

## MEMORANDUM

TO: Michael G. Herring, City Administrator

FROM: Mike Geisel, Acting Director of Planning

DATE: January 22, 2007

SUBJECT: Planning & Zoning Committee Meeting Summary  
**January 18, 2007**

A meeting of the Planning and Zoning Committee of the Chesterfield City Council was held on Thursday, January 18, 2007 in Council Chambers.

In attendance were: **Chair Mary Brown** (Ward IV); **Councilmember Barry Flachsbart** (Ward I); **Councilmember Barry Streeter** (Ward II); and **Councilmember Dan Hurt** (Ward III).

Also in attendance were Councilmember Jane Durrell, Ward I; Councilmember Bruce Geiger, Ward II; Councilmember Mike Casey, Ward III; Councilmember Connie Fults, Ward IV; Maurice L. Hirsch, Jr., Planning Commission Chair; City Attorney Rob Heggie; Planning Commissioner Wendy Geckeler; Planning Commissioner Lynn O'Connor; Mike Geisel, Acting Director of Planning; Jennifer Yackley, Project Planner; and Mary Ann Madden, Planning Assistant.

Chair Brown called the meeting to order at 5:35 p.m.

### I. APPROVAL OF MEETING SUMMARY

- A. Approval of the January 4, 2007 Planning and Zoning Committee Meeting Summary

**Councilmember Streeter made a motion to approve the Meeting Summary of January 4, 2007. The motion was seconded by Councilmember Hurt and passed by a voice vote of 4 to 0.**

### II. PROTEST PETITION HEARING

Chair Brown reviewed the procedures for the Protest Petition Hearing.

- A. **P.Z. 20-2006 Mayer Manors, Inc. (Chesterfield Manors)**: A request for a change of zoning from a “NU” Non-Urban District to an “E-One Acre” Estate District for a 4.3 acre tract of land located at the northwest corner of Wildhorse Creek Ridge Road and Cripple Creek Road.

**PETITIONER’S PRESENTATION:**

1. Mr. Vince Keady, 168 North Meramec, #400, St. Louis, MO stated the following:
  - The original zoning for the property was done by St. Louis County as “Non-Urban”, which is considered a “holding zone” as recognized by St. Louis County and Missouri law.
  - The surrounding zoning includes:
    - North of the site – Non-Urban
    - South of the site – Non- Urban
    - West of the site – R1 which includes the Country Place Subdivision
    - East of the site – R1 and R1A which includes Bentley Place Subdivision
  - The City’s Comprehensive Plan indicates that the subject area is designated for One-Acre Residential zoning.
  - The site is not part of any other subdivision.
  - Mayer Manors is proposing a four-lot subdivision with the homes being accessed by Wild Horse Ridge Road. Mayer Homes has agreed to improve Wild Horse Ridge Road to a 24-foot wide road consistent with City standards.
  - Lot 4 of the site will be accessed from Cripple Creek Road. Mayer Homes has agreed to escrow the necessary funds in order to improve half of Cripple Creek Road to City standards.
  - The Planning Commission recommended approval of the petition.
2. Mr. Jean Magre, The Sterling Company, 5055 New Baumgartner Road, St. Louis, MO stated he was available for questions.
3. Mr. Mike Falkner, 5091 New Baumgartner, St. Louis, MO indicated he was available for questions.

**SPEAKERS IN OPPOSITION:**

1. Mr. Tom Fleming, 17067 Winter Wheat, Chesterfield, MO stated the following:
  - He is a Trustee of Wild Horse Ridge subdivision and has lived there for 30 years. He will refer to the site as a neighborhood of large lots.
  - Wild Horse Ridge subdivision is accessed through Bentley Place.
  - His neighborhood consists of 17 lots, all of which are three-plus acres. There are seven homes in the neighborhood.
  - Of the 17 lots, there are several four-acre lots, which are side lots or undeveloped lots. If the zoning were changed to one-acre zoning, some of these lots would be capable of supporting four homes.

- He has concern that if the subject petition is approved, there could be the potential for future rezoning of the remaining lots to one-acre zoning resulting in 8-9 different subdivisions within one neighborhood.
- Speaker referred to the report prepared by the Public Works Department analyzing the area for future potential development. He agrees with the report in that it indicates that the topography of the area lends itself to E-2 zoning – one home on two acres. He disagrees with the report's assessment of the area having 50 acres – he stated that the area has 61.26 acres.
- He agrees with the report that the area could be developed to include 44 homes and that the road could support 44 homes. He does not feel it is advisable to have only one access in and out of the area for that many homes but recognizes that it has been done in the past.
- The residents in the area would like to see large-lot residential-type zoning for the area. He asked that the City rezone the entire area to E-2 or Large Lot Residential zoning. This rezoning would preserve the existing residents' quality of life and it would be consistent with the character of the neighborhood.

Planning Chair Hirsch pointed out that if the residents in the area registered their lots as one subdivision with indentures, it would eliminate future rezoning issues for the area. The indentures could limit the number of houses that could be developed on the land. Mr. Fleming stated that at least one of the lot owners would not be amenable to any type of trust indentures. He was legally advised that he would need 100% of the property owners in order to get enforceable trust indentures.

Responding to Mr. Fleming's request that the City rezone the area to E-2 zoning, Councilmember Streeter stated that the City does not typically rezone personal property. The City generally waits for property owners to petition the City for rezoning.

City Attorney Heggie stated that the Council has the ability to rezone property but he did not feel that the City would be in a position to go in and rezone the entire parcel to E-2 zoning. He noted that the zoning generally takes its character from the surrounding neighborhoods. He further stated that the "Non-Urban" zoning is considered a holding pattern, but the fact that there are homes built in the area on four-acre lots provides some evidence to the character of the neighborhood. He stated that Mr. Fleming and his neighbors have the option of rezoning their lots.

Councilmember Flachsbart stated that he is very sympathetic to the idea that the character of this neighborhood is Large-Lot Residential.

Responding to questions from Councilmember Flachsbart, City Attorney Heggie stated the following:

- The Council has the legal ability to rezone the subject site to E-2. However, the petition is requesting E-1 zoning. If the Council is not in

agreement with E-1 zoning, it would have the option of turning it down with instructions to the Petitioner to come back with an E-2 petition.

- The City, not the Planning Commission, could pursue a petition to rezone the area to E-2 zoning. However, the City generally does not choose to take such actions.

Discussion was held on the difference between Large-Lot Residential (LLR) zoning and E-2 zoning. Councilmember Fults stated that LLR zoning does not allow development below a two-acre lot while E-2 zoning allows the flexibility to go down a zoning category. She expressed concern that rezoning will take place lot-by-lot in this area. She noted that if the entire tract was coming in for rezoning, the City would apply its standards to it for green space, etc., which will not happen if the area is rezoned four acres at a time.

Chair Brown noted that the Estate Districts are planned districts, which gives the City more ability to impose different standards. LLR is not a planned district.

Chair Hirsch stated that since E-2 zoning is a planned district, the City would have the ability to limit the number of homes allowed through the requirements of the Attachment A.

2. Mr. Ken Aston, 17058 Rooster Ridge Road, Chesterfield, MO stated the following:

- He owns two lots in the area of the subject petition totaling approximately nine acres.
- He pointed out that the total area was zoned under two different ordinances under St. Louis County.
- All the lots are three acres or larger. The area has a unique and consistent character.
- He has a contract from a developer who would be able to build six homes on his nine acres. If a third of an acre is purchased from the adjoining property, the developer would be able to build seven homes. He is not interested in selling but if the neighborhood character is changed by bringing it down to one-acre, he will sell his property. He pointed out that the proposed homes are smaller and will not match the rest of the area.
- He feels the Council has the duty to correct zoning deficiencies and zoning errors made by St. Louis County, which is part of the reason Chesterfield incorporated.

3. Mr. Lee McKinney, 1323 Bentley Place Drive, Chesterfield, MO stated the following:

- He is representing Bentley Place Subdivision property owners and has lived at his present address since 1997.
- They are sympathetic to Mr. Fleming's request that the City consider E-2 zoning for the area.
- Their principal concern is that they own the property that the road passes through to get to the other sites.

4. Mr. Michael Jette, 17070 Rooster Ridge Road, Chesterfield, MO stated the following:
  - His four-acre lot would allow the construction of two more homes if rezoned; however, he is not interested in doing this.
  - He was the last landowner to purchase property in this area and planned to make his home there. He bought into a subdivision, which he thought would remain the same.
  - He asked that the City protect the existing landowners against developers who do not care about the surrounding residents.

City Attorney Heggie asked Mr. Jette if he had given any thought to having his property rezoned. Mr. Jette indicated that he had not. His understanding was that the whole area would have to be rezoned as one unit. City Attorney Heggie stated that there is no ban on him acting by himself, or with a few neighbors acting together, to have property rezoned. He pointed out that the parcels in this area were not put together as a legal subdivision – there are no subdivision indentures.

Councilmember Flachsbart stated that any property owner has the right to come to the City and ask for a specific zoning. The City then has the duty to consider the zoning request and come to a conclusion as to whether the zoning should be granted. If the zoning in an area is established, then the chances of changing the zoning are less probable than in those areas where the zoning has not been established. In the past, Non-Urban zoning has been treated by the Courts as a holding zoning vs. a final zoning.

## **REBUTTAL**

1. Mr. Keady stated the following:
  - **Regarding the City being formed to “correct St. Louis County’s errors”:** When a City is formed, it appoints a Planning Commission who has the responsibility to determine the organized fashion by which the City will be zoned and organize the use of property within the City. The City of Chesterfield came up with its Comprehensive Plan, which recommends that the subject site should be used for one-acre residential zoning. Mayer Manors has presented an application with one-acre residential zoning. The Planning Commission also determined an area that is appropriate for two-acre residential zoning, which is west of the subject site.
  - **Regarding comments pertaining to a neighborhood vs. a subdivision:** The subject site is not part of a subdivision. If property owners choose to rezone their land, the Speaker did not feel it should affect the subject petition.
  - **Regarding comments that one-acre zoning would make the area too dense and not be in keeping with the characteristics of the neighborhood:** The aerial photograph and zoning map show that both to the east and the west are neighborhoods with one-acre, or denser, zoning for residential uses. Speaker felt that the subject site touches more one-acre zoning and one-acre lots than it does the other lots. Speaker

provided the Committee with documents that show Mr. Fleming signed a petition in favor of the rezoning of Bentley Place, which is R1A zoning and includes 22,000 sq. ft. lots.

- They feel the Committee should give a recommendation of approval for the subject petition.

Councilmembers Hurt and Streeter felt that the subject site touches as much Non-Urban zoning as it does one-acre zoning.

Councilmember Streeter asked Mr. Keady if the Petitioner would be willing to develop the parcel under E-2 or LLR zoning. Mr. Keady replied that the Petitioner would not consider E-2 zoning because of economic reasons.

Councilmember Fults stated that the Comprehensive Plan is a guide – it is not just the map that shows the recommended zoning. There is also written language that gives the City some discretion - and character of neighborhood is a big part of the written text that goes along with the Land Use Map. The City has already set a precedent in other areas to protect the areas around NU zoning. She is looking at the character of the neighborhood and the development of the entire parcel.

Chair Hirsch asked Mr. Keady if there is any ability to have a single subdivision of Mayer Manors and Winter Wheat. Mr. Keady replied that it may be possible but he couldn't predict whether or not it would happen. He pointed out that any development along Cripple Creek Road would have to contribute to the improvement of the road – the road would be developed in a fashion so that it looks like a subdivision road. He stated that the property is valuable and there is a certain market and type of home that will yield a sale – it is those types of homes that will be developed in the area, if it happens.

Mr. Aston stated that the Committee members who worked on the Comprehensive Plan looked at the area as a single unit. If someone had pointed out to them that there could be seventeen different one-acre subdivisions, he felt that the Committee members would not have allowed it.

Mr. Fleming thanked the Committee for their time and stated that if the City does not see the necessity of rezoning the area to LLR or E-2, he will meet with the residents of the area to go through the petition process to rezone the entire subdivision. As this will be a long and expensive process for the property owners, he prefers that the City rezone the land.

The Protest Hearing was concluded at this time and a five-minute recess was taken.

### III. OLD BUSINESS

- A. **P.Z. 20-2006 Mayer Manors, Inc. (Chesterfield Manors)**: A request for a change of zoning from a “NU” Non-Urban District to an “E-One Acre” Estate District for a 4.3 acre tract of land located at the northwest corner of Wildhorse Creek Ridge Road and Cripple Creek Road.

Ms. Jennifer Yackley, Project Planner, gave a PowerPoint presentation noting the following:

- Required Minimum Lot Size: 22,000 square feet
- Minimum Lot Size shown on Plan: 32,577 square feet.
- The required 30-foot landscape buffers do not count towards minimum lot size.
- The subject site proposes one-acre density with four houses on a 4.3 acre site.
- Comprehensive Plan designates the subject site as one-acre density.
- **LLR zoning vs. E-2 zoning:**
  - LLR zoning is straight zoning requiring any such petition to adhere to all the zoning regulations already set up in the Zoning Ordinance.
  - LLR zoning requires three-acre density.
  - Estate Districts are planned districts which include setback requirements, buffering requirements, etc. There would also be a written Attachment A that would allow for more specifics for a particular development.
  - E-2 zoning has a minimum lot size of one acre; and E-1 zoning has a minimum lot size of 22,000 sq. ft.
  - Anything zoned under the E-District cannot count the 30-foot required landscape buffer as part of the lot size.
- **Public Works Analysis of the Road System:**
  - It has been determined that there are 50 developable acres due to topography. These 50 acres do not include the subject petition or the Winter Wheat development.
  - Future development beyond this project and the Winter Wheat project would yield up to 18 new houses.
  - Forty-four houses would use the road systems. These 44 houses include the existing 7 homes, the proposed 7 homes in Winter Wheat and Mayer Manors, the 12 existing homes in Bentley Place, and the possible 18 future homes.
  - Wild Horse Ridge Road, Cripple Creek Road and Winter Wheat Road will be improved to City standards.
  - A second access point is not practical because of topography.
  - Public Works believes that the current access is adequate if the remaining parcels are developed for a total of 44 homes in the area.

Mr. Mike Geisel, Acting Director of Planning, stated the following:

- The fifty acres, referred to in the Public Works Report, is an estimate, along with the possible 44 home sites. These numbers could change a bit.
- The road is adequate to serve the amount of traffic from 44 homes but the length of the road would exceed the City's standards under its Subdivision Ordinance. The single-access to the site is adequate but not desirable. The City prefers multiple ways in and out of subdivisions.
- He thinks the Fire District would prefer to have a multiple point of access. The Fire District has reviewed the subject petition but has not reviewed any proposed development at the rear of the site, which will probably be an issue for them.
- Regarding lots being developed one at a time rather than collectively, there would be a higher yield for more lots grouped together. If the lots are developed individually, there would not be as many homes built because grading would be constrained and roads wouldn't be able to be adjusted. Some lots could be developed at a higher yield because less grading would be required. Financially, it would be to a petitioner's advantage to accumulate the lots and develop them as one site.
- The 30-foot landscape buffer and road easement cannot be included as part of the lot size.
- Thirty acres of the 80 acres in question is common ground for the Chesterfield Estates subdivision. Much of these 30 acres are in floodplain and floodway.

It was noted that if the lots were developed individually under the Estate District, they would all be required to have the 30-foot landscape buffers, which would decrease the density.

**Councilmember Flachsbart made a motion to deny P.Z. 20-2006 Mayer Manors, Inc. (Chesterfield Manors) and recommend that the Petitioner consider Large-Lot Residential or E-2 zoning.** The motion was seconded by Councilmember Hurt.

Chair Hirsch suggested that the motion be amended to include only E-2 zoning. He noted that the LLR zoning is straight zoning and the City gives up a lot with LLR. The Attachment A for E-2 zoning could include any specifications the City wants.

Councilmember Flachsbart stated he did not want to change the motion because he wants to give the developer some flexibility in zoning choices. Councilmember Hurt stated he did not want to amend the motion either.

Councilmember Streeter stated that he is convinced the area has acted as a subdivision. After hearing the information about the roads, he believes E-2 zoning is appropriate.

Councilmember Flachsbart stated that his decision is driven by the character of the neighborhood and believes that E-1 zoning is not in keeping with the character of the neighborhood.

Chair Brown agreed that her viewpoint is also based on the character of the neighborhood.

Councilmember Hurt agreed with preserving the character of the neighborhood.

Councilmember Fults pointed out that the entire tract of land includes people's homes and is their neighborhood.

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

Chair Brown announced that the subject petition will be on the February 5<sup>th</sup> City Council Agenda, which will require six votes for approval because of the Protest Petition.

**IV. NEW BUSINESS - None**

**V. PENDING PROJECTS/DEPARTMENTAL UPDATE - None**

**VI. ADJOURNMENT**

The meeting adjourned at 7:16 p.m.