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## **Planning Commission Issues Report**

**Subject:** Amending Existing Ordinance Issues Report

**Meeting Date:** February 23, 2015

**From:** John Boyer, Senior Planner

**Location:** Southeast of the intersection of Chesterfield Airport Road and Long Road.

**Petition:** **P.Z. 17-2014 Steve W. Wallace (H.V. Real Estate Corp):**

### **Proposal Summary**

DosterUllom & Boyle, LLC, on behalf of H.V. Real Estate Corp, has submitted a request for an amendment to Ordinance 1328 to modify development conditions and add uses beyond those originally included within this C8 Planned Commercial District. Per the request, the applicant only wishes to modify the uses and development conditions in order to redevelop Lot 2 of the subdivision. The original request was for a total of 33 additional uses in addition to the removal of a size restriction on an Oil Change Facility and the reduction of a parking setback along the south property line from ten (10) feet to three (3) feet. After the public hearing and based upon comments received from the Planning Commission and Staff, the proposal has changed and will be discussed in detail under the Issues and Analysis section of this report.

The City of Chesterfield Unified Development Code (UDC) allows existing C8 properties to be amended as long as the limits of the particular zoning district are not expanded to new lots. The purpose of this requirement is to provide a mechanism for the redevelopment of existing C8 properties, many of which were zoned and originally developed prior to the incorporation of the City of Chesterfield.

This petition is before the Planning Commission following up on issues that were identified during the Public Hearing on January 12, 2015. After the meeting, an Issues Letter was sent to the petitioner by Staff which included concerns

identified at the Public Hearing and by Staff during our review. A written response to those issues was received by Staff, which is included for your review as an attachment to this report. Staff has prepared a draft planned district ordinance which is being presented to the Planning Commission for review and comment. This project is not on for a Vote Meeting due to the Issues which were brought by the Public Hearing. While the applicant has responded to the issues as presented, Staff believes there still may be items worth additional discussion. Staff has provided analysis on these issues in this report for the Planning Commission's review and possible discussion.

### **Site History**

On May 4, 1997, the City of Chesterfield approved Ordinance Number 1248 which rezoned a 2.03 acre parcel from NU Non-Urban District to C8 Planned Commercial District. Also included in Ordinance 1248 was .91 acres which was already zoned C8 Planned Commercial via St. Louis County Ordinance 5,531. The permitted uses for the site authorized a freestanding co-use convenience store/fast-food restaurant with drive-thru window, under canopy gas dispensing and a freestanding three (3) bay oil/lube operation. On October 6, 1997, Ordinance 1328 was approved by the City of Chesterfield to clarify signage criteria for the site.

**Surrounding Land Uses**

The land use and zoning for the properties surrounding this parcel shown in the aerial image in Figure 1 below is as follows:

**North:** The property to the north across Chesterfield Airport Road is currently zoned NU Non-Urban District and PC Planned Commercial. These lots are currently vacant.

**South:** The property is currently zoned PC Planned Commercial. The property's current use is for an auto body/detail shop.

**East:** The property is currently zoned PI Planned Industrial District. The property is currently being used by the St. Louis Family Church.

**West:** The properties to the west are currently zoned C8 Planned Commercial and M3 Planned Industrial. Current uses include general retail and a dental office.

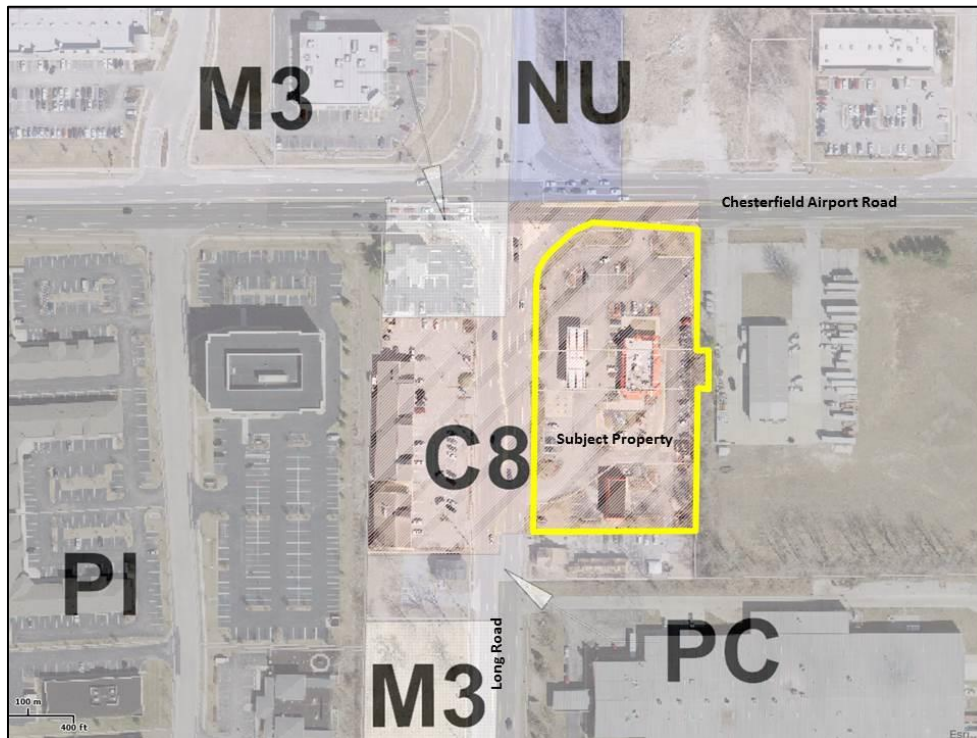


Figure 1: Aerial and Zoning Map

### Comprehensive Plan Analysis

The subject site is located within the Chesterfield Valley area and within the Mixed Use (Retail/Office/Warehouse) area. This area would recommend retail, low density office and limited office/warehouse facilities. The proposed uses submitted by the applicant would comply with this designation with appropriate conditions, which are further discussed within the Analysis section on page 5 of this report.

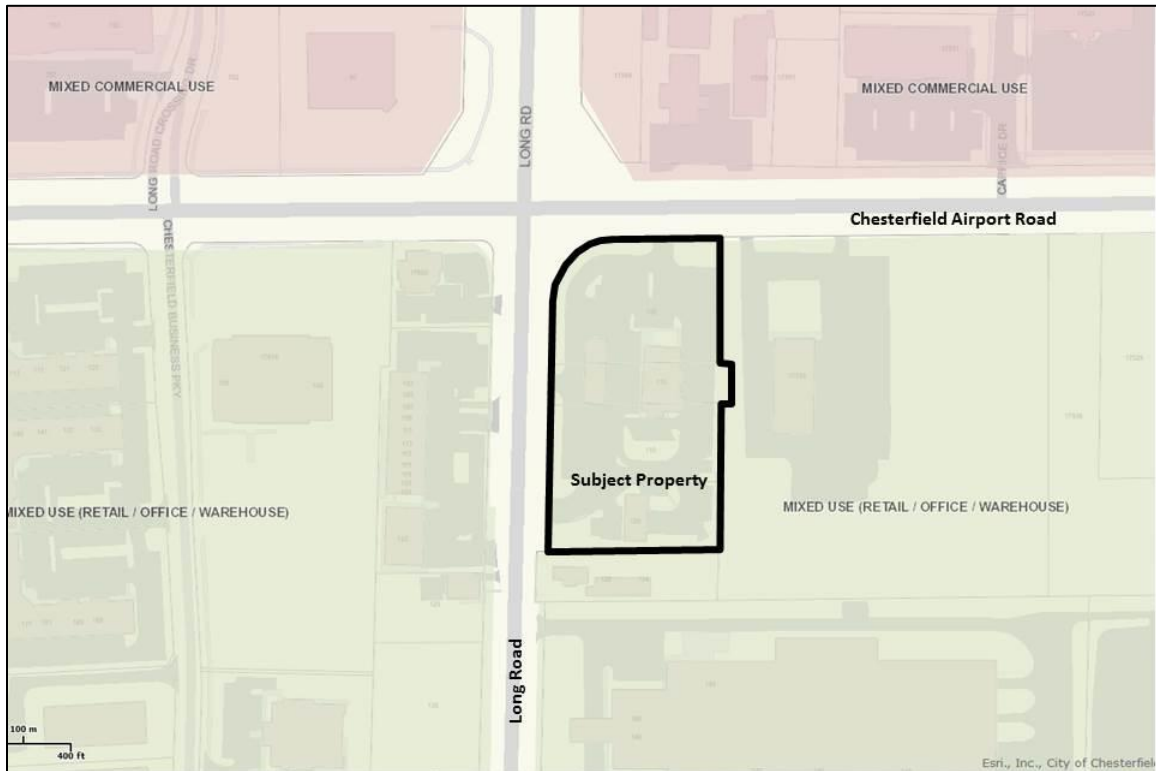


Figure 2: Land Use Plan

## **Issues**

The Planning Commission and Staff identified multiple issues on this petition. The Petitioner has submitted a formal response to each of these items which is attached to the Planning Commission's packet for review. Additional information/analysis from Staff on these Issues is provided below.

- **Open Space due to the addition of a drive lane**

During the Public Hearing, concern was raised on the loss of open space with the addition of a drive lane on the southern end of the property, see figure 3 on page 8 for depiction of area to be removed. Staff requested this lane to be evaluated and if possible, either removed or the loss of open space by this addition be mitigated elsewhere on the site. While Staff sought to mitigate the loss of open space, a review of the C8 District zoning and Ordinance 1328 reveals that open space is not required via C8 nor was open space restricted by ordinance. While a minimum open space is not required or buffer area to the south, the City may restrict via this application if deemed necessary.

After review of the Preliminary Plan and existing site conditions, Staff believes it may be difficult to mitigate the loss of open space unless the entire site were to be redeveloped. Existing site conditions to the south development is currently developed up to three (3) feet off the property line near this proposed lane addition. With the inclusion of this drive lane, if approved, the open space in this area will be reduced to three (3) feet off the property line as well leaving a six (6) foot buffer between the two properties. Per the applicant, the current open space of this development is 27.8%. With the proposed additions, open space would be 25.2%. While not required, staff would recommend at a minimum the open space be included in the new site specific ordinance. A higher percentage may be pursued associated with this request; however, existing site conditions (existing open space is 27.8%) will limit this percentage. If the drive lane is not approved, staff would recommend using the existing open space as the minimum requirement for the Attachment A. In order to require a minimum open space amount, Staff has included a 25% open space requirement minimum in the draft Attachment A.

- **The need for the drive lane**

During the issues meeting several questions and concerns were raised regarding the proposal for a drive lane along the southern edge of this development. As stated in the petitioner's response letter, the petitioner believes that site circulation will be improved with the inclusion of this drive

lane during time periods when the bay doors on the oil change facility building are open. In addition, if a new user replaces the oil change facility in the future such as a coffee shop, pharmacy or restaurant, this drive lane could provide for proper internal site circulation and a drive-thru lane. It is important to note here that if this ordinance amendment is approved, and if the property owner decided to redevelop this building with the inclusion of a drive lane, an amended site development plan would be required and the owner will be required to adhere to all Code requirements for internal circulation, stacking and other similar development standards.

- **Intensity and number of proposed uses and negative effects of parking demand generated by those proposed uses**

Concerned over the intensity of many of the land uses being requested, the Planning Commission proposed the applicant reduce the number of uses. In response, the applicant has proposed removal of four (4) uses from the original request. These are; 1) Administrative Office for Educational or Religious Facility, 2) Brewpub, 3) Community Center, and 4) Community Retail Sales Establishment.

The removal of the Community Retail Sales Establishment, but keeping the Neighborhood Retail Sales as a requested use, limits the proposed retail use for the existing structure to 4,000 square feet as the definition of the Neighborhood Retail Sales specifically identifies a retail use less than 4,000 square feet in area. This definition could also restrict the total size of the building if all uses were retail. This reduction does provide additional insurance to the future intensity of the site; however, parking for a retail space larger than 4,000 square feet may have been problematic if not impossible anyway due to the site's constraints. The remaining uses provide a comparable number/type of requested uses which are generally found within area commercial centers.

Since this site is small, these uses, if approved as requested, will further be limited on the site by City minimum parking standards. For example, the Neighborhood Retail requires a total of 4 spaces per 1,000 square feet. This means they will have to provide a total of 16 spaces if the entire structure was to be retail. It may be difficult to provide 16 spaces on this section of the site while still maintaining minimum parking standards for the rest of the site (McDonald's and BP station). Additionally, a Fast Food Restaurant would require parking at 15 spaces per 1,000 sqft. Depending on the size of the use and/or combinations of other uses within the proposed structure, the size of the proposed structure will be limited based

upon available parking area. While a building at 4,000 square feet may not be able to be parked per City standards due to this site's constraints, it does not mean retail and/or fast food is not and cannot be appropriate within this development.

- **Concern on removing the size limitation for the Oil Change Facility**  
The applicant has removed its request to remove the 2,100 square foot limitation for this use. This would mean if the amendment was approved as requested, this use would remain limited, even if the building were to be expanded beyond its existing size, which is approximately 2,041 square feet. However, if someone wanted to use the building as currently constructed, no amendments would be necessary.

## **Petition Analysis**

### Uses

As currently written, Ordinance 1328 limits Lot 2 to only allow an oil change facility as developed. Since the other remaining uses are limited in size by ordinance, the ordinance in effect will not allow any other uses besides the oil change facility on Lot 2, unless the current gas station/fast food restaurant/convenience store is demolished. As documented by the narrative statement, amendments being proposed are only requested for Lot 2 of this development and do not affect Lot 1 in any way. While Lot 1 and Lot 2 are under the same ordinance, they are also under separate ownership. In an effort to accommodate this request, Staff has split the permitted uses between Lots 1 and 2 on the draft Attachment A. Lot 1's uses and conditions are proposed to remain unchanged from Ordinance 1328; while Lot 2 will have its own list of permitted uses.

Associated with Lot 2 only, the petitioner wishes to expand to the attached list which includes 29 uses. The original request included 33 additional uses; however was reduced based upon Planning Commission and Staff comments. Uses removed from the list include; Administrative Office for Educational or Religious Facility, Brewpub, Community Center, and Community Retail Sales Establishment. As indicated in the Issues section, Staff does not have concerns with the remaining requested uses as long as they may be parked per the City's minimum standards, which will be applied for any site development plan or future commercial occupancies.

Associated with the Vehicle Repair and Service Facility land use requested with this application, Staff would recommend discussion and inclusion of development criteria to ensure compatibility of surrounding uses and to remain a commercial

center and not an industrial center, which is not recommended via the Comprehensive Plan. Such criteria could include limitations on the size of the use, the storage of derelict vehicles and any unscreened outdoor storage. In addition, Staff would also recommend limitations on wrecked/dismantled and prohibitions of salvage vehicles which are not permitted outside of industrial districts. Recommended draft development criteria has been added to the draft Attachment A. With the addition of these conditions, Staff does not have concerns with the remaining requested uses as long as they may be parked per the City's minimum standards, which will be applied for any site development plan or future commercial occupancies. Additional conditions may be added by the Planning Commission to insure compliance with the City UDC and area compatibility.

Development Conditions/Preliminary Plan

After the Public Hearing, the applicant removed the requested development condition amendment of the 2,100 square foot use limitation for Oil Change Facility. If the building were to be expanded beyond its existing footprint and a tenant wished to operate an Oil Change Facility, the structure would have to be amended to comply with this size limitation.

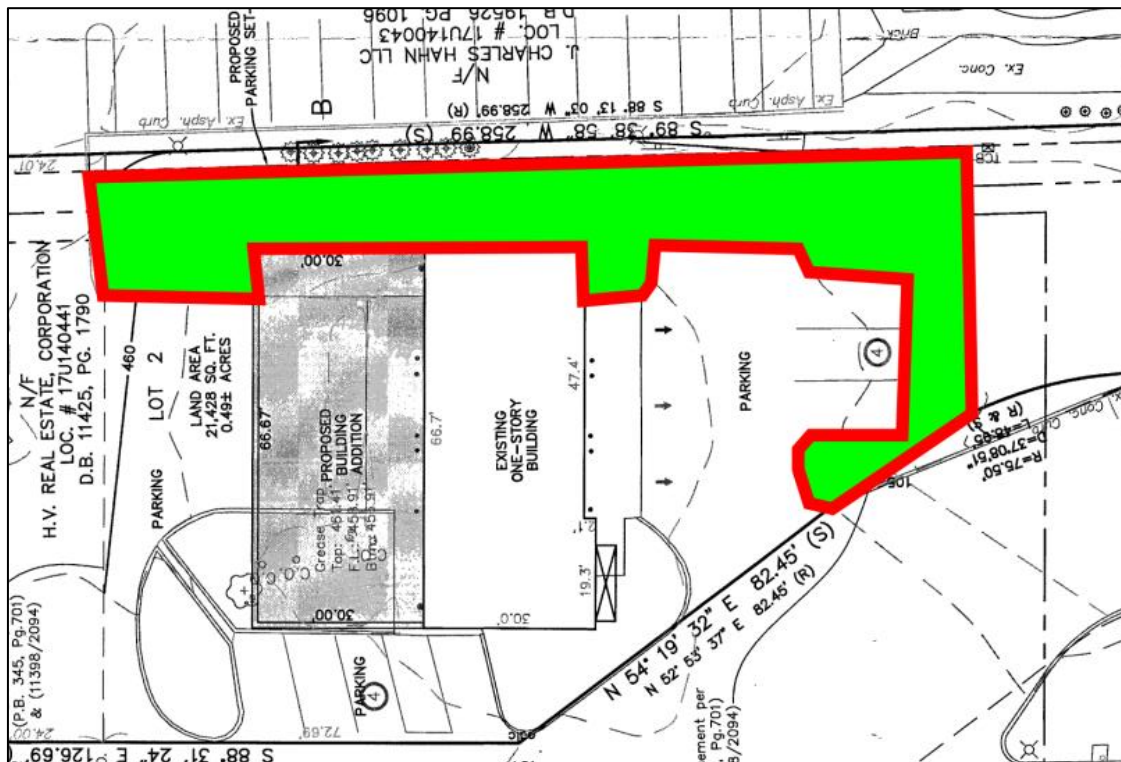


Figure 3: Open space to be removed for drive lane



**With this change to the request, the applicant only wishes to amend one district condition concerning the parking setback along the south property line from ten (10) feet to three (3) feet.** As discussed within the Issues section of this report starting on page 5 above, the addition of a drive lane to the south would reduce the existing open space on the site, as well as assist in accommodating drive-thru uses requested with this petition, see Figure 3 on page 8 for the Open Space to be removed with this request. If this drive lane were to be removed from the request, additional drive-thru uses would not be feasible to this section of the development (Lot 2) due to existing site conditions; however could still be accommodated on Lot 1 (gas station/convenience store/fast food restaurant). Below, Figure 4 depicts the proposed paved area of this development if the drive lane were installed as requested. No physical changes are proposed on Lot 1, or the northern section of this development. All physical changes are proposed upon Lot 2 (far right portion depicted within Figure 4 below).



Figure 4: Color Preliminary Plan depicting proposed improvements/open space

The Preliminary Plan also identifies existing cross access easement which runs along the property line of Lot 1 and 2 of this development as well as provides access to the property to the south. While no additional cross access is planned or requested at this time; Staff has included this within the draft Attachment A which states the City may direct future access to adjacent properties as directed in case of redevelopment. This section is common in Attachment A's to help ensure proper access management in case of re-development.

### **Request**

A summary of the request before the Planning Commission as discussed in this report is as follows;

- The applicant has removed four (4) land uses from their original request presented at the Public Hearing.
- The request to remove the 2,100 square foot development condition for an Oil Change Facility has been rescinded. As presented, this future land use will continue to be regulated.
- The petitioner is requesting the parking setback along the south property line be reduced from ten (10) feet to three (3) feet. This would accommodate a proposed drive lane.

This meeting is for discussion of issues concerning the amendment of City Ordinance 1328. No vote is requested at this time for this project. All agency comments have been included in the draft planned district ordinance. The intent of the Issues Meeting is to receive feedback on the draft planned district ordinance, analysis of the suitability of the requests and to examine if any further issues need to be resolved prior to requesting a recommendation from the Planning Commission.

### **Attachments:**

1. Draft Planned District Ordinance
2. Response to Issues Letter
3. Narrative Statement
4. Preliminary Plan

## ATTACHMENT A

**All provisions of the City of Chesterfield City Code shall apply to this development except as specifically modified herein.**

### **I. SPECIFIC CRITERIA**

#### **A. PERMITTED USES**

1. The uses allowed in this C8 District shall as follows:

a. Lot 1 Permitted Uses

- 1) Filling station and convenience store with pump stations;
- 2) Restaurant-fast food;

b. Lot 2 Permitted Uses

- 1) Animal grooming service;
- 2) Art gallery;
- 3) Art studio;
- 4) Automotive retail supply;
- 5) Bakery;
- 6) Barber or beauty shop;
- 7) Coffee shop;
- 8) Coffee shop, drive-thru;
- 9) Commercial service facility;
- 10) Day care center;
- 11) Drug store and pharmacy;
- 12) Drug store and pharmacy, drive-thru;
- 13) Dry cleaning establishment, drive-thru;
- 14) Financial institution;
- 15) Financial institution, drive-thru;

- 16) Kennel, boarding;
- 17) Office, dental;
- 18) Office, general;
- 19) Office, medical;
- 20) Oil change facility;
- 21) Professional and technical service facility;
- 22) Restaurant-fast food;
- 23) Restaurant, site down;
- 24) Restaurant, take out;
- 25) Retail sales establishment, neighborhood;
- 26) Vehicle repair and service facility; and,
- 27) Veterinary clinic

2. The above uses in the C8 District shall be restricted as follows:
  - a. All uses within this C8 Planned Commercial District shall be contained within a total of two (2) single-story buildings.
  - b. The canopy structure associated with the Filling station and convenience store with pump stations on Lot 1 shall not exceed 5,600 square feet in area and contain a total of six (6) fuel pumps.
  - c. The Convenience store/restaurant-fast food co-use on Lot 1 shall not exceed 6,000 square feet in overall size. The restaurant-fast food portion of this co-use shall not exceed sixty (60) seats.
  - d. The Oil change facility and Vehicle repair and service facility uses on Lot 2 shall be limited to three (3) bays and shall not exceed 2,100 square feet.
  - e. There shall be no outdoor display and/or selling of merchandise within the limits of the C8 Planned Commercial District.
  - f. Outdoor storage of derelict, wrecked or dismantled vehicles is prohibited
  - g. Unscreened outdoor storage is prohibited.

3. Hours of Operation.

a. Hours of operation for this C8 District shall not be restricted.

4. Telecommunication siting permits may be issued for wireless telecommunications facilities per the requirements of the City of Chesterfield Unified Development Code.

**B. FLOOR AREA, HEIGHT, BUILDING AND PARKING STRUCTURE REQUIREMENTS**

1. Building Requirements

a. A minimum of twenty-five percent (25%) open space is required for this development.

**C. SETBACKS**

1. Structure Setbacks

No building or structure, other than: a freestanding project identification sign, light standards, or flag poles will be located within the following setbacks:

- a. Ninety (90) feet from the right-of-way of Chesterfield Airport Road.
- b. Twenty (20) feet from the eastern boundary of this C8 District.
- c. Fifteen (15) feet from the southern boundary of this C8 District.
- d. Forty (40) feet from the right-of-way of Long Road.

2. Parking Setbacks

No parking stall, loading space, internal driveway, or roadway, except points of ingress or egress, will be located within the following setbacks:

- a. Twenty (20) feet from the right-of-way of Chesterfield Airport Road.
- b. Five (5) feet from the eastern boundary of this C8 District.
- c. Three (3) feet from the southern boundary of this C8 District.
- d. Fifteen (15) feet from the right-of-way of Long Road.

#### **D. SIGN REQUIREMENTS**

1. No more than two (2) freestanding project identification monument signs shall be permitted within the limits of this "C8" District development. The height of one (1) such sign shall not exceed twelve (12) feet with a maximum of one hundred (100) square feet, and the height of the other sign shall not exceed eight (8) feet with a maximum of fifty (50) square feet, for a total of one hundred and fifty (150) square feet as approved by the Planning Commission on the Site Development Plan. A third sign for pricing is permitted and shall be no larger than twenty (20) square feet. The pricing sign may be included in the monument identification sign not to exceed one hundred (100) square feet or be used as a part of two (2) completely separate signs, one at eighty (80) square feet and one at twenty (20) square feet, for a total of one hundred and fifty (150) square feet for the approved uses, including twenty (20) square feet for the permitted price sign.
2. Except as otherwise permitted by this ordinance, signs shall be permitted in accordance with the regulations of the City of Chesterfield Code or a Sign Package may be submitted for the planned district. Sign Packages shall adhere to the City Code and are reviewed and approved by the City of Chesterfield Planning Commission.
3. Ornamental Entrance Monument construction, if proposed, shall be reviewed by the City of Chesterfield, and/or the St. Louis County Department of Highways and Traffic (or MoDOT), for sight distance considerations prior to installation or construction.
4. No advertising signs or temporary signs (including balloons, banners, festoons of lights, strings of pennants, clusters of flags, twirlers or propellers, flares, spot lights and other similar devices of carnival nature) shall be permitted in this development.

#### **E. ARCHITECTURAL**

1. The development shall adhere to the Architectural Review Standards of the City of Chesterfield Code.
2. Trash enclosures: All exterior trash areas shall be enclosed with a minimum six (6) foot high sight-proof enclosure complemented by adequate landscaping. The location, material, and elevation of any trash enclosures will be as approved by the City of Chesterfield on the Site Development Plan.

## **F. ACCESS/ACCESS MANAGEMENT**

1. Cross access to adjacent properties shall be required as directed by the City of Chesterfield.
2. Driveway accesses are subject to City of Chesterfield, St. Louis County Department of Traffic and Highways and the Missouri Department of Transportation.

## **G. PUBLIC/PRIVATE ROAD IMPROVEMENTS, INCLUDING PEDESTRIAN CIRCULATION**

1. Sidewalk adjacent to Chesterfield Airport Road shall be as directed by the City of Chesterfield.
2. Improve the southeast quadrant of the Chesterfield Airport Road and Long Road intersection to St. Louis County ADA standards as directed by the St. Louis County Department of Highways and Traffic.
3. The developer is advised that utility companies will require compensation for relocation of their facilities within public road right-of-way. Utility relocation cost shall not be considered as an allowable credit against the petitioner's traffic generation assessment contributions. The developer should also be aware of extensive delays in utility company relocation and adjustments. Such delays will not constitute a cause to allow occupancy prior to completion of road improvements.
4. No private features, such as signage or lighting shall be allowed within the Missouri Department of Transportation's right-of-way.

## **H. TRAFFIC STUDY**

1. Provide a traffic study as directed by the City of Chesterfield and/or St. Louis County Department of Highways and Traffic and the Missouri Department of Transportation. The scope of the study shall include internal and external circulation and may be limited to site specific impacts, such as the need for additional lanes, entrance configuration, geometrics, sight distance, traffic signal modifications or other improvements required, as long as the density of the proposed development falls within the parameters of the City's traffic model. Should the density be other than the density assumed in the model, regional issues shall be addressed as directed by the City of Chesterfield.

2. Provide a sight distance evaluation report, as required by the City of Chesterfield and/or the St. Louis County Department of Highways and Traffic or Missouri Department of Transportation, for the proposed entrance onto Chesterfield Airport Road and Long Road. If adequate sight distance cannot be provided at the access location, acquisition of right-of-way, reconstruction of pavement, including correction to the vertical alignment, and/or other off-site improvements shall be required, as directed by the City of Chesterfield and/or the St. Louis County Department of Highways and Traffic or Missouri Department of Transportation.

#### **I. STORM WATER**

1. The site shall provide for the positive drainage of storm water and it shall be discharged at an adequate natural discharge point or connected to an adequate piped system.
2. Detention/retention and channel protection measures are to be provided in each watershed as required by the City of Chesterfield. The storm water management facilities shall be operational prior to paving of any driveways or parking areas in non-residential development. The location and types of storm water management facilities shall be identified on the Site Development Plan(s).
3. This development will require a NPDES permit from the Missouri Department of Natural Resources. NPDES permits are applicable to construction activities that disturb 1 acre or more. A copy of the permit application must be submitted to the City of Chesterfield prior to the issuance of a grading permit or approval of improvement plans.

#### **J. SANITARY SEWER**

Metropolitan St. Louis Sewer District approval will be required if the petitioner wishes to re-subdivide the parcels. Properties shall have access to the public sanitary sewer. Private laterals shall not cross property lines or be shared by multiple properties.

#### **K. GEOTECHNICAL REPORT**

Prior to Site Development Plan approval, provide a geotechnical report, prepared by a registered professional engineer licensed to practice in the State of Missouri, as directed by the Department of Public Services. The report shall verify the suitability of grading and proposed improvements with soil and geologic conditions and address the existence of any potential sinkhole, ponds, dams, septic fields, etc., and recommendations for treatment. A statement of compliance, signed and sealed by the geotechnical engineer preparing the report, shall be included on all Site Development Plans and Improvement Plans.



## **R. MISCELLANEOUS**

1. All utilities will be installed underground.
2. An opportunity for recycling will be provided. All provisions of Chapter 25, Article VII, and Section 25-122 thru Section 25-126 of the City Code shall be required where applicable.
3. Road improvements and right-of-way dedication shall be completed prior to the issuance of an occupancy permit. If development phasing is anticipated, the developer shall complete road improvements, right-of-way dedication, and access requirements for each phase of development as directed by the City of Chesterfield and St. Louis County Department of Highways and Traffic or MoDOT. Delays due to utility relocation and adjustments will not constitute a cause to allow occupancy prior to completion of road improvements.
4. Prior to record plat approval, the developer shall cause, at his expense and prior to the recording of any plat, the reestablishment, restoration or appropriate witnessing of all Corners of the United States Public Land Survey located within, or which define or lie upon, the out boundaries of the subject tract in accordance with the Missouri Minimum Standards relating to the preservation and maintenance of the United States Public Land Survey Corners, as necessary.

## **II. TIME PERIOD FOR SUBMITTAL OF SITE DEVELOPMENT CONCEPT PLANS AND SITE DEVELOPMENT PLANS**

- A. The developer shall submit a concept plan within eighteen (18) months of City Council approval of the change of zoning.
- B. In lieu of submitting a Site Development Concept Plan and Site Development Section Plans, the petitioner may submit a Site Development Plan for the entire development within eighteen (18) months of the date of approval of the change of zoning by the City.
- C. Failure to comply with these submittal requirements will result in the expiration of the change of zoning and will require a new public hearing.
- D. Said Plan shall be submitted in accordance with the combined requirements for Site Development Section and Concept Plans. The submission of Amended Site Development Plans by sections of this project to the Planning Commission shall be permitted if this option is utilized.
- E. Where due cause is shown by the developer, the City Council may extend the period to submit a Site Development Concept Plan or Site Development Plan for eighteen (18) months.

### III. COMMENCEMENT OF CONSTRUCTION

- A. Substantial construction shall commence within two (2) years of approval of the Site Development Concept Plan or Site Development Plan, unless otherwise authorized by ordinance.
- B. Where due cause is shown by the developer, the City Council may extend the period to commence construction for two (2) additional years.

### IV. TRUST FUND CONTRIBUTION

Traffic generation assessment contributions shall be deposited with St. Louis County prior to the issuance of building permits. If development phasing is anticipated, the developer shall provide the traffic generation assessment contribution prior to issuance of building permits for each phase of development.

#### A. ROADS

The developer shall contribute a Traffic Generation Assessment (TGA) to the Chesterfield Valley Trust Fund (No. 556). This contribution shall not exceed an amount established by multiplying the required parking spaces by the following rate schedule:

<u>Type of Development</u>	<u>Required Contribution</u>
General Office	\$663.43
General Retail	\$1,990.41
Loading Space	\$3,257.06

(Parking spaces as required by the City of Chesterfield Code.)

If types of development proposed differ from those listed, rates shall be provided by the St. Louis County Department of Highways and Traffic.

If a portion of the improvements required herein are needed to provide for the safety of the traveling public, their completion as a part of this development is mandatory.

Allowable credits for required roadway improvements will be awarded as directed by the St. Louis County Department of Highways and Traffic and the City of Chesterfield. Sidewalk construction and utility relocation, among other items, are not considered allowable credits.

As this development is located within a trust fund area established by St. Louis County, any portion of the traffic generation assessment contribution which remains following completion of road improvements required by the development shall be retained in the appropriate trust fund.

Road improvement traffic generation assessment contributions shall be deposited with St. Louis County Department of Highways and Traffic. The deposit shall be made prior to the issuance of a Special Use Permit (S.U.P.) by St. Louis County Department of Highways and Traffic or prior to the issuance of building permits in the case where no S.U.P. is required. If development phasing is anticipated, the developer shall provide the traffic generation assessment contribution prior to issuance of building permits for each phase of development. Funds shall be payable to Treasurer, St. Louis County.

The amount of all required contributions for roadway, storm water and primary water line improvements, if not submitted by January 1, 2016, shall be adjusted on that date and on the first day of January in each succeeding year thereafter in accordance with the construction cost index as determined by the St. Louis County Department of Highways and Traffic.

#### **B. WATER MAIN**

The primary water line contribution is based on gross acreage of the development land area. The contribution shall be a sum of \$800.53 per acre for the total area as approved on the Site Development Plan to be used solely to help defray the cost of constructing the primary water line serving the Chesterfield Valley area.

The primary water line contribution shall be deposited with the St. Louis County Department of Highways and Traffic. The deposit shall be made before St. Louis County approval of the Site Development Plan unless otherwise directed by the St. Louis County Department of Highways and Traffic. Funds shall be payable to the Treasurer, St. Louis County.

#### **C. STORM WATER**

The storm water contribution is based on gross acreage of the development land area. These funds are necessary to help defray the cost of engineering and construction improvements for the collection and disposal of storm water from the Chesterfield Valley in accordance with the Master Plan on file with and jointly approved by Saint Louis County and the Metropolitan Saint Louis Sewer District. The amount of the storm water contribution will be computed based on \$2,539.89 per acre for the total area as approved on the Site Development Plan.

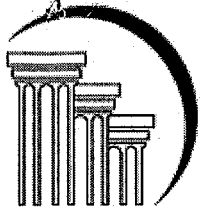
The storm water contributions to the Trust Fund shall be deposited with the St. Louis County Department of Highways and Traffic. The deposit shall be made before the issuance of a Special Use Permit (S.U.P.) by St. Louis County Department of Highways and Traffic or before the issuance of building permits in the case where no Special Use Permit is required. Funds shall be payable to the Treasurer, St. Louis County.

#### **D. SANITARY SEWER**

Trust Fund contributions shall be deposited with St. Louis County in the form of a cash escrow prior to the issuance of building permits.

#### **V. ENFORCEMENT**

- A.** The City of Chesterfield, Missouri will enforce the conditions of this ordinance in accordance with the Plan approved by the City of Chesterfield and the terms of this Attachment A.
- B.** Failure to comply with any or all the conditions of this ordinance will be adequate cause for revocation of approvals/permits by reviewing Departments and Commissions.
- C.** Non-compliance with the specific requirements and conditions set forth in this Ordinance and its attached conditions or other Ordinances of the City of Chesterfield shall constitute an ordinance violation, subject, but not limited to, the penalty provisions as set forth in the City of Chesterfield Code.
- D.** Waiver of Notice of Violation per the City of Chesterfield Code.
- E.** This document shall be read as a whole and any inconsistency to be integrated to carry out the overall intent of this Attachment A.



**DOSTER ULLOM  
& BOYLE, LLC**  
ATTORNEYS AT LAW

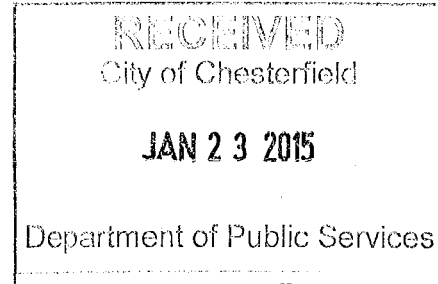
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Michael J. Doster  
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January 22, 2015

Via E-mail and U.S. Mail

John Boyer  
Senior Planner  
City of Chesterfield  
690 Chesterfield Parkway West  
Chesterfield, Missouri 63017-0760



RE: **P.Z. 17-2014 Steve W. Wallace (H.V. Real Estate Corp) – Issue Letter**

Dear Mr. Boyer:

This letter is in response to your letter of January 16, 2015. Our responses to the items are as follows (in bold):

1. Concern was raised over the loss of open space associated with the proposed drive lane along the south property line. Evaluate the need for this drive lane. If the lane were to remain, assess whether the open space lost by this proposed drive lane can be mitigated elsewhere on the site.

**The area that includes the subject property is already intensely developed, and there is no open space requirement in the applicable site specific ordinance. The decrease in open space is relatively insignificant when compared to the desirability and location of the drive lane. The current use allows for good site circulation because of the drive through bays that are accessed from the rear; if the drive through bays are eliminated it would be desirable to have the drive lane so that good site circulation is maintained. It is a small site, and the access to the North is shared with the intense uses to the North.**

2. Discussion occurred on the intensity and the number of proposed uses, and if there was the possibility of reducing the requested use list. Evaluate reducing the requested land uses.

**Petitioner has re-evaluated the requested uses and submits a reduced list of requested uses with this letter. From a market standpoint there are a number of**

**uses that would probably be combined by a user, e.g. Art gallery/Art studio, so the list is not as long as it seems.**

3. In addition to the concern over the land uses, discussion also occurred over possible parking limitations and negative effects of parking demand with uses requested versus the size of the development/structures. By limiting land uses from your request, concern for parking issues may be mitigated.

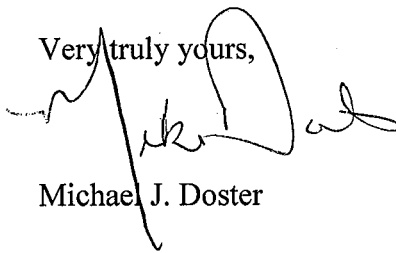
**“Modern” site specific zoning ordinances that the City has adopted generally do not include square foot limitations because you can only build what you can park. Said another way, the parking requirements under the City’s regulations will dictate what uses and size of building can be put on this site so there is no need for a square foot limitation. Also, the reduced list of requested uses submitted with this letter has eliminated some of the more intense uses.**

4. The Planning Commission indicated concern over removing a size limitation for the Oil Change Facility land use due to its possible intensity. Currently, the restriction is at 2,100 square feet. Reconsider the request to remove this restriction.

**Petitioner would agree to maintain the square foot limitation for the current use, “Oil Change Facility” but renews its request to remove this restriction for all other requested uses.**

With respect to the conditions that you advise will be included in the draft Attachment A, we have general comments, and we may have more specific comments once the draft Attachment A is provided. First, the entire development (both lots or parcels) is already constructed, and Petitioner would object to any new conditions that would require additional improvements beyond what was originally required and constructed. Second, Petitioner would object to any change in the TGA methodology or rates that would result in payment of TGA since TGA was paid when the development was originally constructed. We have the same comments with respect to the “requirements” listed at the end of your letter.

Very truly yours,



Michael J. Doster

MJD/kml  
Enclosure

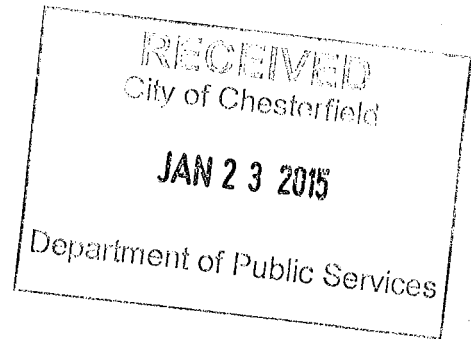
cc: Dan Stegmann  
Brandon Harp

**Exhibit III**

**120 Long Road Development**

**Uses**

Animal grooming service  
Art gallery  
Art studio  
Automotive retail supply  
Bakery  
Barber or beauty shop  
Coffee shop  
Coffee shop, drive-thru  
Commercial service facility  
Day care center  
Drug store and pharmacy  
Drug store and pharmacy, drive-thru  
Dry cleaning establishment, drive-thru  
Financial institution  
Financial institution, drive-thru  
Kennel, boarding  
Office, dental  
Office, general  
Office, medical  
Oil change facility  
Professional and technical service facility  
Restaurant, fast food  
Restaurant, sit down  
Restaurant, take out  
Retail sales establishment, neighborhood  
Vehicle repair and services facility  
Veterinary clinic



## NARRATIVE STATEMENT

The subject property, 120 Long Road, (the "Property") is lot 2 of a two (2) lot subdivision. The Property is the Southern lot which is improved with a building that is now vacant. The building was used for an oil and lube operation until vacated by the original operator. The Northern lot (Lot 1) is improved with a service station, convenience store and a McDonald's fast food/drive through restaurant. Both lots are subject to Ordinance No. 1328 (the "Ordinance"). The amendments to the Ordinance requested by the Application affect only the Property.

The only approved use for the Property in the Ordinance is Oil/Lube Operation. This severely limits the marketability of the Property and limits the possible upgrading of the Property to uses that may be more desirable than the current approved use. The Application requests a change in the permitted uses in the Ordinance, and the list of requested uses attached to the Application is from the City's current use terminology. The list of requested uses attached to the Application is in addition to the existing approved uses in the Ordinance.

The Preliminary Plan shows that the Applicant intends to expand the building footprint utilizing the existing building and an expansion of that building. This is proposed so that more desirable uses can be attracted to the site. This expansion requires an elimination of the maximum square feet condition in the Ordinance. The parking is proposed to be reconfigured, and a driveway on the South side of the building is proposed. The placement of the driveway on the South side of the building requires a reduction of the setback from the South line to three (3) feet. That change in setback is also requested in the Application.

The proposal is compatible with the surrounding uses.

No exceptions or variations from the City's Zoning Ordinance or regulations are requested.

Other than the requested amendments, the Preliminary Plan complies with the development conditions and standards in the Ordinance.

