

**PLANNING COMMISSION
OF THE CITY OF CHESTERFIELD
AT CHESTERFIELD CITY HALL
APRIL 27, 2005**

The meeting was called to order at 7:09 p.m.

I. PRESENT

Mr. David G. Asmus
Mr. David Banks
Dr. Maurice L. Hirsch, Jr.
Dr. Lynn O'Connor
Ms. Lu Perantoni
Chairman Victoria Sherman

ABSENT

Mr. Fred Broemmer
Ms. Stephanie Macaluso
Mr. Thomas Sandifer

City Attorney Doug Beach
Ms. Teresa Price, Director of Planning
Ms. Annissa McCaskill-Clay, Senior Planner
Mr. Nick Hoover, Project Planner
Ms. Mary Ann Madden, Planning Assistant

II. INVOCATION: Commissioner Perantoni

III. PLEDGE OF ALLEGIANCE

Chairman Sherman acknowledged the attendance of Councilmember Mike Casey, Council Liaison, and Councilmember Bruce Geiger, Ward II.

IV. PUBLIC HEARINGS – None

V. APPROVAL OF MEETING MINUTES

Commissioner Perantoni made a motion to approve the minutes of the April 11, 2005 Planning Commission Meeting. The motion was seconded by Commissioner Banks **and passed** by a voice vote of **6 to 0**.

VI. PUBLIC COMMENT

1. Mr. Mike Doster, 17107 Chesterfield Airport Road, Chesterfield, MO invited the Commissioners to the Annual Chesterfield Community Prayer Breakfast to be held at the Doubletree Hotel at 7:00 a.m. on April 28, 2005. The speaker will be Charles Drury.

Then speaking **for the petitioner** for Drury Plaza Hotel, Mr. Doster stated the following:

- The Staff Report fairly and accurately represents the petitioner's request.
- They feel that the proposed changes are minor and request that they be approved.

2. Mr. Larry Hasselfeld, Vice-President of the Drury Development Corporation, 8315 Drury Industrial Parkway, St. Louis, MO speaking **for the petitioner** for Drury Plaza Hotel stated the following:

- The property was acquired in 1991 from Sachs. They went through the zoning and planning process in 2002-2003.
- The hotel will be one of three buildings on the site.
- They have a signed leased for the restaurant with Stony River Steak House, an upscale, casual steak house.
- During the approval process, it was necessary to estimate what the restaurant would be. Now that there are actual building plans for the restaurant, the estimations need to be amended. There are three primary items that need to be changed:
 1. The seat count needs to be amended from 250 to 267.
 2. The parking reduction needs to be amended from 10% to 11.3% to accommodate the increased seating of 267. The parking will be shared between the hotel and restaurant. This reduction is feasible in that the peak periods for the hotel and the restaurant are different time periods. In addition, a significant number of hotel patrons will be walking from the hotel to the restaurant.
 3. The western setback needs to be adjusted from 60 ft. to 55 ft.

Responding to questions from the Commission, Mr. Hasselfeld clarified the following:

- The pedestrian entrance to the restaurant is on the east face of the building. The restaurant also has an access directly into the hotel.

VII. SITE PLANS, BUILDING ELEVATIONS AND SIGNS

- A. **Chesterfield Commons Six:** Amended Site Development Concept Plan, Landscape Plan, and Lighting Plan for Chesterfield Commons Six development, zoned “PC” Planned Commercial and located north of Chesterfield Airport Drive and South of Hwy 40.

Commissioner Hirsch, representing the Site Plan Committee, made a motion to approve the Amended Site Development Concept Plan, Landscape Plan, and Lighting Plan. The motion was seconded by Commissioner Perantoni and **passed** by a voice vote of 6 to 0.

- B. **Chesterfield Commons Six - Outlot 7A:** Amended Site Development Section Plan, Landscape Plan, Lighting Plan and Architectural Elevations for a retail building in the Chesterfield Commons Six development, zoned “PC” Planned Commercial and located north of Butler Dr. and south of Hwy 40.

Commissioner Hirsch, representing the Site Plan Committee, made a motion to approve the Amended Site Development Section Plan, Landscape Plan, Lighting Plan and Architectural Elevations with the addition of plantings along the Highway 40 side of the parking lot as approved by Staff. The motion was seconded by Commissioner O’Connor and **passed** by a voice vote of 6 to 0.

Commissioner Banks made a motion to suspend the rules to review Agenda Item IX. A., **Drury Plaza Hotel**, as the next order of business. The motion was seconded by Commissioner Hirsch and **passed** by a voice vote of 6 to 0.

IX. NEW BUSINESS

- A. **Drury Plaza Hotel:** A request for an amendment to City of Chesterfield Ordinance 1899, Section II(2)(b) for a change in maximum seats allowed; Section V(1)(b) building setbacks; Section V(3) parking and loading requirements.

Project Planner Nick Hoover presented the Staff Report, stating the following:

- The request for an amendment to Ordinance 1899 would allow for:
 1. An increase in seats from 250 to a maximum of 267.
 2. A decrease in the building setback from 60 ft. to 55 ft.
 3. An increase in the parking reduction from 10% to 11.3%.

Commissioner Banks made a motion to approve the Amendment to Ordinance 1899 for **Drury Plaza Hotel**. The motion was seconded by Commissioner O’Connor.

Upon roll call, the vote was as follows:

Aye: Commissioner Asmus, Commissioner Banks,
Commissioner Hirsch, Commissioner O'Connor,
Commissioner Perantoni, Chairman Sherman

Nay: None

The motion passed by a vote of 6 to 0.

VIII. OLD BUSINESS

A. **P.Z. 01-2005 City of Chesterfield (Adult Entertainment Regulation):** An ordinance amending the City of Chesterfield Zoning Code and establishing regulations for Adult Entertainment Businesses. Amendments include, but are not limited to:

1. Definitions.
2. Development criterion to conform to Section 1003.181 Conditional Use Permit Procedure.
3. Special Conditions for establishment of adult establishments or businesses.
4. Establishment of Site Plan Requirements.

Annisca McCaskill Clay, Assistant Director of Planning, presented the Staff Report. A Public Hearing was held on February 14, 2005. At that time, issues were raised and Staff has responded as follows:

1. The definition of “massage parlor” conflicting with health spas and beauty centers, which offer massage services.

Staff reviewed the regulation to decide where it would fit with the zoning ordinance and how it could possibly be enforced or utilized. Staff made it similar to the former CSP in that it was made an overlay, which would go over a PC or PI district. The specific uses – such as a bookstore or a retail center – would come from the PC or PI ordinance which governs it. There would be more stringent requirements - as far as placement of the facility, signage, location, visibility of items, etc. – that would be placed on it through an “Adult Entertainment Area” - an additional overlay that would go over the zoning district.

Discussion was held regarding the proposed draft language used under “Massage Parlor”. It was agreed that the final paragraph would be amended as follows:

*“... or operation of barber shops, beauty salons, (i.e. duly licensed barbers or cosmetologists), **health clubs, ~~mall massage therapy~~** or similar places of business in which massages are administered to a patron fully clothed involving only the scalp, the face, the neck or the shoulders or services performed by a licensed massage therapist or other persons who are not engaged in prohibited specific sexual activity as defined herein.”*

- 2. Regarding the language under “modeling studio” relating to “reproduction of the human body wholly or partially in the nude by means of photography, painting, sketching, etc. – Why isn’t it permissible for an artist or sculptor to be working from a nude?”**

The City Attorney has added language to include:

“This does not apply to public or private schools in which persons are enrolled in a class or individual artist or sculptor not engaged in prohibited specific sexual activity as defined herein.”

In addition, a whole new section (3.h.) has been added dealing with *“Specified Sexual Activities”*.

- 3. On page 4 of the proposed ordinance, Section 4, No. 3 – change “Architectural renderings” to Architectural elevations”.**

A requirement for architectural elevations of all sides has been added in addition to the requirement for architectural renderings.

- 4. Section 1 of the proposed ordinance pertaining to “Definitions” - add the word “paraphernalia” to the definitions of “Adult Bookstore” and “Adult Entertainment Facility”.**

This has been done.

- 5. Define “partially nude” under the definition of “Modeling Studio” in the same language as it is defined under the definition of “Adult Entertainment Facility” – or have a separate definition for “partially nude” that could be consistently used throughout the ordinance.**

The language has been made consistent.

- 6. Provide information as to where the language for the proposed ordinance came from – whether it comes from an ordinance already in place from another city or whether it’s new language proposed by the City Attorney.**

The City Attorney did research in the St. Louis area, as well as nationally, to develop the proposed language.

ISSUES:

- **Review the language of the State’s ordinances/laws regarding the issue of “licensed massage therapists”. Why do they license massage therapists – is it because of the skill requirements that are needed or does it have to do with the delineation of some of the issues regarding Adult Entertainment?** City Attorney Beach stated that the State regulations that were reviewed dealt with the requirement of a certain level of expertise.
- **What do you with a legitimate business that is providing massage therapy but does not have State-licensed massage therapists? Would you preclude that business from operating?** City Attorney Beach stated that it is his understanding that they would need to be licensed. It was noted, however, that persons providing Swedish massages do not have to be licensed by the State – this would not fall under “Adult Entertainment”.
- **The term “massage parlor” is used in some places and “massage shop” in other areas of the proposed language.**
- **Regarding “Modeling Studios”, would a figure-drawing class at the JCC, YMCA, or Chesterfield Arts be excluded because they are not schools or individual artists/sculptors?**
- **Refine the language in “Adult Entertainment Facility”, so as not to preclude art films, film festivals, and production of live plays that have nudity or partial nudity in them.**

(Commissioner Asmus left the meeting at 7:45 p.m.)

- **Should the phrase “exotic dance facilities” under “Adult Entertainment Facility” be changed to “erotic dance facilities”?**
- **How did we arrive at 1,000 ft. between establishments vs. 5,000 ft.?** City Attorney Beach stated that his research has shown that 1,000 -1,200 ft. seemed to be upheld frequently.
- **Does our ordinance state “private membership”?** City Attorney Beach stated that the proposed ordinance would deal with “paying a fee” for admission.

IX. NEW BUSINESS

B. Lowe's in Violation of Storage Area

Commissioner Hirsch pointed out that Lowe's has been in violation of the storage area and the sales area outside of its building. Lowe's had told the Commission that if they were provided with the expanded use of the outdoor facility, they would not violate the ordinance.

Ms. McCaskill-Clay stated that Lowe's, Home Depot and Wal-Mart were all cited the previous week. Wal-Mart cleaned up its violation but has now been cited with a different violation. Home Depot has cleaned up the areas that were in violation of its ordinance. Lowe's has started to clean up but it has not been completed. Since Lowe's is now past its deadline, they will receive a summons for court for every day past the deadline. The manager has been notified that there will be no extension of the deadline. They are being monitored on a daily basis.

C. O'Charley's

Commissioner Banks suggested that Staff review the north side of O'Charley's for its signage usage.

D. Bowtie Area

Commissioner Hirsch gave a report from the Planning & Zoning Committee meeting of May 21, 2005. He noted the following:

- One of the issues discussed was reviewing the Comprehensive Plan for the bowtie area and evaluating its appropriate use – whether it should stay as currently designated or whether changes should be made.
- Discussion was held regarding the definitions related to “Office Campus”. Currently, the definition is a conceptual land use plan, which is part of the Comprehensive Plan but not included in the zoning ordinances. Discussion was held as to whether or not the definitions should be changed; and whether or not there should be a zoning district or an overlay.

Commissioner Hirsch made a motion to refer the above-mentioned matters to the Committee of the Whole, sitting as a Comprehensive Plan and Ordinance Review Committee. The motion was seconded by Commissioner Banks.

It was agreed that the Committee of the Whole would meet May 9, 2005 after the Planning Commission meeting in Conference Room 101 to review these issues.

The motion was approved by a voice vote of 5 to 0. (Commissioner Asmus was absent from the meeting at this point.)

X. COMMITTEE REPORTS:

Director of Planning, Teresa Price, stated that the Ordinance Review Committee and the Landscape Committee would need to meet within the next two weeks to review issues coming from the Committee of the Whole.

- A. Committee of the Whole**
- B. Ordinance Review Committee**
- C. Architectural Review Committee**
- D. Landscape Committee**
- E. Comprehensive Plan Committee**
- F. Procedures and Planning Committee**
- G. Landmarks Preservation Commission**

XI. ADJOURNMENT

The meeting adjourned at 8:03 p.m.

Lynn O'Connor, Secretary