

MEMORANDUM

TO: Michael G. Herring, City Administrator

FROM: Mike Geisel, Director of Planning & Public Works

SUBJECT: Planning & Zoning Committee Meeting Summary
August 9, 2007

A meeting of the Planning and Zoning Committee of the Chesterfield City Council was held on Thursday, August 9, 2007 in Conference Room 101.

In attendance were: **Chair Connie Fults** (Ward IV); **Councilmember Jane Durrell** (Ward I); **Councilmember Bruce Geiger** (Ward II); and **Councilmember Dan Hurt** (Ward III).

Also in attendance were Councilmember Lee Erickson, (Ward II); Councilmember Mike Casey (Ward III); Councilmember Bob Nation (Ward IV); Gene Schenberg, Planning Commission Acting Chair; Rob Heggie, City Attorney; Mike Herring, City Administrator; Annissa McCaskill-Clay, Assistant Director of Planning; Aimee Nassif, Senior Planner; and Linda Jones, Executive Secretary.

Chair Fults called the meeting to order at 5:30 p.m.

I. APPROVAL OF MEETING SUMMARY

- A. Approval of the June 21, 2007 Planning and Zoning Committee Meeting Summary

Councilmember Geiger made a motion to approve the Meeting Summary of June 21, 2007. The motion was seconded by Councilmember Durrell and **passed by a voice vote of 4 to 0.**

II. INTERVIEW OF NOMINEE FOR BOARD OF ADJUSTMENT – ALTERNATE MEMBER

Councilmember Geiger introduced Katherine A. Hipp, JD, MBA as a nominee for an alternate member of the Board of Adjustment.

Ms. Hipp stated she is a graduate from Gonzaga University School of Law and has been an attorney for the past 17 years. She is a Lieutenant Colonel with the Army Judge Advocate General Corp. She has been a Trustee of Conway Forest Subdivision for the past three years. She has also earned her MBA from Maryville University.

She has sat on a lot of administrative separation courts in the military and has done contract law.

Councilmember Durrell noted that attendance of the members of the Board of Adjustment has been a problem in the past and stressed the importance of attending the meetings.

Chair Fults stated that the BOA has to distinguish between a “hardship” and an “inconvenience brought upon by the property owner”. She asked that Ms. Hipp review the meeting packets prior to the meetings to be well-prepared.

Councilmember Hurt indicated that there is some concern on the Council that some individuals try to use the Board of Adjustment to get around requirements imposed by Council. He wanted her to be aware that BOA is a governing body and can override decisions made by Council so she is encouraged to make sure cases present an actual hardship.

Councilmember Geiger made a motion to approve the appointment of Katherine Hipp as an alternate member to the Board of Adjustment. The motion was seconded by Councilmember Hurt and **passed by a voice vote of 4 to 0.**

III. OLD BUSINESS - None

IV. NEW BUSINESS

- A. **P.Z. 21-2007 River Crossing (Lamborghini of St. Louis):** A request for an amendment to City of Chesterfield Ordinance Number 1871 to allow for an increase in the number of buildings, increase the number of lots, and to amend the structure and parking setbacks for lots currently known as Lot 6 and Lot 7 of River Crossing Development, zoned “PC” Planned Commercial and located north of Chesterfield Airport Road and Arnage Blvd, containing 2.58 acres of land. (17U520049)

Staff Report

Ms. Aimee Nassif, Senior Planner, stated the ordinance amendment deals with the lots in the northern-most section of the development. The Public Hearing was held on June 11, 2007.

The original ordinance was written very site-specifically and limited the number of buildings and the numbers of lots within the development. The present ordinance limits the site to seven lots and seven buildings, along with limiting the square footage. The request is to increase the number of lots to eight and the number of buildings to eight. Staff has reviewed the request and has determined that it meets all the standards of the Zoning Ordinance and the Comprehensive Plan.

No issues were raised during the Public Hearing process. Planning Commission approved the petition by a vote of 8 to 0.

In order to accommodate the additional building, the structure setback and parking setback have been amended. They are far below the maximum square footage building requirement and still meet the open space and parking requirements.

DISCUSSION

Square Footage

The proposed square footage has increased to 130,000 square feet. The ordinance allows 175,000 square feet.

Usage of Additional Building

There is no proposed tenant at this time. It is anticipated that the building will be retail – it will not be a car dealership.

Occupancy Permit

The Attachment A has been amended with respect to when occupancy will be granted.

Open Space/Parking Space

The open space percentage and the number of parking spaces remain the same.

Utilities

The Attachment A requires that all utility lines be buried.

Sign Package

There is an approved sign package for the development, which is already in place. There is signage along Highway 40 and tenant monument signs. There are no pylon-type signs.

Name of Development

Councilmember Durrell pointed out that the development is referred to “River Crossing” in some instances and “River Crossings” in other instances – she asked that the name be consistent.

Councilmember Geiger made a motion to forward P.Z. 21-2007 River Crossing (Lamborghini of St. Louis) to City Council with a recommendation to approve. The motion was seconded by Councilmember Durrell and **passed by a voice vote of 4 to 0.**

**Note: One bill, as recommended by the Planning Commission, will be needed for the August 20, 2007 City Council Meeting.
See Bill #**

[Please see the attached report, prepared by Mike Geisel, Acting Director of Planning, for additional information on P.Z. 21-2007 River Crossing (Lamborghini of St. Louis).]

- B. P.Z. 26-2007 Wildhorse Ridge (c/o Thomas Fleming):** A request for a change of zoning from “NU” Non-Urban District to “LLR” Large Lot Residential for 10 parcels located south of Bentley Place Subdivision, East of Country Place Subdivision and west of Chesterfield Estates.

Councilmember Hurt made a motion to forward P.Z. 26-2007 Wildhorse Ridge (c/o Thomas Fleming) to City Council with a recommendation to approve. The motion was seconded by Councilmember Geiger and **passed by a voice vote of 4 to 0.**

Discussion was held on whether to have one or two readings on the petition at the next Council meeting.

Chair Fults noted that the petition was brought forth by the residents who want to rezone their own property. She felt that two readings at the next Council meeting would be appropriate.

Councilmember Hurt and Councilmember Geiger indicated their preference to follow the standard procedure of having two readings on the petition. It was agreed that two readings would be held.

**Note: One bill, as recommended by the Planning Commission, will be needed for the August 20, 2007 City Council Meeting.
See Bill #**

[Please see the attached report, prepared by Mike Geisel, Acting Director of Planning, for additional information on P.Z. 26-2007 Wildhorse Ridge (c/o Thomas Fleming).]

- C. P.Z. 33-2007 City of Chesterfield (Telecommunications Ordinance):** A request for repeal of City of Chesterfield Ordinance 1214, and replacing it with a new ordinance establishing rules and regulations for the siting, construction and modification of wireless telecommunications facilities.

Chair Fults stated that she is in receipt of approximately 25 e-mails from various people in the telecommunications business. She then distributed copies of the e-mails to the Committee members. It was noted that the e-mails are objecting to how the code is written.

Staff Report

Ms. Annessa McCaskill-Clay, Assistant Director of Planning, stated that at the direction of the Planning & Zoning Committee, the City Attorney has proposed amendments to the City's Telecommunications Ordinance. The Planning Commission approved the petition by a vote of 8 to 0. The following differences between the proposed Telecommunications Ordinance and the current standards were reviewed:

- The current ordinance does not always require a Public Hearing; the proposed ordinance requires a Public Hearing for all requests. It is required that the Public Hearing notice be sent to all adjacent property owners within 1500 feet.
- The maximum height under the proposed ordinance is 110 feet vs. no maximum height under the current ordinance.
- An application fee and performance bond are required under the proposed ordinance.
- The ordinance has been updated with respect to penalties and provisions for removal of abandoned, damaged or dangerous equipment.
- Under the proposed ordinance, final approval of all applications would be by the City Council.

City Attorney Heggie stated that the proposed ordinance was written to insure that it complies with the Telecommunications Act of 1996 and to help Staff and Council get information about the location of this type of equipment within the City in order to make informed decisions.

DISCUSSION

Maximum Height

The current ordinance does not have any criteria for towers under 120 feet in height; nor does the current ordinance have a maximum height specified. The proposed ordinance has a maximum height of 110 feet. If Council would want a height of more than 110 feet, the ordinance would have to be amended.

A tower of 110 feet must be able to accommodate at least three users.

Adding an Antenna to an Existing Tower

To add an antenna to an existing tower would require a Public Hearing with the proper notification to adjacent property owners.

Telecommunication Towers on Existing Buildings

To add a telecommunication tower to an existing building, the Petitioner would be required to show the area of service of the proposed antenna and to provide documentation as to its necessity.

E-Mails Received Objecting to the Proposed Ordinance

Mr. Gene Schenberg, representing the Planning Commission, stated that the persons who sent the e-mails expressed concern that they did not get a chance to speak at the Public Hearing. The e-mails included an ordinance which has been adopted by The Wireless Infrastructure Association (PCIA) and they asked that the PCIA ordinance be adopted.

Application Fee/Performance Security Bond

Councilmember Durrell noted that PCIA is questioning the proposed \$5,000 application fee and the \$75,000 performance security bond.

City Attorney Heggie stated that the proposed application fee is an estimation of what the costs will be for the City's review of applications. The proposed bond is an estimation of what the costs would be to take down an abandoned tower.

Ms. McCaskill-Clay added that the proposed numbers were also based on information received from the Planning Advisory Services of the American Planning Association (APA). The sample ordinances received from APA are a nation-wide sampling.

Councilmember Durrell asked whether the bond is refundable. City Attorney Heggie stated that the bond is refundable.

It was noted that there is a \$2,000 application fee for adding an antenna to a tower, which would cover review costs.

Presentation by Missouri/Kansas Wireless Infrastructure Association

Mr. Jay Weber, President of the Missouri/Kansas Wireless Infrastructure Association, stated that there is some industry concern by the PCIA about the proposed ordinance. They feel that the PCIA-model ordinance would make a "more long-standing ordinance".

He asked that the proposed ordinance be referred back to Staff to work with PCIA addressing their concerns – specifically with respect to the application fee and bonding requirements. He noted that these high costs may persuade some carriers not to come to Chesterfield.

He pointed out that the requirement of having three users on a tower of 110 feet in height would require a very sturdy tower, which could affect the aesthetics of the tower. He also questioned the cap of 110 feet.

Chair Fults advised Mr. Weber that he, or anyone else from his Association, may address the Council when this petition is being presented.

Councilmember Hurt made a motion to forward P.Z. 33-2007 City of Chesterfield (Telecommunications Ordinance) to City Council with a recommendation to approve. The motion was seconded by Councilmember Durrell and **passed by a voice vote of 4 to 0.**

**Note: One bill, as recommended by the Planning Commission, will be needed for the August 20, 2007 City Council Meeting.
See Bill #**

[Please see the attached report, prepared by Mike Geisel, Acting Director of Planning, for additional information on P.Z. 33-2007 City of Chesterfield (Telecommunications Ordinance).]

It was agreed to amend the Agenda to discuss Items IV.E. and IV.F. next.

- E. Recycling Ordinance for New Development Projects:** Ordinance requiring the placement of a recycling area in all new Planned Commercial and Multi-family Residential Developments.

Councilmember Hurt made a motion to forward Recycling Ordinance for New Development Projects to City Council with a recommendation to approve. The motion was seconded by Councilmember Durrell.

Councilmember Durrell and Chair Fults expressed their enthusiasm for the recycling ordinance.

The motion to approve **passed by a voice vote of 4 to 0.**

**Note: One bill, as recommended by the Planning Commission, will be needed for the August 20, 2007 City Council Meeting.
See Bill #**

[Please see the attached report, prepared by Mike Geisel, Acting Director of Planning, for additional information on Recycling Ordinance for New Development Projects.]

- F. Proposed Modifications to Sections 3(f) and 4 of Ordinance No. 385:** Proposed modifications from the Citizens Committee for the Environment regarding weed control.

Staff Report

Mr. Mike Herring, City Administrator, stated that the City of Creve Coeur has started a program allowing exceptions to the definition of a “weed”. He noted that Chesterfield’s Citizens Committee for the Environment (CCE) encourages the plantings of native grasses, which require less watering and mowing. This,

however, needs to be reviewed to define what a “native grass” is and what a “weed” is. He then introduced Darcy Capstick of CCE.

Presentation by Citizens Committee for the Environment

Ms. Darcy Capstick introduced the following members of the Citizens Committee for the Environment: Jeanne Clauson; Donna Percherski; and Terry Grogan.

Ms. Capstick stated that contemporary conservation policies and practices must be on a scale sufficient to embrace and sustain natural world systems – such as those things that clean the air, make healthy soil, clean the water, and sustain healthy bio-diversity. She noted that a concern has been raised regarding native ecology and what is perceived as a need to improve the City’s weed ordinance.

After reading that Creve Coeur had modified its weed ordinance to allow for native plantings and to restrict invasive plants, the Committee for the Environment reviewed those sections of Chesterfield’s Ordinance 385, which refer to weeds. Section 3(f) identifies as a public nuisance “all Russian, Canadian or common thistle, wild lettuce, wild mustard, wild parsley, ragweed, milkweed, ironweed, poisonous plants or shrubs and all other noxious weeds, grass and vegetation which have attained a height of 12 inches or more.”

The Committee recommends replacing this nuisance description because many of the plants are a native part of the natural world infrastructure necessary to sustain quality life – especially pollinators. It is suggested that the nuisance description be replaced with the invasive plants list that was compiled for Creve Coeur. The plants listed as invasive would be considered weeds if left uncontained and uncontrolled on private property.

The Committee also suggests modifying Chesterfield’s ordinance to allow and encourage the inclusion of native plantings – some of which may exceed 12 inches. Photographs of example native plantings and invasive plantings were shown to the Planning & Zoning Committee members.

The Environment Committee’s recommendation enhances sustainability and improves the community’s efforts toward sustainability and they request that the City’s ordinance reflect these improvements.

DISCUSSION

Recommended Changes

Councilmember Erickson noted that native plants can be very attractive – but can also present a problem when they are uncontained and uncontrolled. He felt that the definition of “uncontained and uncontrolled” has to be clearly defined –he did not feel that prohibiting plants from being over 12 inches in height addresses the issue as some native plants exceed 12 inches.

Councilmember Geiger asked Ms. Capstick to review some of the plantings in the area and to advise whether they are considered “native” or “weeds”.

Chair Fults made a motion directing Staff to review the recommended modifications to Ordinance 385 and to present proposed language for the Planning & Zoning Committee's consideration. The motion was seconded by Councilmember Durrell and **passed by a voice vote of 4 to 0.**

- D. **P.Z. 36-2007 City of Chesterfield (City of Chesterfield (Planned Commercial and Residential Mixed Use District (PC&R) District):** A request to establish Section 1003.139 "Planned Commercial and Residential Mixed Use District" in the City of Chesterfield Zoning Ordinance. Said section is to provide general regulations for the PC&R District and contains the enabling authority for the adoption of site specific ordinances, site development plan, or site development concept plan and site section plans for specific PC&R developments.

Staff Report

Ms. Aimee Nassif, Senior Planner, gave a PowerPoint Presentation on the proposed "Planned Commercial and Residential Mixed Used District" (PC&R), prepared by Mr. Mike Geisel, Director of Planning & Public Works. She noted the following:

- The purpose of the PC&R is to create a zoning category facilitating the phased development of large tracts within the urban core and to maximize the City's ability to control the performance standards and development character of the larger overall tracts.
- The PC&R zoning category is strictly limited to tracts of fifty acres (or larger) and within the Urban Core.

Comparative notes between the existing Mixed Use and proposed PC&R Districts:

- Both MXD and PC&R impose performance standards provided elsewhere in City Code.
- MXD provides for altered performance standards in site specific ordinance only.
- PC&R provides for altered performance standards in site specific ordinance, Site Development Plan, Site Development Section Plan, or Site Development Concept Plan.
- Current MXD ordinance requires a development mix of:
 - 20% Industrial & Office (min.)
 - 20% Residential (min.)
 - 20% Retail Commercial (min.)
- MXD application requirements mandate preliminary plan submission with site plan level detail.
- PC&R application provides for existing site information (e.g. survey), concept development character and overall developmental density information.
- PC&R provides for uses in Commercial and Residential only. Industrial uses are not included.

DISCUSSION

Vehicular Circulation

Councilmember Hurt expressed concern on how vehicular circulation will be handled – specifically with respect to curb cuts.

Performance Standards

Councilmember Hurt expressed serious concern about the following proposed language under “Performance Standards”, which states:

“. . .Said performance standards may supplement, modify, alter, or eliminate performance standards provided elsewhere in the Chesterfield City Code. Except where specifically stated otherwise in this Section, performance standards established in the Site Specific PC&R District Ordinance governing a PC&R development or provided on the Site Development Plan, Site Development Concept Plan, or Site Development Section Plan for a PC&R development shall supersede any performance standards required by any other District regulation or Ordinance of the City. . .”

He felt such language leaves the City with no legal recourse and stated he cannot support it as presently written.

Councilmember Hurt referred to the following proposed language of Section 5) (a) relative to “Procedure to Approve a Site Development Concept Plan and Section Plan(s)” which states:

“. . . any Section Plan shall comply with the Site Specific PC&R District Ordinance, the Site Development Concept Plan and the applicable provisions of the City of Chesterfield Code.”

He noted that such language is in conflict with the language noted above under “Performance Standards”.

Ms. Nassif stated that Mr. Geisel has been working very closely with the developers and the City codes to develop this new district. The new district will allow for the flexibility to have a good mixed use area on a large tract of land.

Councilmember Hurt stated he would like the City to work directly with the developer to develop the standards now rather than leaving them “open”.

City Attorney Heggie felt the proposed ordinance empowers the Council to make judgments at the time when information is available about what Council wants downtown Chesterfield to look like.

Presentation by Mike Doster, Attorney representing Sachs Properties

Mr. Mike Doster, Attorney representing Sachs Properties, stated that Sachs Properties does not yet know how the site will be developed. He noted that the site is 100 acres and it will probably be developed by a nationally-known mixed use developer.

He noted that one of the basic problems with the MXD ordinance is that it does not contemplate phased development. Downtown will have to be developed in phases. As a result, it is very difficult to envision what the performance standards ought to be. He did not feel the performance standards should be locked into the enabling ordinance. If the enabling ordinance is too specific about the performance standards – and it is later learned that it is a problem – the enabling ordinance will have to be amended as opposed to amending the site specific ordinance, which is more commonly done. He noted that it is very rare and difficult to amend an enabling ordinance.

They are trying to set up a mechanism whereby the developer can file for a rezoning for the whole 100 acres. Then an Attachment A can be developed in terms of what performance standards need to be locked in at the Attachment A level and what performance standards may be modified at the Section Plan stage. This has not been worked out at this point. The Planning Commission and Council will have the opportunity to review this thoroughly. They are willing to work with Staff, the Planning Commission, and Council on an Attachment A for this kind of a development. He noted that such an Attachment A will be different than the standard Attachment A used throughout the City.

Mr. Doster stated that Mr. Sachs does not want flexibility on the Attachment A – he wants predictability for the developers who may come in on the various sections of downtown to develop the various uses. “Predictability” does not mean that it is so locked in that there cannot be some relief on some requirements. He felt that it would be more appropriate to allow the relief at the Section Plan stage than to amend the site-specific ordinance knowing that the Section Plan gets reviewed by the Planning Commission and Council.

Mr. Doster expressed his support of the proposed petition.

Responding to questions from the Committee members, Mr. Doster clarified the following points:

- Sachs Properties intends to file a petition for rezoning the entire 100 acres as soon as the enabling ordinance is passed.
- Sections of the development may be done by different nationally-known mixed use developers because Sachs does not do residential, commercial, office and retail combination developments.

Precedent-Setting

Chair Fults expressed concern about setting a precedent if relief is given on a particular performance standard.

City Attorney Heggie stated that the language allows flexibility for offering relief on standards but it does not mean that the same relief must be given to future development in the same area. The Attachment A will have “triggering events” for the development of the area – but if market conditions change and the City’s interest change, the ordinance and Attachment A will allow the flexibility to change it.

Education Session

Councilmember Erickson suggested that an expert from HOK be brought in to give an education session to the Planning Commission and City Council on what a mixed use project is like nationwide.

Councilmember Geiger made a motion to forward P.Z. 36-2007 City of Chesterfield (City of Chesterfield (Planned Commercial and Residential Mixed Use District (PC&R) District) to City Council with a recommendation to approve. The motion was seconded by Councilmember Durrell.

Councilmember Hurt made a motion to amend Section 3) regarding “Performance Standards” as follows: (changes shown in green)

. . . Said performance standards may supplement, modify, **or** alter, **or eliminate** performance standards provided elsewhere in the Chesterfield City Code.

The motion was seconded by Chair Fults and **passed by a voice vote of 4 to 0.**

Councilmember Hurt made a motion to amend the language in Section 1) regarding “Purpose and Intent” as follows: (changes shown in green)

This Section is intended to enable the creation of a PC&R District development comprising a minimum of ~~fifty (50)~~ **ninety (90)** acres in size . . .

The motion was seconded by Councilmember Geiger.

Mr. Doster stated that there is acreage between Highway 40 and what will become the new “Wild Horse Creek Road” which they intend to include in the petition for rezoning – but it is possible that this acreage will not be included. This includes approximately 15 acres.

Councilmember Hurt amended his above motion as follows: (changes in blue)

This Section is intended to enable the creation of a PC&R District development comprising a minimum of ~~fifty (50)~~ **ninety (90)** **eighty (80)** acres in size . . .

Councilmember Geiger accepted the amendment. The amended motion **passed by a voice vote of 4 to 0.**

Councilmember Geiger made a motion to include the language proposed by Mr. Mike Doster to be added to Section 3) regarding “Performance Standards” as follows:

In order to provide for, supplement, modify, or alter a specific performance standard in a Site Development Plan, Site Development Concept Plan, or Site Development Section Plan, the Site Specific PC&R Ordinance must specifically authorize such provision, supplementation, modification, or alteration; such authority, if granted in the Site Specific PC&R Ordinance, may be limited or conditioned by the terms of the Site Specific PC&R Ordinance .

The motion was seconded by Chair Fults and **passed by a voice vote of 4 to 0.**

Councilmember Durrell suggested amending Section 4 (x) as follows **(changes shown in green):**

Approximate location of any historical building **site** . . .

She noted that changing the wording would include cemeteries and Indian mounds. She explained that this would not prevent development – the Landmark Preservation Commission only wants to know what is found so it can be identified.

Mr. Doster stated that the proposed language was provided by Staff and he is not sure of the impact of the suggested change. He asked that this change be discussed at Council.

Councilmember Geiger made a motion to forward P.Z. 36-2007 City of Chesterfield (City of Chesterfield (Planned Commercial and Residential Mixed Use District (PC&R) District), as amended, to City Council with a recommendation to approve. The motion was seconded by Councilmember Durrell and **passed by a voice vote of 4 to 0.**

**Note: One bill, as recommended by the Planning Commission, will be needed for the August 20, 2007 City Council Meeting.
See Bill #**

[Please see the attached report, prepared by Mike Geisel, Acting Director of Planning, for additional information on P.Z. 36-2007 City of Chesterfield (City of Chesterfield (Planned Commercial and Residential Mixed Use District (PC&R) District).]

V. ADJOURNMENT

The meeting adjourned at 7:22 p.m.