

**PLANNING COMMISSION
OF THE CITY OF CHESTERFIELD
AT CHESTERFIELD CITY HALL
JANUARY 8, 2018**

The meeting was called to order at 7:00 p.m.

I. ROLL CALL

PRESENT

Commissioner Wendy Geckeler
Commissioner Allison Harris
Commissioner Laura Lueking
Commissioner John Marino
Commissioner Mary Monachella
Commissioner James Rosenauer
Commissioner Steven Wuennenberg
Chair Merrell Hansen

ABSENT

Commissioner Debbie Midgley

Mayor Bob Nation
Councilmember Guy Tilman, Council Liaison
Mr. Jay Godsy, representing City Attorney Christopher Graville
Mr. Justin Wyse, Director of Planning & Development Services
Ms. Cecilia Dvorak, Project Planner
Mr. Mike Knight, Project Planner
Ms. Mary Ann Madden, Recording Secretary

Chair Hansen acknowledged the attendance of Mayor Bob Nation; Councilmember Guy Tilman, Council Liaison; and Councilmember Michelle Ohley, Ward IV.

II. PLEDGE OF ALLEGIANCE

III. SILENT PRAYER

IV. PUBLIC HEARINGS – Commissioner Wuennenberg read the “Opening Comments” for the Public Hearing.

- A. P.Z. 21-2017 Clock Tower Plaza (Kommerz LC):** A request to amend City of Chesterfield Ordinance 2,442 to revise development restrictions in a “PC” Planned Commercial district for 2.61 acres located north of Edison Avenue and northeast of the intersection of Chesterfield Commons East Road and Edison Avenue. (17T240243).

STAFF PRESENTATION:

Project Planner Mike Knight gave a PowerPoint presentation showing photographs of the site and surrounding area. Mr. Knight then provided the following information about the subject site:

Request

The applicant is requesting that the current restrictions on the hours of operation be removed and replaced with the hours shown in the table below.

	Current	Proposed
Normal Hours	7 am to 9:30 pm Sunday-Saturday	6 am to 11 pm, Sunday-Thursday 6 am to 12 midnight, Friday & Saturday
Seasonal Hours (day after Thanksgiving thru December 23)	7 am to 9:30 pm Sunday-Saturday	6 am to 12 midnight, Sunday-Thursday 6 am to 1 am, Friday & Saturday
4 Promotions per Calendar Year limited to 3 days per promotion (by permit only)	No promotional hours	6 am to 12 midnight, Sunday-Thursday 6 am to 1 am, Friday & Saturday

The applicant's narrative statement concludes that the current hours are less favorable than those applicable to the neighboring Chesterfield Commons East, which puts them at an unfair disadvantage when trying to solicit and retain tenants for the development. The requested hours' restrictions were modeled after the Chesterfield Commons East ordinance. Mr. Knight pointed out that the requested text amendment is similar, but not identical, to Chesterfield Commons East, which puts hours of operation restrictions solely on *retail* uses. The subject request would put restrictions on *retail, restaurants, and recreational* uses.

Site History

The subject site was zoned "C8" Planned Commercial prior to the City's incorporation.

In 2006, the request for a zoning change from "C8" to "PC" Planned Commercial was approved with a green sheet amendment imposing hours of operation restrictions of 7:00 a.m. – 9:30 p.m. This amendment was largely due to the proximity of the residences to the south.

In 2008, *recreational facilities and gymnasiums* uses were requested for the site with proposed hours of operation of 5:00 a.m. to 9:30 p.m. City Council approved the uses with an amendment limiting hours of operation for *restaurant, retail, and recreational* uses to 7:00 a.m. - 9:30 p.m. Discussion regarding the proximity to the residences to the south was brought forward again.

In 2012, Ordinance 2725 amended the current governing ordinance, along with 16 nearby ordinances within the Chesterfield Valley, to expand the Thanksgiving holiday hours.

Hours of Operation for Surrounding Developments

Due to previous discussions regarding the hours of operation and the proximity of residences to the south, Staff has identified the closest residential property as being roughly 500 ft. to the south with 80 ft. of elevation rise. Staff also reviewed the hours of operation for the neighboring subdivisions and has determined that Chesterfield

Commons East is the only subdivision where restrictions have been placed on operating hours. These restricted hours are identical to the hours being requested for Clock Tower Plaza. Mr. Knight also pointed out that both Chesterfield Commons East and Clock Tower Plaza restrict deliveries from 7:00 a.m. to 7:00 p.m.

Discussion

Parking

Responding to Commissioner Rosenauer's inquiry, it was noted that there are approximately 110 parking spots for the Clock Tower development.

Hours of Operation

Chair Hansen inquired as to whether there have been any changes to the development since the prior requests for changes to the hours of operation. Mr. Knight replied that nothing significant has changed within the site or within the neighboring site.

Commissioner Lueking then provided background information on why the current restrictions were placed on the hours of operation. She noted that Clock Tower Plaza is the closest development to the residences on the adjacent bluff, and when the rezoning came in, it was a major concern for those residents with respect to potential noise and lights. Taking the residents' concerns into consideration, the hours of operation were restricted to a closing time of 9:30 p.m. She added that each time a request was made to extend the hours, residents expressed their opposition.

Commissioner Geckeler noted the proximity of the residences on the bluff, which she felt was the main reason for so much opposition and why previous Planning Commissions restricted the hours. She pointed out that the Planning Commission did not change the hours even though expanded uses for the site were approved.

Notice of Public Hearing

Councilmember Tilman requested information about the Notice of Public Hearing. Mr. Knight explained that the public hearing notices were mailed out 15 days prior to the hearing to all property owners within 225 feet of the subject site, and to all subdivision trustees within one mile of the subject site. Staff has not received any response from any resident regarding the current request.

PETITIONER'S PRESENTATION:

1. Mr. Mike Doster, Land Use Attorney representing the Petitioner, 16090 Swingley Ridge Road, Chesterfield, MO. Mr. Doster stated that he was also speaking as a resident who lives on the bluffs adjacent to the subject site.

Mr. Doster stated that concerns were raised when the development was proposed, similar to concerns raised when many other developments were proposed. He added that "what has changed is that the fears expressed when the development was originally approved haven't been realized". He then provided both daytime and nighttime photos taken from his villa depicting what can be seen during the winter months.

Mr. Doster then made the following points regarding what can be seen and heard from the bluffs:

- Noting that his home is at the point along the bluffs where there is the thinnest portion of tree buffering, he stated that what is seen is Clock Tower Plaza, the

back of Chesterfield Commons East, the poles from TopGolf across the highway, and Edison Road.

- Lights from many sources can be seen, including Clock Tower Plaza. At night, the brightest source of light is coming from the back of the furniture store.
- What is heard from the bluffs are occasional trains, traffic along Edison Road, the ambient noise from Highway 40, and occasional planes – but they do not hear any noise from the retail within Chesterfield Commons East or Clock Tower Plaza.

Mr. Doster stated that a lot has changed with retail since 2006, and since the recession, retail is struggling. Hours of operation is a key component to keeping retail viable. The current hours of operation are not favorable when compared to other retail centers, and particularly when compared to adjacent Chesterfield Commons East.

Mr. Doster went on to say that when the hours of operation are more restrictive than nearby retail centers, it is difficult to attract quality tenants and requires negotiating different economic terms of the lease. He pointed out that there is currently one vacancy within the Clock Tower complex, and a second one is expected. In order to compete, they need the requested hours of operation. Mr. Doster added that, as a resident, he does not want to look down on an empty retail center.

Mr. Doster also pointed out that the requested hours of operation are more restrictive than Chesterfield Commons East in that Clock Tower would restrict the hours for all its permitted uses while Commons East only has restrictions placed on retail uses. He concluded by stating that since 2006, the residents' original fears that the complex would be an intrusion on their neighborhood have not been realized. But since 2006, there has been a dramatic shift in the viability of retail and they need to make a change in order to be competitive and viable.

Discussion

Commissioner Geckeler referred to Mr. Doster's statement that the *residents' fears had not been realized*, and commented that she feels this is a result of the restrictions that were placed on the hours of operation.

Mr. Doster noted his disagreement and stated he does not think extending the hours of operation by a couple of hours would make a difference to the residents, but it would make a big difference to the landlord in terms of what tenants could be attracted, what terms could be put in place, and what tenants could be retained.

Commissioner Harris questioned whether the Homeowners Association had expressed any concerns about the proposed hours of operation. Mr. Doster replied that the subdivision trustees had been sent a notice of the public hearing but did not provide any comments regarding it.

Chair Hansen asked if the Petitioner would be agreeable to restrictions prohibiting any outside seating past 9:30 p.m. Mr. Doster stated that the approved Site Plan does not permit outdoor seating, and they are not requesting it to be changed. Commissioner Geckeler pointed out that there are currently four picnic tables near the wine shop.

Additional discussion ensued regarding economic development and how that factor does not pertain to the Commission's review of petitions. Mr. Doster acknowledged this but

felt that “the viability of development” ought to be the Commission’s concern as “no one wants the center to go dark”.

Mayor Nation inquired as to whether uses and hours of operation were specified under the original “C-8” zoning. Mr. Doster replied that generally the “C-8” zonings did not have restrictions on hours of operation and usually had a broad range of uses but added that he could not answer definitively as to what was allowed for the subject site. Commissioner Lueking noted that the other “C-8” zonings in this area were all existing, daytime operations vs. the undeveloped subject site requesting night hours. Mr. Doster pointed out that the storage facility is a 24-hour business.

2. **Ms. Hannelore Bugby**, Owner of the Clock Tower Plaza, 721 Fairfield Lark Drive, Chesterfield, MO.

Ms. Bugby stated she is seeking relief from the current restriction of hours. She explained that the last vacant unit was empty for 18 months and has recently been filled, but now another vacancy has occurred. She stated that when she gets calls from brokers, they always inquire as to the hours of operation. She expressed concern that she is unable to compete in attracting new tenants and noted that she lost the opportunity of leasing to an ice-cream shop tenant, who loved the facility but wanted to stay open until 10:00 or 11:00 p.m.

Ms. Bugby also acknowledged Commissioner Geckeler’s earlier observation that there are outside tables at the wine store. She explained that the tables, along with some benches, were put in to accommodate clients who enjoy smoking while visiting the wine store.

SPEAKERS IN FAVOR: None

SPEAKERS IN OPPOSITION: None

SPEAKERS – NEUTRAL: None

Mr. Knight asked if the Commission wanted any additional information from Staff before voting. Several of the Commissioners noted the absence of any residents in opposition to the petition and indicated that they had everything they needed to vote.

Commissioner Wuennenberg read the Closing Comments for the Public Hearings.

V. APPROVAL OF MEETING SUMMARY

Commissioner Wuennenberg made a motion to approve the Meeting Summary of the December 11, 2017 Planning Commission Meeting. The motion was seconded by Commissioner Monachella and passed by a voice vote of 7 to 0 with Commissioner Harris abstaining.

VI. PUBLIC COMMENT

1. Mr. George Stock, Stock and Associates Consulting Engineers, 257 Chesterfield Business Parkway, Chesterfield, MO – representing the applicant for both **P.Z. 14-2017 Larry Enterprises-Lynch Hummer (17401 N Outer 40 Rd) Ordinance Amendment** and **P.Z. 15-2017 MPD Investments (14781 N Outer 40 Rd) Ordinance Amendment** indicated he was available for any questions.
2. Ms. Jeannie Aumiller, Senior Vice President of Real Estate, McBride & Son Homes, 16091 Swingley Ridge Road, Ste. 300, Chesterfield, MO.

Ms. Aumiller stated McBride & Son Homes is one of the property owners of **P.Z. 14-2017 Larry Enterprises-Lynch Hummer (17401 N Outer 40 Rd)**, which includes their design center that will be opening later this year. The site will also include their future corporate headquarters. She stated that as a property owner, they fully support the petition and she was available to answer any questions.

The following individuals, representing the **Petitioner**, were available for questions regarding **P.Z. 17-2017 Aventura at Wild Horse Creek (Above All Development)**.

1. Mr. Jeff McCurdy, Above All Development, 10411 Clayton Road, St. Louis, MO.
2. Mr. Bryan Aston, Above All Development, 10411 Clayton Road, St. Louis, MO.
3. Mr. Stan McCurdy, Above All Development, 10411 Clayton Road, St. Louis, MO.

The following individuals spoke from a **Neutral** position regarding **P.Z. 17-2017 Aventura at Wild Horse Creek (Above All Development)**.

1. Mr. John Schilligo, 30 Glen Cove Drive, Chesterfield, MO.

Mr. Schilligo stated he came to express his interest in the project and noted that he is not opposed to development in Chesterfield. He then commented that the developer for the project has a previous history of using undocumented and out-of-state workers, which he does not feel “does justice to our state or our city”.

2. Mr. Dan Neiswander, representative with the St. Louis/Kansas City Carpenters Regional Council, 502 Gentle Breeze Drive, St. Peters, MO.

Mr. Neiswander made the following points:

- There has been an influx of new development across the state of senior living centers and apartment complexes, which provide employment opportunities for local residents who pay taxes to the state and local economy.
- He encourages all new projects to utilize the area’s skilled work force but has found this is not always the case.
- Mr. Neiswander cited instances where Above All Development has employed out-of-state sub-contractors, who then hire undocumented workers from other

states and Mexico. He expressed his concern that this does not help Chesterfield or Missouri.

VII. SITE PLANS, BUILDING ELEVATIONS AND PLATS - None

VIII. UNFINISHED BUSINESS

- A. P.Z. 14-2017 Larry Enterprises-Lynch Hummer (17401 N Outer 40 Rd) Ordinance Amendment:** A request to amend the legal description and development conditions of an existing "PI" Planned Industrial District in Ordinance #2055, for a 15.4 acre tract of land located north of Highway 40/Interstate 64, west of Boone's Crossing (17U610139, 17U520258, 17U520269).

Project Planner Cecilia Dvorak stated that the public hearing for this petition was held on November 27, 2017. At that time, three issues were raised and the petitioner has responded to each, as noted below:

1. **Derelict Vehicles.** The Commission asked that derelict vehicles not be permitted to be stored within the outdoor storage areas of this development. *The petitioner has agreed to prohibit the sale or storage of damaged vehicles within outdoor areas of this development. This language has been incorporated into the draft Attachment*
2. **Open Space.** Given that open space is less restrictive than greenspace, there was a desire that the petitioner re-evaluate the need to minimize the open space to 31%, which is below the required 35% of PI districts today. *The petitioner has re-evaluated the need to reduce the open space and has confirmed that they are able to provide 35% open space in lieu of 31% green space. This change has been incorporated into the draft Attachment A.*
3. **Aesthetics along the Levee Trail.** The petitioner was asked to incorporate four-sided architectural design within the development. *The petitioner indicated that they intend to make all future buyers aware of the Planning Commission's desire for this type of design, and they understand all future development will need to be reviewed by the Architectural Review Board, as well as Planning Commission for approval.*

Ms. Dvorak noted that all agency comments have been received and that Staff has completed its review of this petition.

Commissioner Lueking made a motion to approve P.Z. 14-2017 Larry Enterprises-Lynch Hummer (17401 N Outer 40 Rd) Ordinance Amendment. The motion was seconded by Commissioner Wuennenberg.

Upon roll call, the vote was as follows:

Aye: Commissioner Rosenauer, Commissioner Wuennenberg
Commissioner Geckeler, Commissioner Harris,
Commissioner Lueking, Commissioner Marino,
Commissioner Monachella, Chair Hansen

Nay: None

The motion passed by a vote of 8 to 0.

- B. P.Z. 15-2017 MPD Investments (14781 N Outer 40 Rd) Ordinance Amendment:** A request to amend the legal description and development conditions of an existing "PI" Planned Industrial District in Ordinance #2411, for an 8.3 acre tract of land located north of Highway 40/Interstate 64, west of Boone's Crossing (17U520269, 17U520247, 17U520148)

Project Planner Cecilia Dvorak stated that this petition is running concurrently with P.Z. 14-2017. The public hearing for P.Z. 15-2017 was also held on November 27, 2017 at which time no issues were heard, however, Staff was still awaiting agency comments. All agency comments have since been received and Staff has completed the review of this petition.

Commissioner Lueking made a motion to approve P.Z. 15-2017 MPD Investments (14781 N Outer 40 Rd) Ordinance Amendment. The motion was seconded by Commissioner Wuennenberg.

Upon roll call, the vote was as follows:

Aye: Commissioner Wuennenberg Commissioner Geckeler,
Commissioner Harris, Commissioner Lueking,
Commissioner Marino, Commissioner Monachella,
Commissioner Rosenauer, Chair Hansen

Nay: None

The motion passed by a vote of 8 to 0.

- C. P.Z. 17-2017 Aventura at Wild Horse Creek (Above All Development):** A request for a zoning map amendment from the "PC&R" Planned Commercial and Residential District, the "C8" Planned Commercial District and the "LLR" Large Lot Residential District to an "R-6" Residence District for a 12.6 acre tract of land located on the south side of Old Chesterfield Road, northwest of the intersection with Wild Horse Creek Road (17T310016, 18T630173, 18T630205, 18T640226).

Project Planner Cecilia Dvorak stated that the public hearing for this petition was held on December 11, 2017 at which time five issues or concerns were heard. The following four concerns were advisory issues for the applicant:

1. The sky exposure plane will be considered during site plan review;
2. A traffic study will need to be conducted;
3. The City has high standards of design within its urban core; and
4. Open space and tree preservation requirements will need to be met.

The applicant has confirmed that City requirements will be met and understands that they will need to be reviewed and gain approval from the Architectural Review Board during the site plan review process.

Planning Commission had expressed concern that rezoning to the requested "R-6" would permit significantly more than the 170 units that the applicant intends to build, whereas "R-6AA" would permit only 183 units. The applicant has confirmed that they are comfortable changing the request to "R-6AA" with the understanding that underground parking is not be feasible with the lower density.

Ms. Dvorak noted that all agency comments have been received and that Staff has completed its review of this petition.

Discussion

Responding to Commissioner Lueking, Ms. Dvorak confirmed that there has been a discussion with the applicant about the tree canopy requirements.

Chair Hansen reminded the applicant that their "design has to serve as the physical and visual focus for the City". Mr. Bryan Aston, Above All Development, stated that they have had many meetings with their architect regarding the design guidelines and they are confident they will be able to satisfy the City in that regard.

Chair Hansen then asked if the applicant has considered incorporating the trail running along the border of the property. Mr. Aston stated that they are aware of the riparian trail that is intended to go through the western portion of the site, and they are willing to work with the City on this item. He also confirmed that they view the connection to the riparian trail as an amenity for the site.

Commissioner Wuennenberg made a motion to approve P.Z. 17-2017 Aventura at Wild Horse Creek (Above All Development). The motion was seconded by Commissioner Lueking.

Upon roll call, the vote was as follows:

**Aye: Commissioner Geckeler Commissioner Harris,
Commissioner Lueking, Commissioner Marino,
Commissioner Monachella, Commissioner Rosenauer,
Commissioner Wuennenberg, Chair Hansen**

Nay: None

The motion passed by a vote of 8 to 0.

- D. **P.Z. 19-2017 Downtown Chesterfield (Sachs Properties)**: A request to amend the legal description and preliminary plan of existing "PC&R" Planned Commercial & Residential Ordinance 2449 for a 104.9 acre tract of land located at the southwest corner of the intersection of U.S. Highway 40/I-64 and Chesterfield Parkway West.

Project Planner Cecilia Dvorak stated that the public hearing for this petition was held on December 11, 2017. At that time no issues were heard, however, Staff was still awaiting agency comments. Since that time, all agency comments have been received and Staff has completed its review of this petition.

Commissioner Wuennenberg made a motion to approve **P.Z. 19-2017 Downtown Chesterfield (Sachs Properties)**. The motion was seconded by **Commissioner Rosenauer**.

Upon roll call, the vote was as follows:

Aye: Commissioner Harris Commissioner Lueking,
Commissioner Marino, Commissioner Monachella,
Commissioner Rosenauer, Commissioner Wuennenberg
Commissioner Geckeler, Chair Hansen

Nay: None

The motion **passed** by a vote of 8 to 0.

- E. **P.Z. 21-2017 Clock Tower Plaza (Kommerz LC)**: A request to amend City of Chesterfield Ordinance 2,442 to revise development restrictions in a "PC" Planned Commercial district for 2.61 acres located north of Edison Avenue and northeast of the intersection of Chesterfield Commons East Road and Edison Avenue. (17T240243).

Commissioner Marino made a motion to approve **P.Z. 21-2017 Clock Tower Plaza (Kommerz LC)**. The motion was seconded by **Commissioner Wuennenberg**.

Upon roll call, the vote was as follows:

Aye: Commissioner Marino, Commissioner Monachella,
Commissioner Rosenauer, Commissioner Wuennenberg,
Commissioner Harris, Chair Hansen

Nay: Commissioner Lueking, Commissioner Geckeler

The motion **passed** by a vote of 6 to 2.

IX. NEW BUSINESS - None

X. COMMITTEE REPORTS - None

XI. ADJOURNMENT

The meeting adjourned at 8:14 p.m.

for Steve Wuennenberg, Secretary

James J. Rosenauer
JAMES J. ROSENAUER
VICE-CHAIR