

I.A. MEMORANDUM



TO: Michael G. Herring, City Administrator

FROM: Mike Geisel, Director of Planning & Public Works

SUBJECT: Planning & Public Works Committee Meeting Summary
Thursday, November 18, 2010

A meeting of the Planning and Public Works Committee of the Chesterfield City Council was held on Thursday, November 18, 2010 in Conference Room 101.

In attendance were: **Chair Matt Segal** (Ward I), **Councilmember Bruce Geiger** (Ward II), **Councilmember Mike Casey** (Ward III), and **Councilmember Connie Fults** (Ward IV).

Also in attendance were: Acting-Mayor Barry Flachsbart; G. Elliott Grissom, Planning Commission Chair; Michael Herring, City Administrator; Mike Geisel, Director of Planning & Public Works; Brian McGownd, Public Works Director/City Engineer; Aimee Nassif, Planning & Development Services Director; Kristian Corbin, Project Planner; and Kristine Kelley, Recording Secretary.

The meeting was called to order at 5:30 p.m.

Chair Segal recognized Planning Commissioner Grissom who was in attendance.

I. APPROVAL OF MEETING SUMMARY

A. Approval of the November 4, 2010 Committee Meeting Summary.

Councilmember Casey made a motion to approve the Meeting Summary of November 4, 2010. The motion was seconded by Councilmember Fults and **passed by a voice vote of 4 – 0**.

Councilmember Casey then made a motion to place Item III.B under **New Business next on the agenda**. The motion was seconded by Councilmember Geiger and **passed by a voice vote of 4 – 0**.

III. NEW BUSINESS

B. Discussion on City of Chesterfield Ordinance Number 2117 pertaining to Home Occupations

STAFF REPORT

Aimee Nassif, Planning and Development Services Director stated that several weeks ago Mr. Schmidt contacted the Planning and Public Works Department to inquire about obtaining authorization to hire an employee to work at this home occupation business. His request was denied because Section 1003.020 of the City Code states that “*A home occupation has no employee that is not a resident on the premises*”. Mr. Schmidt then inquired about the process to seek a variance and requested to be heard before the City of Chesterfield Board of Adjustment at which time, Staff discussed those options with Mr. Schmidt.

On November 6, 2010 the Department received a letter from Mr. Schmidt requesting a reconsideration of the ordinance that governs Home Occupation businesses.

Background History

Back in 2004 the City of Chesterfield created a new Home Occupation Ordinance No. 2117 to help expand the uses that were allowed and to help protect and preserve the character of the residential neighborhood. The intent is to allow a business within a home without creating a hardship on the adjacent property owners. It was noted that Ordinance No. 2117 replaces a previous ordinance, which defined the Home Occupation.

Ms. Nassif felt that Mr. Schmidt’s main concern is his desire to have one (1) employee on site, which is currently not permitted.

Ordinance Amendment Procedure

An amendment to the existing ordinance is considered a land use decision. Staff would prepare draft language to be presented to the Committee. The proposed draft would then be forwarded on to the Ordinance Review Committee of the Planning Commission. A Public Hearing would be held before the Planning Commission, along with an issues and vote meeting. The draft would come back to the Planning & Public Works Committee for review and consideration. It was noted by Ms. Nassif that due to the upcoming holiday schedule, the process by which to amend the ordinance would take several months.

DISCUSSION

Councilmember Casey stated that after meeting with Mr. Schmidt who resides in Ward III, it was determined that Mr. Schmidt would be mentoring a student each day on environmental safety issues. He further noted a letter from Mr. Schmidt outlining suggested changes to Ordinance No. 2117 and the Business License application. Because Mr. Schmidt was unable to attend the meeting, Councilmember Casey suggested the following;

1. Allow Mr. Schmidt to attend a Committee meeting in order to present his request, or
2. Ask the City Attorney to review the letter that Mr. Schmidt drafted and bring possible amendments back to the Committee, which might allow one (1) employee and vehicle on site.

Councilmember Casey felt that this request would not impact the neighborhood because it would only be one additional vehicle on site during the day.

Councilmember Casey made a motion to have the City Attorney review the letter of November 6, 2010 and bring any suggestions back to the Committee for review and consideration.

Councilmember Fults was not opposed to allowing one individual on site, but felt that this request had the potential to set a bad precedent for requesting additional employees for home-based businesses. She then noted issues that have occurred in Ward IV and felt that this could impact parking and cause an imposition to the surrounding residents.

Councilmember Geiger also mentioned instances that have occurred in Ward II, and concurs with Councilmember Fults that this could set a bad precedent. He felt that the existing ordinance is adequate and keeps the residential nature intact and is reluctant to amend the ordinance to allow an employee to work at a home occupation business. If the City Attorney could draft language that would not “open the door” on this issue, then Councilmember Geiger would be more willing to allow it.

Councilmember Casey then amended the original motion to refer the letter from Mr. Schmidt of November 6, 2010 to the City Attorney for review and to have him indicate whether those modifications would/could adversely affect the intent of Ordinance 2117.

Chair Segal felt that this is a unique situation and questioned as to whether the individual would be considered an “employee” or “mentored student” and felt that it would be beneficial for Mr. Schmidt to attend the Committee meeting to clarify his particular situation.

It was noted by Ms. Nassif that after discussions with Mr. Schmidt, it was verified that the individual is an intern or student, but Mr. Schmidt would like to hire the individual as an employee on either a full time or part time basis. Chair Segal noted that there are paid internships and such a situation would not require an amendment to the ordinance.

Mr. Herring suggested that if City Attorney Heggie is to review the letter, the Committee should provide some direction as to their intent since Staff has already provided a complete analysis of the existing ordinance requirements.

Councilmember Casey then amended the above-referenced motion to ask the City Attorney and Staff to draft language that would allow a paid intern under the existing ordinance. The motion was then seconded by Chair Segal

It was noted by Ms. Nassif that a maximum of two (2) students or patrons, whether they are paid or unpaid, are allowed at any time under the existing City code but an employee could not be hired to work on-site.

Councilmember Fults reiterated her concerns about allowing additional employees to work in a residential neighborhood, which can negatively impact the neighborhood.

Mr. Geisel stated that the City responds on a complaint based situation only and if a neighbor files a complaint, the City has no way of discerning as to whether the individual is an intern or paid employee, so Code Enforcement could be difficult.

Councilmember Casey then amended the motion to table further discussion of Ordinance 2117 in order for Councilmember Casey to discuss the matter further with Mr. Schmidt or to allow Mr. Schmidt to be present to provide further information. Chair Segal accepted the amendment to the original motion. The amended motion was seconded by Councilmember Geiger and **passed by a voice vote of 4 – 0.**

Ms. Nassif then again outlined the process by which to amend the existing ordinance.

II. OLD BUSINESS

A. Braefield Subdivision – Sidewalk/Retaining Wall Maintenance

STAFF REPORT

Brian McGownd, Public Works Director/City Engineer stated that there has been confusion regarding maintenance responsibilities of the sidewalk and retaining wall adjacent to Olive Boulevard, as well as the landscaping in this area. A majority of these improvements are located on MoDOT right of way; however, a very small portion is located on subdivision common ground. This has become an issue because the wall is in need of major repairs. Mr. McGownd then gave a PowerPoint presentation showing an aerial of the site and then provided background history to the Committee.

Background History

The Braefield Subdivision is located on the west side of Olive Boulevard between Schnucks and Faust Park. Staff has researched this matter and determined that the City accepted maintenance of the sidewalk in 1994, and also determined that the subdivision has maintained the landscaped area in the past. We could find no mention of who is responsible for the maintenance of the retaining wall. We discussed this issue with MoDOT, and were told that they would not maintain the wall, as its sole purpose is to support the public sidewalk. They also said that they would not maintain the

landscaped area. It was noted that the sidewalk and retaining wall had to be completed simultaneously because of an existing slope.

After discussing this issue with the Trustees of Braefield Subdivision, they are agreeable to sharing in the cost of repairing the retaining wall. They have a bid from a contractor in the amount of \$50,000 to reconstruct the wall, and would agree to hire this contractor to make the repair, with the City agreeing, upon completion of the work, to reimburse the Trustees for 80% of the cost, up to a maximum of \$40,000. The Trustees would be responsible for the remaining cost of the work, and the City would be responsible for replacing any sections of the sidewalk as necessary.

The Trustees would also acknowledge that they are responsible for the maintenance of the landscaped area adjacent to Olive Boulevard.

DISCUSSION

Mr. Geisel provided clarification regarding the permit issued by MoDOT. A permit was issued to the City for the retaining wall and sidewalk with a stipulation that the City will provide maintenance. The City has accepted the maintenance of the interior of the streets, sidewalks and all the public improvements. Staff has investigated what it would take for the City to repair the retaining wall, but found it would be more cost effective to use the contractor retained by the Braefield Subdivision Trustees, which would require a reimbursement to the Trustees up to 80% of the cost, not to exceed \$40,000 – representing the City's cost share. Since the funds are not a line item appropriation, City Council would have to approve the expenditure of funds. No additional funding is being requested. The requested reimbursement would be fully funded by the budgeted amounts in the Capital Improvement Sales Tax budget.

Councilmember Casey questioned as to whether this problem had the potential of reoccurring. Mr. Geisel replied that there are no guarantees, however, the retaining wall would be constructed to current engineering standards and inspected by Staff. It was clarified that Staff is requesting an authorization of the expenditure of funds for reimbursement – not any additional funding or transfers. The work will be paid out of the Capital Improvement Projects Fund. Mr. Geisel felt that this will leverage the City's money in the most effective way.

Councilmember Geiger made a motion to reimburse the Braefield Subdivision Trustees up to 80% of the cost, not to exceed \$40,000 for improvements related to the sidewalk/retaining wall with the provision that the City provide a thorough inspection when completed with the money coming from the Capital Improvements Fund. The motion was seconded by Councilmember Casey.

There was further discussion pertaining to sidewalk requirements related to future construction.

Chair Segal clarified that Staff will continue to work with the Trustees of Braefield Subdivision as they finalize the authorization with their committee.

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

Note: Council approval of the expenditure of funds, by voice vote, as recommended by the Planning and Public Works Committee, will be sought at the December 6, 2010 City Council Meeting. See Bill #

[Please see the attached report prepared by Brian McGownd, Public Works Director/City Engineer, for additional information on Braefield Subdivision – Sidewalk/Retaining Wall Maintenance].

Braefield Subdivision Trustee Comment

The Trustees felt that the wall failed due to lack of curbing and storm sewers, which caused stormwater to flow from Olive Boulevard, over the wall and into nearby homes. It was noted that the City will maintain the sidewalk and new retaining wall. Mr. Herring informed the Trustees that this discussion will be on the next City Council agenda scheduled for December 6th and they are welcome to attend.

Chair Segal then recognized Acting-Mayor Barry Flachsbart in attendance.

NEW BUSINESS

- A. **P.Z. 08-2010 17531 Wild Horse Creek Road (Larry Mintz):** A request for a change of zoning from “PC” Planned Commercial District to an “E-1” One-Acre District for a 1.47 acre tract of land located at 17531 Wild Horse Creek Road (18V610106).

STAFF REPORT

Kristian Corbin, Project Planner gave a PowerPoint presentation showing the site and surrounding area. Mr. Corbin stated the following:

The intent of the proposal is to utilize the existing structure as a residence. The subject site is to the north of Wild Horse Creek Road.

The proposed “E-1” One Acre Estate District is one of the City’s straight zoning districts, which does not require a Preliminary Plan or Attachment A. All of the development requirements are taken from the Zoning Ordinance with no exceptions or modifications.

A Public Hearing was held on October 11, 2010. At the November 8, 2010 meeting of the Planning Commission a recommendation for approval was approved by a vote of 7 – 0. The only issue at that time was the inconsistency with the Comprehensive Plan and the surrounding land uses.

The Comprehensive Plan calls for the area to be Neighborhood Office, which is part of the Wild Horse Creek Road sub-area aka “the bow tie”. Neighborhood Office includes low intensity uses such as; offices, dental office use and medical offices.

The proposal to change the zoning to an “E-1” One Acre Estate District and use the property as a residence is not compatible with the Comprehensive Plan Land Use Plan of Neighborhood Office. However, Staff finds the proposal to be consistent with the surrounding land uses of low density residential and the intended design for this section of Wild Horse Creek Road. Staff found that the proposal will not adversely affect land use patterns for the area and has no issues with the request.

PLANNING COMMISSION REPORT

Planning Commission Chair Grissom stated that there were no issues brought forth to the Planning Commission and it was unanimously approved by a vote of 7 – 0.

Councilmember Fults fully supports the proposal and feels that the area should remain residential. It was confirmed by Mr. Mintz that the structures will be used for residential purposes only.

Councilmember Fults made a motion to approve P.Z. 08-2010 17531 Wild Horse Creek Road (Larry Mintz) and to forward 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.**

Note: One Bill, as recommended by the Planning Commission, will be needed for the December 6, 2010 City Council Meeting. See Bill #

[Please see the attached report prepared by Mike Geisel, Director of Planning & Public Works, for additional information on P.Z. 08-2010 17531 Wild Horse Creek Road (Larry Mintz)].

C. Emergency Siren upgrades

STAFF REPORT

Mike Geisel, Director of Planning and Public Works stated that as a result of voter approval in the fall of 2009, St. Louis County was working with the public agencies and emergency responders throughout the County to upgrade and enhance the emergency notification system and provide for interoperability of communication systems.

St. Louis County has redesigned the emergency notification system to be a microwave-operable radio communication system and has requested the use of existing easements and City rights-of-ways to upgrade and place additional communication towers. Staff is recommending that City Council authorize the Acting-Mayor to execute the Cooperation Agreement with St. Louis County that assigns rights to utilize the City’s easements and rights of way at no cost to the City.

Under the proposed design, eight existing towers are to be removed within the City. There are 11 new or upgraded towers, four of which are proposed on City of Chesterfield right-of-way. Those towers are located on; Wild Horse Creek Road, Old Clarkson Road, S. Woods Mill Road across from St. Luke's Hospital, and River Valley Drive.

Councilmember Casey made a motion to forward the Cooperation Agreement and associated ordinance to City Council with a recommendation to approve. The motion was seconded by Councilmember Fults

Councilmember Geiger questioned as to whether there are any new proposed towers within the residential areas. Mr. Geisel responded that there are two new proposed towers in residential areas on Old Clarkson Road and River Valley Drive. These are towers that will provide a notification at a volume of at least 70 decibels above the background noise levels, such that all persons would have a reasonable expectation of hearing the alarms.

Mr. Herring stated that Chief Johnson has been involved with this process in an advisory capacity and strongly recommends approval of said agreement.

Coverage related to the CVAC

There was discussion as to whether the CVAC has adequate coverage. Mr. Geisel stated that although it does not currently have sufficient coverage, the new system does.

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

Note: One Bill, as recommended by the Planning and Public Works Committee, will be needed for the December 6, 2010 City Council Meeting. See Bill #

[Please see the attached report prepared by Mike Geisel, Director of Planning and Public Works, for additional information on Emergency Siren upgrades].

IV. ADJOURNMENT

The meeting adjourned at 6:15 p.m.