



Memorandum

Department of Planning, Public Works & Parks

DATE: May 3, 2012
TO: Planning and Public Works Committee
FROM: Aimee Nassif, Planning and Development Services Director
RE: Power of Review and Project Notification
CC: Mike Geisel, Director of Planning, Public Works and Parks

Attached is a memo providing a recommendation to improve the City's power of review process and how to improve communication to elected officials on new projects submitted to the City for review. Below is a summary of the identified issues, the recommendation from Staff, and direction we are now seeking from the Planning and Public Works Committee.

1. Regular Project Updates

To ensure that elected officials are properly notified of a potential development proposal in their ward, I recommend that Staff provide a brief, regular update on new projects and significant pre-application meetings at the Planning and Public Works Committee meetings. The benefits of providing regular project updates during the Planning and Public Works Committee meetings are:

1. The Planning and Public Works Committee meets twice a month and is often times attended by the Mayor, City Administrator, and the other members of the City Council.
 2. Updates would be provided not only on recent pre-application meetings we have had, but on new project submittals and the status of high profile or complex projects.
 3. Project updates will be done with a PowerPoint presentation only. Written reports will not be provided to ensure brevity and that the latest, most accurate information is provided.
-

2. Power of Review

The term “power of review” refers to the City Council’s authority to review a site plan after it has been reviewed and voted on by the Planning Commission.

Section 1003.167 (21) of the City of Chesterfield Zoning Ordinance, is as follows:

21. Power of Review. Either Councilmember of the Ward where a development is proposed, or the Mayor, may request that the plan for a development be reviewed and approved by the entire City Council. This request must be made no later than twenty-four (24) hours before posting the agenda for the next City Council meeting after Planning Commission review and approval. The City Council will then take appropriate action relative to the proposal.

Issues with this current language include the following:

1. Technically, power of review is only permitted when the Planning Commission has **approved** a project.
2. If a project does not have automatic power of review, it results in large delays of the project and a minimum of 3 extra meetings.

I propose an amendment to Section 1003.167 which would allow for a project to go directly to PPW in lieu of having to be heard at the City Council first. Additionally, I propose an update to the current language to clarify the type of plans included under power of review.

Amendment 1-Update to Section 1003.167(21) for Power of Review in General

21. Power of Review. Either Councilmember of the Ward where a development is proposed, or the Mayor, may request that the plan for a development be reviewed and approved by the entire City Council. This request must be made no later than twenty-four (24) hours ~~before posting the agenda for the next City Council meeting after Planning Commission review and approval.~~ The City Council will then take appropriate action relative to the proposal. *The plan for a development, for purposes of this section, may include the site development plan, site development section plan, site development concept plan, landscape plan, light plan, sign package or any amendments thereto.*

***If the PPW Committee approves this recommendation, we can make this change with the Unified Development Code and no further action is needed. Be advised that we would need to be notified immediately following the Planning Commission meeting on Council’s or the Mayor’s desire to exercise power of review.**

Amendment 2-Update to the Attachment A template
for Automatic Power of Review

During zoning, the City Council may elect to include language that power of review on that development is automatic. When that is the case, the following language is included:

1. The City Council shall review and provide final approval of the Site Development Plans for the proposed development subsequent to Planning Commission review.

I propose that language referencing Section 1003.167 be included in the planned district ordinances in order to clarify the type of plans over which the City Council has power of review. In addition, I added language which allows the City Council some flexibility in the future if they do not wish to have power of review on certain minor amendments. The new language would be as follows:

1. The City Council shall review and provide final approval of the Site Development Plans for the proposed development subsequent to Planning Commission review and recommendation **as described in Section 1003.167(21) of the Zoning Ordinance unless otherwise directed by the Mayor or Council person in ward ____.**

***The change above would be made to the Attachment A template that the Planning and Development Services Division utilizes for all zoning petitions. Direction from the City Council is all that is needed for Staff to institute this change.**

Attached is the full recommendation memo which describes each recommendation in detail and the reasons for said recommendation. If you have any additional questions, please do not hesitate to contact me.

MEMORANDUM



DATE: April 30, 2012
TO: Mike Geisel, Director of Planning, Public Works and Parks
FROM: Aimee Nassif, Planning and Development Services Director
RE: Power of Review and Project Notification *A*
CC: Mike Herring, City Administrator
Rob Heggie, City Attorney

Recently, concerns have been raised regarding two issues. The first pertains to the issue of ensuring elected officials having sufficient notice of new development projects and the second pertains to the procedure for exercising power of review. After thoughtful consideration of both issues, I offer the following proposal as a method of addressing the concerns expressed.

Regular Project Updates

Property owners and developers are encouraged to schedule a pre-application meeting with Staff prior to making formal application to the City for any type of project. We use these meetings as an opportunity to explain such items as the development process, zoning ordinance requirements, Comprehensive Plan and the impact of the proposal on surrounding development. During these meetings we advise the property owners and developers to contact the Mayor and Ward Councilmembers. We provide the relevant contact information. It is clearly in the Applicant's best interest to contact the Mayor and Ward Councilperson, because they can provide insight and direction which is beyond Staff's scope of review. It also helps move projects smoothly and efficiently through the development process when the Council and Mayor are completely apprised of a project prior to a formal submittal being made to the City. Despite all of this, Applicants sometimes choose not to reach out and have that communication. ***To ensure that elected officials are properly notified of a potential development proposal in their ward, I recommend that Staff provide a brief, regular update on new projects and significant pre-application meetings at the Planning and Public Works Committee meetings.***

The Planning and Public Works Committee meets twice a month and is often times attended by the Mayor, City Administrator, and the other members of the City Council. This setting would provide a wonderful opportunity for me to update everyone in a timely fashion on pre-application meetings we have had.

In addition, I would suggest using this opportunity to update everyone on the development projects the Planning and Development Services Division currently has under review. Often times, a developer may have a pre-application meeting with us but not make formal submittal of their application for several months. Therefore, even though the Division receives a development

application, the elected officials may not be aware that it has been received. The Division typically will review a project for several weeks before a project is placed on a Planning Commission agenda for review. Providing regular project updates at the Planning and Public Works Committee meetings will provide an opportunity for the City Council to learn about a project prior to placement on any Planning Commission or other such agenda.

The project update will be provided in the form of a PowerPoint presentation at the Committee meeting, with an emphasis on brevity. The purpose is to simply create a level of awareness such that those interested are afforded an opportunity to follow up in greater detail with specific staff members. Because the City already maintains an Active Projects Database on the City's website, there is no need for the creation of additional paperwork. Also, because the purpose of these presentations is to provide updates on new proposals, the information should be as up to date as possible; written reports are distributed several days before the Committee meeting so by the time of the Committee meeting, the information in a written report has the potential to be already outdated.

Due to the sheer volume of material we receive for development proposals, a copy of the submittal itself (such as the site development plan) will **not** be provided at the Planning and Public Works Committee meeting. Also, because the plan review on many of the projects that will be introduced has only just started, often times the materials we receive during those initial reviews have numerous errors or issues. Typically, there will be 3-5 resubmittals of a project by an Applicant during our review. We would not want to provide misinformation on projects or information on projects to the Council which we know will be changing in the near future. Of course, if after the presentation any of the elected officials would like to see the full submittal, we will provide that information.

The PowerPoint presentation will allow elected officials to hear brief introductions on new projects and updates on projects under review. While I will be available to answer questions on any of the projects presented; it is important to note that Staff's review may have just begun, therefore additional detail may not be made available until the next Committee meeting. It is a good opportunity for our elected officials to provide feedback on submissions.

Power of Review

The purpose of the Planning Commission is to make and to carry out the Comprehensive Plan of the City. Chapter 89 of the Revised Missouri State Statutes sets out the perimeters for the Planning Commission in achieving this task. Site Plan review and approval is a power authorized to a municipality's Planning Commission once land use issues and zoning have been established through legislation by the City Council. Because of this, the City of Chesterfield created a mechanism by which the City Council may choose to become involved in site plan review from time to time.

The term "power of review" refers to the City Council's authority to review a site plan after it has been reviewed and voted on by the Planning Commission. Site development plans, site development concept plans, and site development sections plans are approved by the Planning Commission unless power of review is either required for a particular development (we refer to this as having automatic power of review) or if power of review is called within the allotted time frame by the Mayor or Councilperson for that particular ward. In late 2000, the City of Chesterfield established this power of review authority through Ordinance Number 1684. The language from this Ordinance, which was codified into Section 1003.167 (21) of the City of Chesterfield Zoning Ordinance, is as follows:

21. Power of Review. Either Councilmember of the Ward where a development is proposed, or the Mayor, may request that the plan for a development be reviewed and approved by the entire City Council. This request must be made no later than twenty-four (24) hours before posting the agenda for the next City Council meeting after Planning Commission review and approval. The City Council will then take appropriate action relative to the proposal.

Currently, the procedure for power of review is dictated by whether or not the development has automatic power of review or if power of review is called upon after a Planning Commission meeting. In the first instance, a project will be placed on the next Planning and Public Works Committee (PPW) agenda immediately following the Planning Commission vote. The project is then presented to the PPW and a recommendation from the PPW is forwarded to the City Council for final review and vote. If power of review was not automatic, the process becomes a bit cumbersome for the Council, the Staff, and the Developer. In these instances, the City Council or Mayor may call for power of review 24 hours before posting the City Council agenda. The discussion on why power of review was called is then heard at the full City Council meeting. The City Council will then determine if power of review is necessary or desired through a majority vote. If the motion to review the project is denied at City Council, that is the end of the process and the vote of the Planning Commission is final. If the motion from City Council for power of review is approved, then the project is typically placed on the agenda for the next meeting of the PPW. The PPW will review the project and make a recommendation to the full Council, typically at the next Council meeting. As you can see, this process can add significant time to a project and cause some confusion for the Developer and others.

In addition, I believe there is also a flaw with the current language because it only gives the City Council authority to review a plan if it has been approved by the Planning Commission. I believe there are times in which the elected officials would like an opportunity to review a plan regardless of the vote from the Planning Commission.

Of course, if a plan or project is reviewed by the Planning Commission and the recommendation is for denial, then the City Council still follows the voting procedures which would then require a super majority vote of the City Council for approval of the project.

A second problem also exists with the current power of review structure. When automatic power of review is established in the planned district ordinance for a particular development, and years later after that development has been fully built out, land owners or developers then approach the City for a minor amendment to their plan; does the City Council still wish to exercise power of review on that project? In many instances, the answer is no; however, that flexibility is not currently available.

The drive-up ATM recently constructed at Four Seasons West off of Olive Boulevard provides a great example of this type of problem. In 2010, Four Seasons West submitted an amended site plan to the City to build a small (60 sq ft) ATM in the parking area of the development. The use was permitted and there was sufficient room within the parking area for this small structure. Instead of simply being reviewed by the Planning Commission, the development had automatic power of review written into the planned district ordinance, therefore we were required to go before the PPW and then to City Council. This extended the process for a 60 square foot structure by approximately 7 weeks when several members of the Council even asked Staff if it was necessary for this to be reviewed by them.

I think several updates are needed to the current power of review process to increase the effectiveness and efficiency of this tool.

I propose an amendment to Section 1003.167 which would allow for a project to go directly to PPW in lieu of having to be heard at the City Council first. Additionally, I propose an update to the current language to clarify what type of plans are included under power of review.

Amendment 1-Update to Section 1003.167(21) for Power of Review in General

21. Power of Review. Either Councilmember of the Ward where a development is proposed, or the Mayor, may request that the plan for a development be reviewed and approved by the entire City Council. This request must be made no later than twenty-four (24) hours before posting the agenda for the next City Council meeting after Planning Commission review and approval. The City Council will then take appropriate action relative to the proposal. *The plan for a development, for purposes of this section, may include the site development plan, site development section plan, site development concept plan, landscape plan, light plan, sign package or any amendments thereto.*

If you notice above, I recommend power of review be called within 24 hours of the Planning Commission vote (not approval, just vote). While this does not give the Mayor or Councilperson a lot of time, it would be the only way for a developer to be able to make it onto the next PPW agenda and the only way to give Staff time to prepare the necessary reports and agendas for said meeting. While the turnaround is quick, it eliminates the requirement of going to City Council first and then back to PPW. ***This would also then follow the exact same process that automatic power of review does.*** I also provided clarification as to the types of plans included under power of review. Throughout the years, there have been questions regarding this as well.

Amendment 2-Update to the Attachment A template
for Automatic Power of Review

During zoning, the City Council may elect to include language that power of review on that development is automatic. When that is the case, the following language is included:

1. The City Council shall review and provide final approval of the Site Development Plans for the proposed development subsequent to Planning Commission review.

I propose that language referencing Section 1003.167 be included in the planned district ordinances in order to clarify the type of plans over which the City Council has power of review. In addition, I added language which allows the City Council some flexibility in the future if they do not wish to have power of review on certain minor amendments. The new language would be as follows:

1. The City Council shall review and provide final approval of the Site Development Plans for the proposed development subsequent to Planning Commission review and
-

recommendation as described in Section 1003.167(21) of the Zoning Ordinance unless otherwise directed by the Mayor or Council person in ward ____.

The change above would be made to the Attachment A template that the Planning and Development Services Division utilizes for all zoning petitions. In addition, when project updates are provided at the Planning and Public Works Committee meetings, we will also advise if automatic power of review is included in the ordinance for the development. This way, for projects which are merely amendments to the original site plan or any other similar type of request, the Mayor or Council person for that ward can let Staff know if they want to review the project at PPW or not. Perhaps the issues that existed during the time of zoning when automatic power of review was established no longer exist. Or, perhaps the Council only really wanted to review the first build out of the site and was not concerned with amendments or minor additions years later. This new language will provide flexibility to Council and allow for a more efficient review time for minor, simple projects.

In summary, I propose that regular project updates be provided during Planning and Public Works Committee meetings and an amendment to the Attachment A template is made to address power of review as described above. Direction from the Council is all that is required to make these changes.

We are prepared to start implementing these changes through policy immediately and can incorporate the change to the definition for power of review into the Unified Development Code.

Please let me know if you have any questions or require additional information.

Thank you.
