairman Bruns stated she didn't want to penalize anyone. Commissioner Flannery stated the type of home businesses allowed, at what point is it more than a home business. Chairman Bruns stated one of the definitions reads "not detectable". Administrator Roth stated he understood there were gray areas. Procedurally, when we get a business license address, we determine if that is in a commercial district, if its in residential we check to see if meets the home-based business definition. If we are satisfied, then we issue the license, and attach these regulations to it. Commissioner Bates stated a previous attorney always said don't forget about the city staff, how are they going to perform the obligations of these, especially if it was unenforceable, or subject to interpretation. Discussion followed. There being no further comments, the public hearing was closed.

Chairman Bruns stated there is no action scheduled for this evening regarding this. Committee members agree to have Administrator Roth obtain clarification from the City Attorney.

### **New Business**

- a. PZ 2022-11 Consideration for a minor subdivision application for 1280 Inez Lane, Pacific, MO, Michael E. Smith, applicant.**

Chairman Bruns read PZ 2022-11 into the record. Director Myers stated this is for property located at 1280 Inez Lane, Franklin County Parcel ID # 19-1-01.0-0-017-017.000, Pacific, MO. The applicant is proposing to divide an approximate 6.34 tract divided by Inez Lane. They are proposing two parcels: Lot 6A with 3.60 acres and Lot 6B with 2.74 acres. The property proposed to be subdivided is generally bounded by residentially zoned property to the north, south and east and unincorporated area to the west. The property is currently zoned R-1H, single family hillside district residential. There is a plat to be approved, and recommended for approval. There are no public improvements additional needed. This is a minor subdivision request. Commissioner Bates asked what the minimum tract size is for R1-H and if both lots were conforming after being split. Director Myers thought they both were qualifying as it was square footage. Director Myers read from the code, that this is based on the percentage of slope; overall density shall be based upon the average slope of the land to be developed: 0-15% slop is 1 dwelling per acre and 16-25% slope is 1 dwelling per 2 acres, 26-35% slope is 1 dwelling per 4 acres. He asked the applicant if they knew the grade. They did not know this. Commissioner Bates stated we can't create a non-conforming entity, how are we going to know with what is before us. Chairman Bruns suggested the surveyor supply the percentage of the slope. Administrator Roth stated Director Myers handled this one, and yes without that information it would hard to know. Director Myers stated

on the regulations there is a grade of slope that is called out per the % of the slope, which dictates the density on that lot. The applicant stated at this time there is not a plan to build on it. Chairman Bruns did not want to hold them up. Administrator Roth stated if the slope is less than 25% then it complies, if it is more then there is a conflict. Chairman Bruns stated if there is a conflict then it would need a variance before the Board of Adjustment. Chairman Bruns stated the 6-acre parcel is what this is based off of. Commissioner Bates stated both lots have to be conforming. Commissioner Flannery asked if there was any negative impact. Ms. Bledsoe, realtor, stated she didn't feel there was no negative impact, it is a wooded lot, the neighborhood is a nice private neighborhood and that's what they want it to remain. Administrator Roth stated the roadway is platted by easement, not be right of way dedication on the plat. The City Attorney suggested we get this plated. The 40' wide roadway and utility easement we would request this be dedicated as right of way. The city has been maintaining it. Director Myers stated in addition to that, there is no driveway designated on the plat, and there should be, so both properties have a driveway. Director Myers stated staff recommends approval as long as it confirms with the slope. Chairman Bruns stated along with changing the 40' road utility easement to a 40' right of way for Inez Lane.

**Motion made by Commissioner Bates, seconded by Commissioner Eversmeyer to recommend passage as long as both parcels are conforming per the R1H Code specifically in regards to the percentage of grade, and the right of way is dedicated to the city and one driveway entrance for each parcel. A roll call vote was taken with the following results: Ayes: Commissioner Flannery, Commissioner Bates, Chairman Bruns, Alderman Eversmeyer, Commissioner Graham. Nays: none. Chairman Bruns stated this would be contingent on going to the Board when the information is received. Director Myers stated he would let them know what the findings were.**

**Old Business – none**

#### **Committee Reports**

- a. **Board of Aldermen** – Alderman Eversmeyer stated the Alt property passed to be light industrial. Were working on Candlewick and will talk about it on Friday at the Operations Committee.
- b. **Board of Adjustment** - none
- c. **City Administrator** – none

#### **Adjournment**

**Motion made by Commissioner Flannery, seconded by Commissioner Bates. A voice vote was taken with an affirmative result.**

**Meeting adjourned at 7:55 p.m.**

# MEMORANDUM

Steve Roth  
City Administrator

636-271-0500 ext. 213  
sroth@pacificmissouri.com

October 21, 2022

**TO: Planning and Zoning Commission members**  
**RE: October 25 meeting items**

Hello everyone,

Please note the following with respect to items on the Oct. 25 agenda:

**1. Waivers and Exceptions request, Gallagher Properties LLC, Indian Trails Road, Nottingham Ridge subdivision.** Gallagher Properties is requesting a waiver to the curb and gutter and sidewalk requirement for development of this property. This issue dates back to 2015; I will try to summarize here:

The property was platted as Nottingham Ridge Subdivision in 2016 by developer Ron Grubbs. The Board took final action in November, 2016, after a series of hearings and meetings that dated back to 2015. The subdivision improvement plans included construction of one-half of the street (ie to the centerline of the street on the Gallagher property side), construction of curb and gutter and sidewalk, and extension of public water and sewer improvements. Mr. Grubbs sought a waiver of the curb and sidewalk requirement at that time, which was not approved by the Board of Aldermen. Mr. Grubbs became ill at some point following platting of the subdivision, and the development did not proceed.

The property sat vacant for some time before being acquired by Gallagher Properties in 2021. The City then instructed Mr. Gallagher that he must assume the prior developer responsibilities, and Mr. Gallagher posted a performance guarantee securing the public improvements. Mr. Gallagher further was told that the City would not issue occupancy permits for any structures until the public improvements had been constructed. Mr. Gallagher was also advised of his right to request a waiver of the curb and gutter and sidewalk requirement if he wished.

## Analysis / review

The Commission of course is familiar with waiver requests, and has granted several in recent years. With respect to Nottingham Ridge, my recommendation from 2016 was in support of the curb and gutter and sidewalk waiver, and it remains so today. One of the difficulties with this project, from my perspective, is the developer only owns property on one side of the street, so the City can only require that half of the street be constructed. Given this fact my preference for this development from the beginning has been some kind of compromise plan, where the developer improves the street to some reasonable width (minimum 24-ft) in exchange for waiving the curb and sidewalk requirement. The curb and sidewalk waiver further would be based on the fact that there are no curbs and sidewalks in this area to connect to, and there is developed property adjacent to these parcels on three sides with no existing curb or sidewalk. Further, curbing along this stretch would require some level of storm sewer improvements, which was not part of the plan that had been proposed prior to my appointment to this position, and is not part of the plan currently.

I realize that the compromise plan discussed above does not result in a street that would meet City specifications. To be clear, the City would not accept maintenance of this street, apart from snow-plowing, which we do currently. Given this fact the ideal solution then, in my opinion, would have been

to construct the street fully to City specifications, and made this a condition of the subdivision approval back in 2016. This solution would have required adjacent property owners to participate in the curb and gutter and street improvements. The City Attorney and I proposed such a solution in 2016, prior to Nottingham Ridge subdivision being platted, but this proposal was rejected by the Board of Aldermen. The proposal would have adopted a provision of state law which allows cities to assess the cost of public improvements to the adjacent property owners. The process is somewhat lengthy and involved, but the end result is an improvement in which all adjacent property owners share proportionally in the cost of the improvement. If the developer had been required to construct the full road, including curb and gutter on both sides, then the adjacent properties would realize the benefit of those improvements but at the developer's expense. This is not fair to the developer, and so we were left with a situation in which the developer only has to improve half the street and that street, as noted above, would not meet City specifications and be accepted for City maintenance.

I have heard it suggested that the City take on responsibility for constructing the other half of the street. My response is why should the taxpayers subsidize such an expense, which would primarily benefit the adjacent property owners? This street terminates at the City limits, and is used in part by people residing outside the City limits. The current plan, in which the developer only improves to the street centerline, essentially would construct a 15-ft wide street, which is not much more than the "lane" that exists now. A widened street in my opinion would better serve the development and the nearby residents, both inside and outside the City limits.

I realize this issue has been contentious since the original development proposal back in 2015, and there are those who disagree with my position. I respect that, and would note again that ideally the street would in fact be constructed to full City specifications, with curb and gutter on both sides. However this solution back in 2016 was met with large opposition from citizens who feared the City would use it to start building curbs and gutters throughout the City, and assessing the cost to property owners. That was never the intent, but the Board at that time and the general public did not appear to have much appetite for such a solution. So unless we want to approach development from this perspective, where we assess the costs of new improvements to the adjacent property owners, then we will be left with situations like Nottingham Ridge, where the developer only has to build half a street and construct curbing and sidewalk that will not connect to others. This in my opinion frankly is poor planning that may result in future issues, if and when adjacent properties are developed. The compromise plan where a widened "lane" is constructed in my opinion makes better sense and is sufficient to serve this development at this time.

I can address further questions on this topic at the meeting if desired.

**2. Home occupations text amendment.** The City Attorney has submitted a revised text amendment, based on feedback at the Sept. 27 meeting. The revisions clarify the definition of "commercial vehicle," and also make clear that the City cannot require any special permits or licenses specific to the home based business use. The City Attorney does believe the state law allows the City to continue to require "regular" business licenses (such as would be required for a business at any location), but no other zoning or occupancy license or permit may be required. The revisions are in Section D.6 and Section D.11 and recopied here for reference:

6. No home-based business shall involve commercial vehicle traffic on or in the vicinity of the residence. For the purpose of this section, "commercial vehicle" shall be defined as any

self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle—

- (1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
- (2) Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
- (3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- (4) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.

11. The home-based business shall register with the City to ensure that the business activity of the home-based business is compliant with state and federal law and paying applicable taxes.

The new state law went into effect just this summer, and so to our knowledge has not been "tested" by any type of court case or litigation. Inevitably we feel that may occur, but we would reiterate our position that the state law requirements in general appear to be protective of neighboring residential uses, while permitting the "no impact" home-based business use by right.

I can also address further questions on this topic at the meeting if desired.

As always, if you have questions or need further information please don't hesitate to contact me.

Respectfully submitted,



Steve Roth  
City Administrator

Gallagher Properties  
400 E Union  
Pacific, MO 63069

October 13, 2022

To whom it may concern:

In reference to Nottingham Subdivision/Indian Trails Rd

Request for Waiver and Exceptions permits.

After many talks with Rob Brueggemann and Steve Roth about the ill thought out road construction plans for Indian Trail we have come up with a solution of installing a reverse S curve instead of two dead end sections of curb and gutter. The idea behind curb and gutter is to essentially eliminate ground erosion and flooding onto property adjacent to the road. In this case, the current road does not have any, either before or after the new construction. Gallagher Properties has offered to trade the curb, gutter, and sidewalk requirement in exchange for overlaying the existing asphalt and creating the proposed S curve to widen the road. This plan would eliminate the dead end sections of curb and gutter that would ultimately lead to two private yards being eroded after each rainfall, and possibly flooding if/when we get a substantial rainfall in one day. Water will naturally run off the road on each side instead of being funneled into two spots. As well as allow for two cars to pass to help with traffic flow and avoid accidents and/or cars driving through yards. All of which will most certainly be an issue.

Please see attached proposal and plan which again has been discussed with both the City Administrator Steve Roth and Public Works Commissioner Robert Brueggemann.

Sincerely

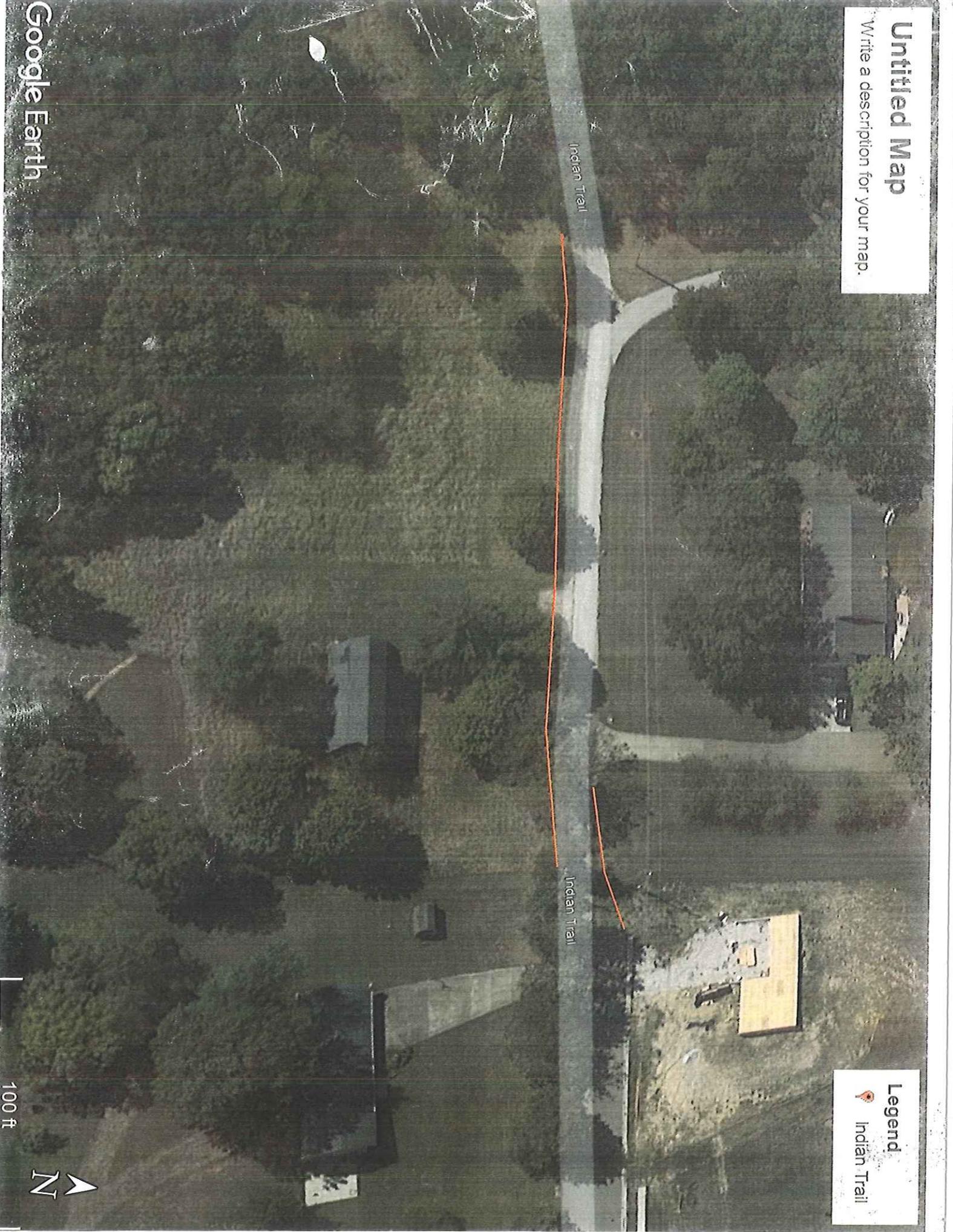


Michael Gallagher

Gallagher Properties LLC

# Untitled Map

Write a description for your map.



**Legend**  
Indian Trail

Google Earth

100 ft



**BILL NO.**

**ORDINANCE NO.** \_\_\_\_\_

**SPONSOR:** \_\_\_\_\_

**AN ORDINANCE AMENDING SECTION 400.170 OF THE ZONING ORDINANCE OF THE CITY OF PACIFIC, MISSOURI REGARDING HOME OCCUPATIONS**

**WHEREAS**, Section 400.170 of the City Zoning Code establishes zoning regulations concerning home occupations; and

**WHEREAS**, state law has changed regarding the ability of local government to regulate home occupations (HB 1662, 2022) and the Director of Community Development has applied for approval of the necessary zoning ordinance changes, and

**WHEREAS**, the Planning and Zoning Commission of the City of Pacific, Missouri has recognized the need for amendments to such regulations as set forth herein, to comply with state law; and

**WHEREAS**, the Planning and Zoning Commission of the City of Pacific, Missouri, held a public hearing thereon at \_\_\_\_\_ on \_\_\_\_\_, 2022, beginning at \_\_\_\_\_ p.m., or immediately following the close of the previous public hearing; and

**WHEREAS**, the Planning and Zoning Commission reviewed and, by a vote of \_\_\_\_\_ , recommended approval of the subject amendments as set forth herein at its meeting on \_\_\_\_\_, 2022; and

**WHEREAS**, notice of said public hearing had previously been published at least 15 days prior to the hearing in the \_\_\_\_\_, a newspaper of general circulation in the City of Pacific and otherwise posted and published in accordance with the Zoning Ordinance; and

**WHEREAS**, all persons who presented themselves at said meeting and desiring to be heard were given an opportunity to be heard and a copy of the proposed ordinance has been made available for public inspection prior to its consideration by the Board of Aldermen; and the Bill was read by title in open meeting two times before final passage by the Board of Aldermen; and

**WHEREAS**, the Board of Aldermen being fully informed finds that amending the City Code of Ordinances as set forth herein has been mandated by the State Legislature;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PACIFIC, MISSOURI, AS FOLLOWS:**

Section 1. Section 400.170 of the Zoning Ordinance, of the City of Pacific’s Code of Ordinances shall be amended to read as follows:

Home-Based Businesses.

A. *Definitions.* As used in this section, the following terms mean:

1. “Goods”, any merchandise, equipment, products, supplies, or materials;
2. “Home-based business”, any business operated in a residential dwelling that manufactures, provides, or sells goods or services and that is owned and operated by the owner or tenant of the residential dwelling.

B. *Authorization.* Any home-based business owned or operated by the owner or tenant of the residential dwelling unit that is “no impact” pursuant to state law (Sections 71.990 and 89.500, RSMo.) including being incidental and secondary to the principal use of the residential dwelling unit, shall be permitted in any such residential dwelling subject to the provisions set forth herein. Any person who resides in a residential dwelling may use the residential dwelling for a home-based business unless such use is restricted by:

1. Any deed restriction, covenant, or agreement restricting the use of land; or
2. Any master deed, bylaw, or other document applicable to a common-interest ownership community.

C. *Purpose Of Regulation.* Home-based businesses shall be regulated so as to:

1. Ensure compatibility of home- based businesses with all uses permitted in the "R1-E", "R1-H", "R1-A", "R1-B", "R1-C", "R-2" and "R-3" Districts.
2. Promote the health, safety, and general welfare of residential neighborhoods by preventing excessive noise, traffic, nuisances, fire hazards and other adverse effects of unregulated home occupations.
3. Establish standards for home occupations in residential units.

D. *Use Limitations.* All home-based businesses shall comply with the following provisions to preserve residential appearance, prevent adverse impacts on the character of the surrounding neighborhood, and protect public health and safety:

1. The use of the residential dwelling unit for the home-based business shall be clearly incidental and secondary to its use for residential purposes by its occupants and shall under no circumstances change the residential character thereof.
2. Home-based businesses shall be subject to all applicable laws and its activities shall be limited to the sale of lawful goods and services.
3. The total number of employees and clients on-site at one time shall not exceed the occupancy limit for the residential dwelling unit.
4. The activities of the business shall only occur inside the residential dwelling unit or in the yard and shall not be visible from the street.

5. No alteration to the exterior experience of the residential building or premises shall be made which detracts from its residential character.

6. No home-based business shall involve commercial vehicle traffic on or in the vicinity of the residence. For the purpose of this section, “commercial vehicle” shall be defined as any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle—

(1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or

(2) Is designed or used to transport more than 8 passengers (including the driver) for compensation; or

(3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(4) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.

7. No mechanical equipment or process shall be used that creates excessive noise, vibration, glare, fumes, odors, electrical interference, or fluctuations in line voltage outside the residential dwelling unit.

8. Notwithstanding anything in Chapter **425** herein to the contrary, no advertising, identification or business exterior displays or signs are permitted on any residential premises.

9. Traffic generated by such home-based business shall not exceed volumes than would normally be expected in the residential area and any need for parking generated by the conduct of such home-based business shall be met by lawful off-street parking.

10. There shall be no exterior storage of equipment, commodities, inventory, or material used in connection with the home-based business.

11. The home-based business shall register with the City to ensure that the business activity of the home-based business is compliant with state and federal law and paying applicable taxes.

**Section 2:** This Ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen and approval by the Mayor.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2022. \_\_\_\_\_  
*Heather Filley, MAYOR*

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022. \_\_\_\_\_  
*Heather Filley, MAYOR*

ATTEST:

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City Clerk