

MEMORANDUM

TO: Michael G. Herring, City Administrator

FROM: Mike Geisel, Acting Director of Planning

DATE: February 12, 2007

SUBJECT: Planning & Zoning Committee Meeting Summary
February 8, 2007

A meeting of the Planning and Zoning Committee of the Chesterfield City Council was held on Thursday, February 8, 2007 in Conference Room 101.

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; Victoria Sherman, Planning Commission Vice-Chair; Gene Schenberg, Planning Commissioner; Mike Herring, City Administrator; Annissa McCaskill-Clay, Assistant Director of Planning; Jennifer Yackley, Project Planner; and Mary Ann Madden, Planning Assistant.

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

I. APPROVAL OF MEETING SUMMARY

- A. Approval of the January 18, 2007 Planning and Zoning Committee Meeting Summary

Councilmember Streeter made a motion to approve the Meeting Summary of January 18, 2007. The motion was seconded by Councilmember Flachsbart and **passed by a voice vote of 4 to 0.**

II. OLD BUSINESS - None

III. NEW BUSINESS

- A. **P.Z. 5-2005 Winter Wheat Place (Dollar Building Company):** A request for a change of zoning from "NU" Non-Urban District to E-One Acre for a 4.0 acre tract of land located on Winter Wheat Road, 3000 feet southeast of the intersection of Wild Horse Creek Road and Long Road. (18U220092)

Chair Brown announced that a Protest Petition has been filed against the proposed Winter Wheat development. Staff has determined that the Protest Petition is valid.

Because of the Protest Petition, P.Z. 5-2005 Winter Wheat Place (Dollar Building Company) was not discussed.

- B. P.Z. 11-2006 Blacks Ridge Office Building (Brinkmann Construction):** A request for an amendment to City of Chesterfield Ordinance 1557 to allow for Medical Office as a proposed use for a 4.26 acre "PC" Planned Commercial District located on the north side of Swingley Ridge Road at 16253 Swingley Ridge Road.

Staff Report

Ms. Jennifer Yackley, Project Planner, reported that the amendment request is to allow medical use. The Public Hearing for this petition was held June 12, 2006; the Planning Commission approved P.Z. 11-2006 by a vote of 8 to 0.

It was noted that the Petitioner will have to meet the parking requirements for a medical use. They currently have excess parking for the office use and would only include medical use up to the amount of parking that is required – there is no intention of increasing the amount of parking on the site.

Councilmember Flachsbart made a motion to forward P.Z. 11-2006 Blacks Ridge Office Building (Brinkmann Construction) to City Council with a recommendation to approve. The motion was seconded by Councilmember Streeter and **passed by a voice vote of 4 to 0.**

**Note: One bill, as recommended by the Planning Commission, will be needed for the February 21, 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. 11-2006 Blacks Ridge Office Building (Brinkmann Construction)]

- C. P.Z. 17-2006 13506 Olive (Spirit Energy):** A request for a change of zoning from a "C2" Commercial District to a "PC" Planned Commercial District for a .31 acre tract of land located at 13506 Olive Blvd. at the southwest corner of Olive Blvd. and Woods Mill Road.

Staff Report

Ms. Jennifer Yackley, Project Planner, stated that the Public Hearing for this petition was held on August 14, 2006. The Planning Commission approved a decrease in the required open space from 40% to 17% by a vote of 7 to 0. It was noted that the site currently has no open space. Planning Commission allowed

the decrease in the open space requirement from 40% to 17% due to the small size of the lot (.31 acre) and the open space requirements of neighboring sites. Some of the nearby sites do not have any open space requirements and the Planned Commercial District of Dairy Queen has a similar open space percentage of 13%.

Planning Commission's motion to approve the rezoning failed by a vote of 2 to 5.

Outstanding Issues:

- Parking Requirements: As proposed, the site could not park a restaurant usage, which would require 19 spaces – the site currently shows 9 parking spaces. The site does meet parking requirements for retail usage, which requires 8 spaces.
- Access Management: The current driveway throat along Woodsmill Road is 22 feet, which does not meet the Access Management Ordinance. Woodsmill Road is currently defined as an arterial road, which requires an 80-foot driveway throat. The Department of Public Works has agreed to a reduction in the driveway throat to 45 feet recognizing that, in the future, Woodsmill Road will be designated a collector road, which requires a 45-foot driveway throat.

DISCUSSION

Existing Zoning

The existing zoning of "C2" has a Conditional Use Permit, which allows only a filling station on the site.

Requested "PC" Zoning

Staff finds "PC" zoning appropriate for this site.

Permitted Uses

Councilmember Hurt made a motion to amend Section I.B. regarding "Permitted Uses" as follows: (Changes in green)

- c. Stores, shops, markets, service facilities and **automatic vending facilities** in which goods or services of any kind are offered for sale or hire to the general public on the premises.
- 2. **The following Ancillary Uses shall be permitted:**
 - a. **Automatic vending facilities for:**
 - i. **Ice and solids carbon dioxide (dry ice);**
 - ii. **Beverages;**
 - iii. **Confections.**

Planning Commission Report

Victoria Sherman, Vice-Chair of the Planning Commission, stated that the Planning Commission approved a deduction in the open space requirement

based on the open space of neighboring sites and the fact that the site currently has 0% open space.

Planning Commission was aware of the fact that the site does not meet parking requirements for a restaurant use but would have to comply, if approved.

The biggest concern for the Planning Commission was the issue of access/safety especially during the morning rush-hour. Concern was also expressed about traffic back-ups and motorists trying to exit the site. Commissioner Banks felt the major problem with the site is the request for restaurant use – he felt that the use of stores and shops would not create the access issues raised by a restaurant use.

Gene Schenberg, Planning Commissioner, indicated he voted in favor of the petition feeling that the traffic issues only pertained to the morning rush-hour Monday-Friday. He also felt that once 141 is moved, the traffic concerns would no longer be an issue. He further pointed out that the vote was for rezoning the site – not approval of this particular plan. He felt the rezoning would allow the Petitioner the opportunity of developing the site within the constraints of its size. As a member of Ward I, he wanted to give someone the opportunity to improve the site, which is currently a graveled lot.

Traffic Issues

Councilmember Flachsbart felt that the traffic concerns for this site do not pertain to just the morning rush-hour – it is his feeling that the traffic issues run throughout the day, especially in the afternoon. He noted that the intersection of Olive and 141 is one of the City's high-accident intersections.

Councilmember Durrell felt that it is not a problem making a right-hand turn into Dierberg's from 141 or that such turns affect traffic back-ups.

Cross Access

It was noted that the Petitioner has not been able to gain cross access from the surrounding landowners - Dierberg's and Capitol Land. If cross access were possible, the Petitioner is open to finding alternative ways of making the site work for everyone's safety.

Councilmember Hurt made a motion to amend Section I.K. of the Attachment A pertaining to "Access/Access Management" as follows:
(Changes in green)

1. Access to Olive Boulevard shall be limited to one (1) entrance close to the west property line. The location and geometry of the access shall be as directed by the City of Chesterfield and the Missouri Department of Transportation. The west edge of the entrance shall be at least ten (10) feet east of the west terminus of the median on Olive Boulevard. It shall be the developer's responsibility to extend the median if necessary and if approved by the Missouri

Department of Transportation. Should alternate access and adequate circulation be made available to the site prior to approval of the Site Development Plan, no direct access to Olive Boulevard shall be permitted. Should alternate access be made available after development of the site, the access to Olive Boulevard shall be removed at such time as a significant change is made to the building or the site layout as directed by the City of Chesterfield and/or the Missouri Department of Transportation.

2. Access to State Route 141 (Woodsmill Road) shall be limited to one (1) entrance close to the south property line. Should alternate access and adequate circulation be made available to the site prior to approval of the Site Development Plan, no direct access to State Route 141 (Woodsmill Road) shall be permitted. Should alternate access be made available after ~~initial~~ development of the site, the access to State Route 141 (Woodsmill Road) shall be removed at such time as a significant change is made to the building or the site layout as directed by the City of Chesterfield and/or the Missouri Department of Transportation. The location and geometry of the access, if permitted, shall be as directed by the Department of Public Works and the Missouri Department of Transportation.

The motion to amend Section I.K. of the Attachment A pertaining to "Access/Access Management" was seconded by Councilmember Flachsbart and **passed** by a voice vote of 4 to 0.

Driveway Throat

Mr. Larry Wurm, Planning Consultant with James Engineering and representing the Petitioner, stated that, because of the small size of the site, a 30-foot wide opening is the best that can be provided, which he feels is more than adequate. He noted that they have already sacrificed one of the curb cuts on Olive Street Road.

Mr. Lee Cannon, Traffic Engineer with Crawford, Bunte, Brammeier, stated that his firm prepared the Traffic Study for the subject site. He noted that all three of the entrances are currently restricted to right-in/right-out only based on the medians on the State highways. Because the site is only 95 feet x 141 feet, he pointed out that a 45-foot entrance would dramatically cut into the site.

Mr. Cannon stated that one of the reasons traffic engineers want throat length is to bring vehicles into the site before a choice must be made as to whether to turn left or right. The subject site is currently set up as a one-way counter-clockwise flow with both a drive-thru lane and bypass lane on the south side of the building. As the traffic flows into the site, it immediately flows to the right – so there are no decisions to be made about turning since there is no choice to turn left. Parking spaces are angled so that as a vehicle pulls out, it is oriented towards the counter-clockwise flow.

Parking

Ms. Yackley pointed out that when plans are submitted at the Site Plan stage, a specific use will need to be designated and parking calculations are based on the specific use. If the use comes in as retail, the site, as currently being presented, would have enough parking. Parking for retail on this site would require 8 spaces and the site currently shows 9 spaces.

If the use comes in as a restaurant, 19 spaces would be required on the site. The current site plan would not be acceptable for a restaurant use as it only has 9 spaces.

Mr. Walter Lamkin, Counsel for the developer, asked how “restaurant” is defined by the City. Ms. McCaskill-Clay replied that the City uses the *Planner’s Dictionary*, published by the American Planning Association, for its definitions. A Starbucks restaurant would be defined as “fast-food restaurant” because it utilizes disposable materials when serving food.

Mr. Lamkin asked for information on withdrawal procedures. He was informed that he could request that the petition be withdrawn without prejudice. This request would have to be addressed to the City Council. City Council would vote on whether to (1) grant the withdrawal with prejudice; (2) grant the withdrawal without prejudice; or (3) vote on the petition. If the petition is dismissed with prejudice, the Petitioner would have to wait one year before presenting again for the same site. If dismissed without prejudice, there is no time restriction as to when a new presentation could be made.

The Committee members felt that if a request was made for withdrawal, it would be granted without prejudice.

Councilmember Flachsbart made a motion to table P.Z. 17-2006 13506 Olive (Spirit Energy) until the next meeting of the Planning & Zoning Committee unless the City Council takes action relative to the petition before that time. The motion was seconded by Councilmember Hurt.

The Petitioner was asked whether he wanted the Committee to vote on the petition or to table it. The Petitioner asked that the Committee table the petition. It was noted that the next City Council meeting is scheduled for February 21, 2007 and the next Planning & Zoning Committee meeting is scheduled for February 22, 2007.

The motion to table the petition **passed by a voice vote of 4 to 0.**

D. Violation Letters

Discussion was held on the wording of violation letters being sent to residents. Councilmember Durrell felt that, in some cases, the language is too strong.

After discussion, it was agreed that the first letter being used by the City notifying residents of a possible violation is appropriate with one change.

Councilmember Flachsbart made a motion to change the wording in the first letter from “five days” to “five business days”. The motion was seconded by Councilmember Streeter and **passed by a voice vote of 4 to 0.**

Discussion was held on the following wording used in the violation notice:

Failure to abate this violation within 30 days of receipt of this letter will result in this matter being forwarded to the Prosecuting Attorney.

Councilmember Durrell felt that letters to the residents should be worded with more sensitivity and dealt with on a case-by-case basis.

Ms. McCaskill-Clay asked for clarification as to when the Committee feels it is appropriate to advise a resident that a case will be taken to Municipal Court if the violation is not abated.

It was agreed that if the resident has contacted the City and is attempting to address the issue, a second letter should be sent noting that the property is still in violation and asking the resident to notify the City, within 10 business days, as to what action is being taken. After that point, an official violation notice should be sent if necessary.

Planning Commissioner Schenberg suggested using language in the violation notices such as *“If this is not done within 30 days, we will have no other choice but to forward the matter to the Prosecuting Attorney.”*

He further suggested that in the first and second letters language be used to state *“In the spirit of cooperation and community, we hope you will address this issue.”*

IV. PENDING PROJECTS/DEPARTMENTAL UPDATE

V. ADJOURNMENT

The meeting adjourned at 6:40 p.m.