

**PLANNING COMMISSION
OF THE CITY OF CHESTERFIELD
AT CHESTERFIELD CITY HALL
NOVEMBER 8, 2010**

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

I. ROLL CALL

PRESENT

Mr. David Banks
Ms. Wendy Geckeler
Ms. Amy Nolan
Mr. Stanley Proctor
Mr. Robert Puyear
Mr. Michael Watson
Chairman G. Elliot Grissom

ABSENT

Mr. Bruce DeGroot

Acting-Mayor Barry Flachsbart
Councilmember Matt Segal, Council Liaison
City Attorney Rob Heggie
Ms. Aimee Nassif, Planning & Development Services Director
Ms. Mara Perry, Senior Planner
Mr. Shawn Seymour, Senior Planner
Mr. Kristian Corbin, Project Planner
Ms. Mary Ann Madden, Recording Secretary

II. PLEDGE OF ALLEGIANCE – All

III. SILENT PRAYER

Chair Grissom acknowledged the attendance of Acting-Mayor Barry Flachsbart; Councilmember Matt Segal, Council Liaison; Councilmember Bruce Geiger, Ward II; Councilmember Lee Erickson, Ward II; Councilmember Connie Fults, Ward IV and former Planning Commissioner Victoria Sherman.

IV. PUBLIC HEARINGS – Commissioner Watson read the “Opening Comments” for the Public Hearings.

- A. **P.Z. 09-2010 Four Seasons West (Schuyer Corp.):** A request for a change of zoning from a “PC” Planned Commercial District to a new “PC” Planned Commercial District for a 2.35 acre tract of land located on the southwest corner of the intersection of Olive Street Road and River Valley Drive. (16Q230260)

STAFF PRESENTATION:

Senior Planner Mara Perry gave a PowerPoint presentation showing photographs of the site and surrounding area. Ms. Perry stated the following:

- Public Hearing notices were posted per State statute and City of Chesterfield requirements.
- Site History:
 - In 1983-84, the site was zoned “C8” Planned Commercial via St. Louis County Ordinance Number 11,355.
 - In 1984, two ordinances were approved – the original ordinance was approved in January and a second ordinance amending the first was approved later. Many of the changes that occurred related to the uses and locations of uses.
 - In 1993, the City of Chesterfield approved Ordinance 775, which added *physical therapy* as a permitted use on the site.
 - In 2006, the City of Chesterfield approved Ordinance 2297, which provided for the addition of *financial institutions, medical and dental offices, restaurants and limited drive-thru facilities* on the subject site.
 - In 2009, the City of Chesterfield approved Ordinance 2559 which changed the site from a “C8” to a “PC” Planned Commercial District and amended the location of the drive-thru facilities for the ATM.
- Requested Permitted Uses:
 1. Administrative office for educational or religious facility
 2. Art gallery
 3. Art studio
 4. Bakery
 5. Barber or beauty shop
 6. Coffee shop
 7. Commercial service facility
 8. Day care center, child
 9. **Day care center, adult** – This is the primary use being requested at this time to accommodate a potential tenant for the development.
 10. Drug store and pharmacy
 11. Dry cleaning establishment
 12. Financial institution
 13. Financial institution, drive-thru
 14. Grocery – neighborhood
 15. Office, dental
 16. Office, general
 17. Office, medical

18. Professional and technical service facility
 19. Public safety facility
 20. Restaurant, outdoor customer dining areas
 21. Restaurant, sit down
 22. Restaurant, take out
 23. Retail sales establishment, community
 24. Veterinary clinic.
- Other than the construction of the ATM, no other changes are being proposed to the existing site.
 - The Comprehensive Land Use Plan designates the site as *Community Retail*.
 - Issues Under Review by Staff:
 - Use restrictions – There are a series of use restrictions that have been carried forward from the 1980s, which Staff is reviewing against the City's current uses to make sure they are compatible.
 - Hours of Operation – The only restriction to *hours of operation* relates to the time of trash pick-up. There have been questions regarding early morning noise that Staff is investigating.

DISCUSSION

Commissioner Watson asked for clarification on the additional uses being requested by the Petitioner at this time. Ms. Perry noted the uses as follows:

- Commercial service facility – this use was changed slightly from the previous use
- Drug store and pharmacy
- Grocery – neighborhood
- Public safety facility
- Restaurant, outdoor customer dining areas
- Retail sales establishment, community – this use replaced a similar use
- Veterinary clinic.

Ms. Aimee Nassif, Planning & Development Services Director then asked Ms. Perry to clarify the following points:

- The requested adult day care center use is for daytime use only – there will not be any overnight stays.
- No tear-downs or additions to the site are proposed – all the proposed work is interior.
- If any future exterior work is requested, a Site Plan would need to be submitted to the Department for a full review.

During additional discussion, the following points were noted:

- Hours of Operation/Bakery: There are no restrictions to the hours of operation for the existing bakery in the development. It is Staff's understanding that the bakery does receive deliveries around 5:30 a.m. which are transported by a small van. There have been discussions about noises from a larger truck, which Staff is investigating to determine if the

deliveries are being made to the subject development or to the adjacent development.

- Drive-thru facility: The site is limited to one drive-thru facility, which relates to the proposed ATM for the *financial institution, drive-thru* use. City Attorney Heggie advised Staff to review the Attachment A with respect to how the drive-thru is defined – specifically that the language does not limit it to an **attached** drive-thru use.
- Complaints related to noise: Back in 2006, there were complaints about loud speakers and trash pick-up times. It is Staff's understanding that the loud speakers have been turned off and that delivery times have been limited, which has affected the timing of trash pick-up. Since then, Staff had not had any complaints about noise until the current petition was brought forward.

PETITIONER'S PRESENTATION:

1. Mr. Mark Doering, President of Doering Engineering - representing Four Seasons West, 5030 Griffin Road, St. Louis, MO gave a PowerPoint presentation showing photos of the site and existing tenants in the development. He then stated the following:
 - The proposed new lessee coming to the development is "Lutheran Adult Day Services".
 - The zoning map shows Planned Commercial to the east of the site, Residential to the south, and Commercial across the street.
 - There are no proposed building changes or site improvements. They are simply requesting additional uses, one of which would accommodate the new lessee.
 - The site is 2.35 acres in size and the building is 23,888 square feet-retail.
2. Pastor Timothy J. Ostermeyer, Lutheran Adult Day Services, 163 Benedictine Court, St. Louis, MO 63031 stated the following:
 - The Lutheran Adult Day Services offers day services to adults who should no longer be left at home alone.
 - The facility would provide optional daily Bible readings and prayers. However, participants at the facility do not have to be of the Lutheran faith.
3. Mr. Art Sommer, Lutheran Adult Day Services, 163 Benedictine Court, St. Louis, MO 63031 stated the following:
 - The facility would be open from 6:00 a.m.-7:00 p.m. but these hours are flexible and could be changed to 7:00 a.m.-6:00 p.m.
 - The facility will have 4-7 employees, who will be hired locally.
 - All the participants will be Chesterfield residents normally within 3-5 miles from the facility.

SPEAKERS IN FAVOR: None

SPEAKERS IN OPPOSITION:

1. Mr. Art O'Leary, 409 Spring Valley Court, Chesterfield, MO stated the following:

- He and his wife own the property immediately adjacent to the west of the subject site. They acquired their property in 1970 and shortly after that the original owner of Four Seasons Plaza proposed building an office building and developing the area to the right of the O'Learys.
- Over the years, additional businesses have moved into the site, which they did not oppose because they did not anticipate any issues with them.
- One business did install a loud speaker, which the O'Learys fought to have removed. Currently, the loud speaker is still connected but "does not bother them too much".
- Occasionally, garbage trucks still come by with the activity taking place adjacent to their bedroom.
- They did not originally oppose the bakery use but occasionally the morning delivery truck drops down a ramp, which causes excessive noise between 4:30-5:30 a.m.
- He and his wife do not feel it is "fair" to add additional businesses to the development because they can't anticipate what problems may arise that could affect their property.

SPEAKERS – NEUTRAL: None

DISCUSSION

During discussion with the Petitioner, Mr. Art Sommer, the following points were clarified:

- Hours of Operation: The hours for the Adult Day Care use are subject to change, but it is anticipated the hours would be from 7:00 a.m. to 6:00 p.m. Monday-Friday. Most of the participants are dropped off between 8:00-10:00 a.m. and start leaving between 2:00-3:00 p.m.
- Location of Facility: The facility will occupy about 3600 square feet in the space where Denmark Travel is currently located.
- Staffing: The State of Missouri requires at least one staff member for every eight participants. The facility will employ at least four employees with possibly five to six employees during the lunch hour.
- Transportation: About 25% of the participants are dropped off by spouses; 75% of the participants live with other family members. The facility will provide hired transportation to and from the facility for participants.
- Attendance: About 10% of the participants will attend the facility daily – but most will attend 2-3 times per week or as needed.
- Meals: A continental breakfast, catered lunch, and afternoon snack will be provided on site. There will be no cooking or kitchen at the facility. Some foods may be micro-waved.

ISSUES:

1. Confirm hours of operation
2. Review restrictions on uses currently in the ordinance
3. Correctly identify the *financial drive-thru* in the Attachment A for the ATM
4. Check to see if loud speaker is still connected
5. Provide the uses that were approved in 1984 compared to the current uses

Ms. Perry pointed out that because the petition relates to an existing site, there will be a separate vote on the open space because it does not meet the new "PC" Planned Commercial requirements.

B. P.Z. 10-2010 Schoettler Village PEU (Mlake 5, LLC): A request for an amendment to St. Louis County Ordinance 6059 more specifically a modification to the density requirements of a Planned Environmental Unit in a "R1A" Residence District, "R2" Residence District, "R3" Residence District, "R6" Residence District, and a "R6A" Residence District of 158.2 acres in size and located along Schoettler Valley Drive at the north from US Highway 40/Interstate 64 southward to Squires Way Drive, including the subdivisions of Schoettler Valley Apartments, West Ridge Estates, Schoettler Valley Estates, Highcroft Ridge School, and Bridle Creek and all those lots within.

STAFF PRESENTATION:

Senior Planner Shawn Seymour gave a PowerPoint presentation showing photographs of the site and surrounding area. Mr. Seymour stated the following:

- All Public Hearing notification requirements were met per City and State requirements. Direct notification was also provided to all the property owners within the PEU.
- The area surrounding the subject site has been fully developed for some time.
- Site History
 - In 1971, St. Louis County granted Planned Environmental Unit zoning entitlements. This granted 560 residential units to the Schoettler Village PEU. To date, 553 units have been built. The entitlements specified that no more than 300 units could be utilized as multi-family units.
 - Final Record Plats Approved:
 - West Ridge Estates – 1972
 - Schoettler Valley Estates – 1973
 - Bridle Creek – 1975
 - Schoettler Valley Apartments - 1977

- The Petitioner is requesting to increase the multi-family density from 300 units to 303 units. Of the 560 residential units approved for Schoettler Village PEU, only 7 units remain to be built.
- The request to increase 3 units to the multi-family would increase that density only and not the overall approved density for the PEU as approved by St. Louis County in 1971.
- The Petitioner proposes to locate the three additional apartment units on the second floor of the club house, which has under-utilized office and meeting space.
- The Comprehensive Land Use Plan designates the site as *Residential Single & Multi-Family* and *Urban Core*
- Issues Under Review by Staff:
 - Staff is waiting for outside Agency comment letters
 - Missouri State statute requires that whenever zoning is changed or amended on a property, 100% of the property owners must sign off on the petition. At this time, only 60% of the 253 property owners have signed off on the petition.

DISCUSSION

Ms. Aimee Nassif, Planning & Development Services Director asked Mr. Seymour to clarify the following points:

- The subject petition does not include any new construction, additional footprint, or new buildings to the existing apartment complex. The requested three units will be added to the second floor of the clubhouse requiring interior construction only.
- If the requested zoning is approved, buildings permits for the interior construction will be needed from St. Louis County via Municipal Zoning approval from the City.
- Regarding the ordinance that currently governs all the subdivisions involved, the number of multi-family units is the only thing that would be changed. No other conditions, development requirements, or performance criteria that are established for the subdivisions and residential units would be affected or changed in any way.

During additional discussion, the following points were noted:

- There is adequate parking for the requested three units.
- The additional three units would bring the total units to 556 of the 560 units approved for the development.
- Staff reviewed the plats and site plans and all platted lots have been utilized. There are no other developable lots in the PEU on which the remaining four units could be built. Any other development would have to take place in common ground, which is under Trustee control.

PETITIONER'S PRESENTATION:

1. Mr. Jack Whaley, Architect representing the owners of Schoettler Village Apartments - Mlake 5, LLC, 1529 Old Highway 94 South, St. Charles, MO was available for questions.

SPEAKERS IN FAVOR: None

SPEAKERS IN OPPOSITION: None

SPEAKERS – NEUTRAL:

1. Ms. Victoria Sherman, resident of Bridle Creek subdivision, 1895 Schoettler Valley Drive, Chesterfield, MO stated the following:
 - There is a problem with the indentures in that the indentures for the single-family homes are tied to the apartment homes.
 - It is her understanding the apartments were to work with the subdivision to separate from those indentures.
 - The certified letter that was sent to the single-family homeowners made no mention of the indentures and yet the Petitioner is requesting that the residents sign off on the subject petition.
 - She is not sure where the process is with the indentures issue. If the zoning is approved, she has concerns that the subdivision residents would have very little recourse to insure that the property owners of the apartments work with the subdivision regarding the indentures.
2. Mr. Ben Lewin, Treasurer for Bridle Creek Homeowners Association, 1835 Schoettler Valley, Chesterfield, MO stated the following:
 - The Bridle Creek Homeowners Association covers Westridge Estates, Schoettler Valley Estates, and Bridle Creek subdivisions.
 - The apartments are part of the subdivisions' indentures. There are five Trustees, two of whom are from the apartments.
 - Discussions have been held with the apartment owners in an effort to allow the subdivision homes "to break away from the apartments". They would like to be able to address the needs of the subdivisions without having the apartment owners voting on these issues.
 - Maxus, the current apartment owners, have agreed to review separating from the subdivisions. A letter was recently sent to them outlining the costs involved and asking them to split the cost with the subdivisions. At this point they have refused sharing the cost.
 - Attempts are being made to discuss the matter with another attorney to see if the costs can be lowered.

City Attorney Heggie asked that a representative from Maxus update the Commission on the status of the indentures issue.

Mr. Pat Garlich, 872 White Avenue, Brentwood, MO, representing Maxus, addressed the Commission stating the following:

- They have met with representatives of the Homeowners Association regarding the indentures and Maxus is willing to separate. During the meeting, it was indicated to them that there would be no additional cost to Maxus to separate.
- They are willing to separate at no additional cost.

City Attorney Heggie then advised the audience that the City does not get involved in issues related to indentures – these are private agreements. But the City does like to make sure that things operate in a fair manner for all concerned. He then asked Mr. Garlich if he anticipates the separation would be accomplished.

Mr. Garlich replied that they anticipate it getting done. Currently they are incurring their own legal costs in connection with reviewing the indentures and the proposed separation agreement.

ISSUES:

Mr. Seymour stated that no additional issues have been raised.

Ms. Nassif then gave the audience an overview of what will transpire on the public hearings going forward.

Commissioner Watson read the Closing Comments for the Public Hearings.

V. APPROVAL OF MEETING MINUTES

Commissioner Watson made a motion to approve the October 11, 2010 minutes, as amended below (amendments shown in **bold**):

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He **petitioned to zone** ~~zoned~~ the site in 2006 from Residential to Planned Commercial anticipating that the site could be used for a small office.

City Attorney Rob Heggie asked Mr. Mintz how he would describe the character of the neighborhood. Mr. Mintz replied that the neighborhood is residential noting that businesses operating out of homes have not worked in the subject area. He had been marketing the property as an office-type use for a number of years **but had been unsuccessful in finding a user for the office use.**

The motion was seconded by Commissioner Nolan and **passed by a voice vote of 7 to 0.**

VI. PUBLIC COMMENT - None

VII. SITE PLANS, BUILDING ELEVATIONS AND SIGNS - None

VIII. OLD 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).

Project Planner Kristian Corbin stated that the Petitioner is requesting the change of zoning to allow for the existing structure to be used as a residence. The Public Hearing and Issues Meeting for this petition were held on October 11, 2010. At that time, the petition was still under review with the following issues being noted:

- Consistency with the Comprehensive Plan; and
- Consistency with the surrounding land uses

The review is complete at this time. While the Comprehensive Plan calls for the site to be “Neighborhood Office”, in reviewing the surrounding land uses, it is Staff’s opinion that it is compatible and consistent with what is currently out there. Staff has no outstanding issues with this petition.

Commissioner Banks made a motion to approve P.Z. 08-2010 17531 Wild Horse Creek Road (Larry Mintz). The motion was seconded by Commissioner Geckeler.

Upon roll call, the vote was as follows:

Aye: Commissioner Geckeler, Commissioner Nolan, Commissioner Proctor, Commissioner Puyear, Commissioner Watson, Commissioner Banks, Chairman Grissom

Nay: None

The motion passed by a vote of 7 to 0.

B. 2011 Planning Commission Meeting Dates

Commissioner Watson made a motion to approve the **2011 Planning Commission Meeting Dates**. The motion was seconded by Commissioner Geckeler and **passed by a voice vote of 7 to 0.**

IX. NEW BUSINESS - None

X. COMMITTEE REPORTS - None

XI. ADJOURNMENT

The meeting adjourned at 7:51 p.m.

Michael Watson, Secretary