

# I.A. MEMORANDUM



TO: Michael G. Herring, City Administrator

FROM: Mike Geisel, Director of Public Services

SUBJECT: Planning & Public Works Committee Meeting Summary  
Thursday, September 12, 2013

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A meeting of the Planning and Public Works Committee of the Chesterfield City Council was held on Thursday, September 12, 2013 in **Council Chambers**.

In attendance were: **Chair Connie Fults** (Ward IV); **Councilmember Barry Flachsbart** (Ward I); **Councilmember Derek Grier** (Ward II); and **Councilmember Dan Hurt** (Ward III).

Also in attendance were: Mayor Bob Nation; Councilmember Nancy Greenwood (Ward I); Councilmember G. Elliott Grissom (Ward II); Councilmember Mike Casey (Ward III); Councilmember Bruce DeGroot (Ward IV); Planning Commission Chair Mike Watson; Planning Commissioner Wendy Geckeler; Mike Geisel, Director of Public Services; Aimee Nassif, Planning & Development Services Director; Justin Wyse, Senior Planner; John Boyer, Senior Planner; Ms. Purvi Patel, Project Planner; and Kristine Kelley, Recording Secretary.

The meeting was called to order at 5:35 p.m.

## I. APPROVAL OF MEETING SUMMARY

### A. Approval of the August 8, 2013 Committee Meeting Summary.

Councilmember Grier made a motion to approve the Meeting Summary of August 8, 2013. The motion was seconded by Councilmember Hurt and passed by a voice vote of 4 - 0.

## II. PROTEST PETITION HEARINGS

- A. P.Z. 1-2013 and P.Z. 2-2013 Arbors at Kehrs Mill (17015 Church Rd.):  
A request for a zoning map amendment from "E-2" Estate Residence District (two acre) and "LLR" Large Lot Residential District to "E-1" Estate District (one acre) for 41.082 acres located north of the intersection of Church Rd. and Strecker Rd. (19U420248).

## **STAFF REPORT**

John Boyer, Senior Planner explained the basis behind the Public Hearing for the Protest Petition:

A Protest Petition was filed with the City on July 9, 2013. Pursuant to Section 89.060 of the Missouri Revised Statutes, in a case of a protest against a change of zoning, 30% or more of owners within a 185 foot buffer from the boundaries of the subject property must duly sign a Protest Petition for a protest to be considered official. Staff received verification that 33% (10 out of 30) of the property owners have signed the petition.

The Protest Petition was forwarded to City Council where it was formally recognized and the Planning and Public Works Committee was directed to conduct a Public Hearing.

The Public Hearing is to give those who filed protest an opportunity to speak on their reasons for objection to both applications. ***No vote is required by the Committee on this protest petition; however, when City Council votes on the two rezoning applications, a super majority (2/3) vote in the affirmative will be required as directed by the Missouri Revised Statutes if the request is to be approved.***

## **DISCUSSION**

It was verified to Councilmember Hurt that a 2 – 2 vote will move the Petition out of Committee and onto City Council for review.

Chair Fults noted that the speakers will be allowed 15 minutes to present their concerns.

## **PUBLIC COMMENT**

Mr. John Gazzoli, Trustee of Pacland Place and representing the Pacland Place residents, 16916 Pacland Ridge Drive, Chesterfield, MO. Mr. Gazzoli noted that also present are two lot owners of Pacland Place, two of whom own property adjoining the subject property. He then stated the following:

- They are concerned that the proposed development would adversely affect their property values and the property values of the surrounding area.
- He has spoken with numerous Subdivision Trustees and a representative of the Goddard School and has not found anyone in favor of the zoning request that is before the Committee.
- They are opposed to this plan as they feel it is incompatible with the surrounding area and would be “a disaster to the area”.
- At best, they feel that the absolute minimum lot size should be one acre in size.
- In a conversation with Chair Fults, she expressed concerns that under the existing zoning, trees could be removed from the property; however, he is not clear as to which trees she is referring to.

- They felt their earlier concerns raised during the recent Public Hearing conducted by the Planning Commission were ignored so they began the process of obtaining a Protest Petition Hearing under Missouri State Statute.
- He urges the Committee to reject this petition and to sustain their Protest Petition.

Councilmember Hurt asked for clarification from Mr. Gazzoli that their main concerns are that the lot sizes should be no less than one acre. Mr. Gazzoli replied that the current ordinance specifies a minimum one-acre lot size and they would like the ordinance to remain in effect. However, they would prefer that the subject site be zoned “LLR” as it was prior to 2006.

In response to Mr. Gazzoli’s comments regarding the removal of trees, Chair Fults provided an explanation to her previous statement as follows:

- The property is still E-1 and E-2 Acre Zoning District with a “PUD” Planned Unit Development designation.
- The proposed zoning includes a PUD which allows for a much larger buffer between Pacland Place Subdivision and the proposed development resulting in a substantial area of common ground which preserves the tree line.
- Under the current zoning, the large tree line that abuts the Pacland Place Subdivision is on private property and could be cut down at any time.
- The proposed PUD would preserve the tree line.

Mr. Dan Hogan, resident of Pacland Place Subdivision, 1540 Pacland Place, Chesterfield MO noted that his three-acre property abuts directly to the subject site and then stated the following:

- He is in opposition to the change of zoning and concurs with Mr. Gazzoli’s comments.
- He wants to see higher-end homes and higher-end development for the proposed site comparable to the homes constructed within Pacland Place and Pacland Estates.

Mr. Terry Brennan, representing the Caulks Creek Ridge Subdivision located in the City of Wildwood, 16639 Caulks Creek, Wildwood, MO stated the following:

- His property is located directly across the street from the proposed development.
- He has spoken to numerous residents, but there is only one individual who is in favor of the development. He noted that this individual’s property would be used for an easement for water discharge from the retention pond. In addition, he felt that this resident may be biased, as the resident is also a developer.
- The site was originally zoned “NU” Non-Urban. The property was rezoned “LLR” Large Lot Residential in 1998. In 2006, Ordinance 2322 was approved for the rezoning portion of the subject site to an E-1 and E-2 Estate Acre District.
- Ordinance 2322 also approved the density for the development, specifically Tuscany Reserve, of 36 single-family residential lots compared to the current proposal of 44 lots.

- He disagrees with the developer's contention that the proposed development is consistent with the surrounding properties.
- According to his calculations, 30% of the lots within the proposed development will be less than one-half acre. The developer has requested a variance for a 10-foot side setback.
- In response to the previous discussion, in his opinion the only people that remove trees are developers and it is rarely seen that homeowners cut down trees unless it is necessary to place the footprint of the home on the lot.
- He has not seen a traffic study but due to the increase in traffic volume along Kehrs Mill and Strecker Roads, there are safety concerns. The developer is proposing 44 new homes which will further increase the traffic volume.
- There are concerns regarding the storm water runoff, which has in the past resulted in property loss to several residents of Caulks Creek Ridge. To discharge significant water above the bridge will create additional property loss; particularly to the individual whose property is at the corner intersection.
- He has serious concerns about storm water runoff both during and after construction. He asked where the excess runoff will go when the retention pond overflows.
- Their concerns center on the property values and the potential decrease in property values as a result of the development. They were also opposed to the Simon development that was approved several years ago.
- In conclusion, they do not feel that rezoning to an "E-1" Acre Estate District is appropriate at this time. They would like to maintain the character of the neighborhood.

It was clarified to Councilmember Hurt that the surrounding residents are not opposed to minimum one-acre lot sizes. It was noted that Caulks Creek Ridge Subdivision is located to the southeast of the proposed development.

Mr. Bruce Kondracki, Trustee representing The Highlands Subdivision located in the City of Wildwood, 17415 Highland Way Drive, Wildwood, MO stated the following:

- They are opposed to the placement of the secondary entrance on Church Road and would like McBride & Sons to consider moving the entrance to Strecker Road.
- They feel that the move to relocate the entrance to Church Road is a means of saving money but is at the cost of their neighborhood. An entrance on Church Road would impact their neighborhood because Church Road is not a major improved road and would allow traffic along the back of many of the homes that are accustomed to a quiet neighborhood.
- They are requesting the opportunity to review the exhibit that was presented at the Planning Commission meeting.

Councilmember Hurt asked for clarification as to the location of The Highlands Subdivision. Mr. Kondracki responded that they are located within the City of Wildwood. Their property is currently zoned "R1" Residence One Acre District.

*Chair Fults stated that this concludes the Protest Petition Hearing. There is no vote on the Protest Petition and if the Petition is approved by the Committee it will move forward to City Council for final review. Separate discussions will now commence on P.Z. 1-2013 and P.Z. 2-2013 Arbors at Kehrs Mill (17015 Church Road).*

### III. OLD BUSINESS - None

### IV. NEW BUSINESS

- A. **P.Z. 1-2013 Arbors at Kehrs Mill (17015 Church Rd.):** A request for a zoning map amendment from “E-2” Estate Residence District (two acre) and “LLR” Large Lot Residential District to “E-1” Estate District (one acre) for 41.082 acres located north of the intersection of Church Rd. and Strecker Rd. (19U420248).
- B. **P.Z. 2-2013 Arbors at Kehrs Mill (17015 Church Rd.):** A request for a zoning map amendment from “E-1” Estate District (one acre) to “PUD” Planned Unit Development for 58.149 acres located north of the intersection of Church Rd. and Strecker Rd. (19U420248).

### **STAFF REPORT**

Mr. John Boyer, Senior Planner stated that the subject site is split into three districts – E1, E2, and LLR. P.Z. 1-2013 would rezone the E2 and LLR parcels to E1 Estate District (one acre). This would establish the overall density for the site under the Planned Unit Development. The project, as presented, is 44 units on 58 acres (*0.75 units/acre*). Two access points are proposed for the project – one at Church Road and the other at Strecker Road. Issues associated with the application addressed at the public hearing held at Planning Commission related to the access off Church Road and lot size compatibility. These issues were addressed prior to vote of the Planning Commission.

The purpose of the Planned Unit Development (PUD) is to provide flexibility for the development in order to provide a higher and better use than what could be achieved under a straight zoning district. The majority of the lots are 22,000 sq. ft. with the average lot size being approximately 31,000 sq. ft. The developers feel that the smaller lot sizes allow them to preserve more open space thereby providing a better project.

Ms. Nassif stated the required road improvements and widening for Church Road will all be done on the Chesterfield side of the road so it is farther away from the existing homes in Wildwood. In addition, a 30-foot perimeter landscape buffer is provided and required for this proposed development.

Common Open Space makes up over 30% of the site, which will be deed restricted. The deed restriction prohibits any structures or development in this area and keeps it as a preservation area for landscaping and existing vegetation.

Ms. Nassif also pointed out that, while the density is established, the PUD allows for negotiation and flexibility with respect to lot sizes and setbacks –this is not a modification or variance to the City’s standards.

### **PLANNING COMMISSION REPORT**

Planning Chair Watson reported that the Planning Commission approved the two petitions by a vote of 8 to 0. The discussion at Planning Commission noted that the original zoning would allow many more houses than the proposed zoning; and the PUD allows more preservation of green space. Comments related to a traffic study and the Church Street access.

### **DISCUSSION**

Councilmember Flachsbart asked for clarification about the parcel currently zoned LLR which is not a part of the current petition – he asked whether this parcel will remain LLR. Mr. Boyer stated that there is a small “sliver” of property that is LLR and is part of this petition. The large portion of LLR property is The Goddard School property and is not included in this application.

Councilmember Hurt asked for more information about the deed restricted area. Ms. Nassif replied that the 30% of common open space is required to be deed restricted with a Planned Unit Development request.

Councilmember Hurt asked how large the 22,000 sq. ft. lots would be when the deed restricted area is added to them. Ms. Nassif stated that the lot sizes could be approximately 30,000 sq. ft. or greater with the restricted area included, but does not have that exact measurement.

Councilmember Hurt asked for the minimum lot sizes for the R1 Districts adjacent to the subject site. Mr. Boyer replied that the minimum lot sizes for the R1 lots in Wildwood (*west of the site*) are one-half acre; the lot sizes for the R1 lots in Chesterfield (*east of the site*) are one-half to one acre. Westland Acres (*west of Pacland along Church Road*) was approved in 2006 for half-acre development. Ms. Nassif added that Westland Acres development was approved with 56 homes on the Chesterfield side and approximately 60 homes on the Wildwood side – the lot sizes approved were at approximately 18,000 sq. ft.

Councilmember DeGroot stated that he has concerns about traffic with respect to the proposed petition. He feels that the entrance into Pacland Place is dangerous based on the increased traffic along Kehrs Mill Road and asked if the City has looked into this issue. Mr. Boyer replied that a traffic study has not been done at this time. The ordinance includes standard language requiring a traffic study if deemed necessary by the County or City. Typically, a traffic study is provided at the Site Development Plan stage.

Councilmember Flachsbart noted that the rationale for the current zoning of E2 was to provide larger lots that would be more compatible with the larger adjacent lots of Pacland Place.

Chair Fults pointed out that the subject site includes 12 acres that fall under the Pacland indentures and the Petitioner is upholding the requirements of those indentures for these 12 acres.

Councilmember Flachsbart asked for information about the number of homes approved under the current zoning vs. the proposed zoning. It was noted that the current zoning was approved for 36 houses on 58 acres vs. the proposed 44 houses on 58 acres.

### **PETITIONER'S PRESENTATION**

Ms. Jeannie Aumiller, McBride & Son Homes, 16091 Swingley Ridge Road, Ste. 300, Chesterfield, MO introduced the development team to the Committee. She then gave a brief history of the previously-approved Arbors at Wild Horse development noting that of the 18 homes sold, the average selling price is above \$800,000 with some homes being over \$1 million.

Ms. Aumiller stated that for the Arbors at Kehrs Mill they are proposing a luxurious product similar to the Wild Horse development. She then provided information on how they feel the proposed petition has many improvements over the existing zoning (*Tuscany Reserve*), such as:

- More tree preservation in the common ground areas. These areas will be deed restricted so that homeowners will not be permitted to remove the trees and build within those areas.
- Large buffers – 100-foot-wide buffer to the north along Pacland.

Councilmember Hurt expressed concern that even though the property is deed restricted, it may still not prevent homeowners from removing trees that back up to their property.

Councilmember DeGroot stated that the builder sign advertises the homes at a sales price of \$500,000. Ms. Aumiller clarified that \$500,000 is the starting point and would be for a home with the most basic floor plan with no options or upgrades. Their experience with this product line is that no one does that – most of the homes are customized.

Mr. Aaron Wenholtz, Project Manager for McBride & Son Homes stated that the lowest-sold home in the Wild Horse development is in the upper \$600,000s. The \$500,000 model is the lowest model and they have not sold any of those models to date. Of the 18 sold, 2 of the homes are the largest model offered and the remaining 16 are the second-to-largest model.

Ms. Aumiller stated that another homebuilder, Wes Burns, is also involved in providing luxurious homes for this development. She then displayed pictures of the homes that are being proposed. She added that when listening to residents who are opposed to the

project, she consistently hears concerns about the *lower end product being proposed*. She stated that she does not understand those comments because they are offering a very luxurious product, which she does not feel would bring down the property values of the surrounding homes.

Councilmember Hurt stated that he does not have any concerns about the product being offered by McBride & Son Homes. He felt that the main concerns raised by the residents relate to density.

Ms. Aumiller continued her presentation and stated the following:

- All the lot sizes for the proposed development are in excess of one-half acre. The majority of the R1 lots in Wildwood are less than one acre, with some being less than one-half acre; the R1 zoning in Chesterfield has lots that are less than one acre.
- It is important to them to preserve the one-acre density for the subject site. They are proposing 44 lots on 58 acres.

Councilmember Flachsbart stated that Ms. Aumiller is mixing density and lot sizes and asked that she address each of these separately.

Ms. Aumiller then made the following comments:

**Density:**

- They are consistent with the subdivisions adjacent to the east and the west that are zoned R1.
- The subject site is proposed at less than one acre density – 44 units on 58 acres.

**Lot Size:**

- Lot sizes exist to the east and west of the subject site that are less than one acre and, in some cases, less than one-half acre.
- They are proposing all lots in excess of one-half-acre.
- The average lot size is almost 31,000 sq. ft.
- Two lots are over two acres each.
- The lot size was driven by preservation and larger common ground areas.
- The PUD requires a 30-foot minimum width preservation area around the entire site. But they did not feel this was adequate so they “went above and beyond that”.
- They did not want lot lines touching the boundary, which brings the lot size down to less than one acre. But the overall density is 44 units on 58 acres – clearly less than one acre.
- It was important to them to preserve the trees and ring the whole site with a larger buffer than what is required.

Chair Fults then compared the present zoning to the proposed zoning. She noted that the current two-acre zoning goes to Lots 7 and 34. The proposed zoning is similar but

there are two lots in the middle that are three acres in size, which fall under the Pacland indentures. No homes have been picked up to the east.

Chair Fults went on to say that to the west, both the current and proposed zoning shows one acre; however, the number of lots has been increased on the proposed zoning. She asked if the addition of the cul-de-sac has resulted in the addition of four houses. Ms. Aumiller confirmed this and pointed out that lots have also been added in the area adjacent to Goddard School.

Ms. Aumiller continued her presentation and stated the following:

- The proposed zoning includes 6.6 acres of tree preservation, which is over 43% of the site. The existing zoning plan provides very little tree preservation.
- The existing zoning proposed moving 336,000 cubic yards of earth compared to the proposed plan of moving only 150,000 cubic yards.
- The common ground on the proposed site is 20.6 acres – 35% of the entire site compared to the existing plan of less than an acre of common ground.
- The proposed plan conforms to the designation in the City's Comprehensive Plan.
- The buffers to the south are in excess of 50 feet in most areas.
- The PUD is giving them the flexibility to offer larger buffers, preserve the trees and provide common ground, which they believe will help buffer the project from the existing communities.

At Councilmember Flachsbart's request, Ms. Aumiller provided the following information about the entrance on Church Road.

- There are two access points being proposed. The one off Kehrs Mill is anticipated to be the main entrance.
- The former plan for Tuscany Reserve had an access off Strecker Road. It is her understanding that Strecker is not a flood-free access and they needed a second flood-free access point.
- They will be providing an access off Church Road in order to provide the flood-free access. They intend to make significant improvements to Church Road on the Chesterfield side of the road.
- An exhibit was then provided showing the grade of the site in this area and how the access will look. With the grade of the site, the common ground and existing trees, the headlights from traffic will be going down into a berm and will not impact the existing residences.

Ms. Nassif pointed out that the original plan had emergency access planned and designed off Church Road.

Mr. Mike Falkner, Sterling Engineering then stated the following:

- Strecker Road, along the subject site, is entirely in floodplain.
- In order to provide flood-free access, they pushed out onto Church Road. They met several times with Staff regarding this access since Church Road is in dual jurisdictions – Wildwood and Chesterfield.

- All improvements will be on the Chesterfield side of Church Road and the road will be brought up to City standards.

Mayor Nation asked for information on how only half of the road can be improved. Ms. Nassif replied that all the widening, pavement work, and extra grading will be on the boundary side of Chesterfield. Mr. Falkner pointed out that there is no paved portion of Church Road within the Wildwood section.

Mayor Nation noted that while Church Road is out of the floodplain, Strecker Road is within the floodplain so he does not understand how this accomplishes anything. Mr. Boyer stated that the flood-free access comes from the fact that the access provided through the subdivision to Kehrs Mill bisects, and negates having to go on to Strecker Road.

**Councilmember Grier made a motion to forward P.Z. 1-2013 Arbors at Kehrs Mill (17015 Church Rd.) to City Council with a recommendation to approve.** The motion was seconded by Chair Fults

#### **DISCUSSION ON THE MOTION**

Councilmember Flachsbart stated that he will vote in support of the project at this time; however, his vote may change once it reaches City Council.

Councilmember Hurt stated that he has topography concerns so he will be voting in opposition at this time.

The motion then **passed** by a voice vote of 3 – 1 with Councilmember Hurt voting “No” due to topography concerns.

**Councilmember Grier made a motion to forward P.Z. 2-2013 Arbors at Kehrs Mill (17015 Church Rd.) to City Council with a recommendation to approve.** The motion was seconded by Chair Fults

#### **DISCUSSION ON THE MOTION**

Councilmember Flachsbart reiterated that he will vote in support of the project at this time; however, his vote may change once it reaches City Council.

Councilmember Hurt stated that again due to his topography concerns, he will be voting in opposition at this time. He pointed out that according to the zoning map, there is lower density to the north and south and higher density to the east and west with the proposed development running right in between these topographical changes. He is requesting justification of the topography by the developer before he can feel comfortable with the project. He intends to meet with Staff to review topo maps prior to the City Council meeting.

The motion then **passed** by a voice vote of 3 – 1 with Councilmember Hurt voting “No”.

**Note: Two Separate Bills, as recommended by the Planning Commission, will be needed for the September 23, 2013 City Council Meeting. See Bills #**

**[Please see the attached reports prepared by Aimee Nassif, Planning and Development Services Director, for additional information on P.Z. 1-2013 and P.Z. 2-2013 Arbors at Kehrs Mill (17015 Church Rd.)]**

### **C. City Hall usage policy – Policy No. 44**

Mr. Geisel explained that in 2002 City Council adopted Policy No. 44 regarding the use of City Hall. The policy requires that a building attendant be present for public meetings to handle building systems, spills, etc. The policy allows for free use of the building by political or community groups Monday-Thursday until 10:00 p.m., and Friday until 5:00 p.m. It allows for annual subdivision meetings on Saturdays without any charge. The Policy does not allow the use of City Hall on Sundays for community use in recognition of the extra expenses involved and the ability to provide building attendant staffing.

There has been a recent request by an elected official to have a meeting on a Sunday, which cannot be booked under the current policy.

In reviewing the policy, the Committee needs to consider the following:

- If such meetings are allowed on Sundays, do you want to have a building attendant available during the meeting?
- Do you want to allow use of the building on Sundays for that purpose?

Councilmember Flachsbart explained that he and Nancy Greenwood want to have a meeting to explain the Ladue Road reconstruction project to Subdivision Trustees and residents who live along Ladue Road. He mentioned that Saturdays are not appropriate because of the percentage of Ward I Jewish families celebrating the Sabbath. He added that the current Policy already states that no beverages are allowed in Council Chambers and felt that the meetings will be adequately monitored.

Councilmember Hurt felt that there was already Staff available to oversee the facility operations. Mr. Geisel pointed out that the HVAC does not operate 24/7, building attendants help with opening doors, facility set up, spills, clean ups, bathroom supplies, monitor proper usage, and controls access through other parts of the building. They provide a point of contact and control for the users. Mr. Geisel explained that the only other staff that is consistently at City Hall are the Police Clerks, and they cannot leave their post to offer any assistance.

The consensus of the Committee is that this is an isolated instance and that the Policy does not need to be revised and to make an exception in this case to allow use of the Chambers on Sunday, October 27<sup>th</sup>.

**Councilmember Flachsbart made a motion to leave the current policy intact, but to allow exceptions to be approved by the Planning and Public Works Committee.** The motion was seconded by Councilmember Hurt and **passed by a voice vote of 4 - 0.**

## **V. OTHER**

## **VI. ADJOURNMENT**

The meeting adjourned at 7:18 p.m.