

MEMORANDUM

TO: Michael G. Herring, City Administrator

FROM: Teresa Price, Director of Planning 

DATE: November 12, 1997

SUBJECT: Planning and Zoning Committee Meeting Summary from November 6, 1997

A meeting of the Planning and Zoning Committee of the Chesterfield City Council was held at 5:30 p.m., on Thursday, November 6, 1997, in the City Council Conference Room. In attendance were Chairman Dan Hurt (Ward III); Councilmember Barry Flachsbart (Ward I); Councilmember Barry Streeter (Ward II); and Councilmember Mary Brown (Ward IV). Also in attendance were: Councilmember Larry Grosser (Ward II); Councilmember Linda Tilley (Ward IV); Rick Bly, Planning Commission Chairman; Bob Grant, Planning Commission Vice-Chairman; John Langa, CCDC; Doug Beach, City Attorney; Michael Herring, City Administrator; Teresa Price, Director of Planning; and, Laura Griggs-McElhanon, Assistant Director of Planning.

I. Approval of Planning and Zoning Committee meeting summary of October 30, 1997.

A motion for approval was made by Councilmember Brown, seconded by Councilmember Streeter and approved by a vote of 4 to 0.

II. Meeting Memo

This item was not discussed.

VII. P.Z. 23-97 City of Chesterfield Planning Commission; a proposal to establish a requirement for disclosure of information relative to future land use and local noise impact. (In addition, the proposed Tree Protection criteria and revisions to the Comprehensive Plan will be discussed.)

Tree Protection Ordinance discussion

Councilmember Brown stated that at the last Planning and Zoning Committee meeting there was discussion of mitigation and grandfathering. Chesterfield has a lot of zoning in place not currently developed. She proposes not to exempt property, as recommended on page 10, Section 11, B. She recommended that this be moved to page 11, Section 12 under Mitigation, with hardship.

Councilmember Flachsbart stated that he likes the way it is currently written. He feels that it belongs in Exemptions.

General discussion of this issue.

Councilmember Streeter recommended that "B" be left where it is. He feels that it is unfair to apply these new rules to already zoned property.

There was general discussion of combining B and E, Section 11, to cover all property.

City Attorney Doug Beach stated that in residential, you are dealing with approved number of lots, not square footage of building.

Chairman Hurt recommended that B be changed to refer to "properties zoned residential" and for which an ordinance has been in existence.

City Administrator Michael Herring inquired if the same language should be added to E.

Councilmember Flachsbart stated that there are situations that fit B (residential). There are also properties for commercial and industrial developments that have ordinances and plans approved but are not developed.

There was general discussion of this issue.

City Attorney Doug Beach replied that if a development has an approved Site Development Concept Plan, they could go forward but the structure may not be in the original location.

Councilmember Flachsbart suggested that if a developer has to submit a revised plan, he be required to preserve trees.

Skip Kincaid, consultant to the Tree Moratorium Panel, stated that if B and E are keep in Section 11, you will have what you have today. If the only way to go forward with the project is with tree loss, then it goes forward. If B and E are moved as requested by Councilmember Brown, this will allow modifications and the developer will have to do mitigation.

Councilmember Brown stated that she still wants to move B and E to Section 12.

Councilmember Flachsbart stated that he doesn't want to move B and E.

Councilmember Streeter agreed with Councilmember Flachsbart on this issue. He stated that the City stopped everything for the moratorium, to set up new rules. He feels that the City shouldn't make people change their projects.

City Attorney Doug Beach explained that developments need to provide a detailed mitigation plan. He inquired if the Committee wanted the Department of Planning to review the plans first and try and work it out. If the developer doesn't like the Department recommendation, the developer can go to the Board of Adjustment.

Councilmember Streeter suggested that special exceptions (Section 12) should be deleted.

Councilmember Brown replied that Section 12 is to give guidelines to the Board of Adjustment.

City Administrator Michael Herring stated that as proposed, exceptions have to submit a mitigation plan. He suggested that Section 11 be "Grandfathering", Section 12 be "Special Exceptions", and Section 13 be "Mitigation".

There was extensive discussion of this issue.

A motion to change the title of Section 12 to "Guidelines for Mitigation", change the reference to Board of Adjustment to the Planning Department, add an appeal process to go to the Board of Adjustment, and take out "economic hardship" was made by Councilmember Streeter, seconded by Chairman Hurt and approved by a vote of 4 to 0.

A motion was made by Councilmember Streeter, seconded by Councilmember Flachsbart to add the following at the end of B: "However, in this case, the developer shall provide information to the Planning Department demonstrating that no changes to the Plan to preserve additional trees are possible without negative impact to the originally approved Plan in terms of number of units or approved square footage." (the Department was directed to work with the City Attorney on the final wording).

Councilmember Brown stated that she will vote against this amendment. She still recommends that B and E be moved to Section 12. As currently proposed, it is against the Tree Preservation Committee's intent. The Tree Preservation Committee didn't offer mitigation because the felt the ordinance was workable.

City Attorney Doug Beach inquired that if the intent is to try to make the developers mitigate, why not put B and E in mitigation.

The motion was approved by a vote of 3 to 1, with Councilmember Brown voting no.

A motion to amend E to take out "of the interior" was made by Chairman Hurt and seconded by Councilmember Streeter.

Councilmember Flachsbart suggested that a sentence similar to that added to B should be added to E.

Chairman Hurt amended his motion to include this recommendation.

Councilmember Streeter accepted the amendment.

The motion was approved by a vote of 4 to 0.

- V. **P.Z. 21-97 City of Chesterfield Planning Commission**; Moratorium issues - revisions to the Subdivision Ordinance.
- VI. **P.Z. 22-97 City of Chesterfield Planning Commission**; Moratorium issues - revisions to the Zoning Ordinance.
- VIII. **P.Z. 26-97 City of Chesterfield Planning Commission**; a proposal to amend the City of Chesterfield Subdivision Ordinance relative to work being done by the Character of Neighborhoods Moratorium Panel of the City of Chesterfield.
- IX. **P.Z. 27-97 City of Chesterfield Planning Commission**; a proposal to amend the City of Chesterfield Zoning Ordinance relative to work being done by the Character of Neighborhoods Moratorium Panel of the City of Chesterfield, which includes creation of the following new zoning districts: E-b1 Residence District (2 acre); E-2 Residence District (1 acre); E-3 Residence District (1/2 acre); LLR Large Lot Residential (3 acre); and, AG Agriculture.

A motion to approve the Character of Neighborhoods recommendations, as amended, was made by Councilmember Flachsbart, seconded by Chairman Hurt, and approved by a vote of 4 to 0.

Planning Director Teresa Price pointed out the changes (PC/PI uses, ARC, setbacks "PS", plant nurseries moved to CUP)

A motion to forward all moratorium recommendations (Tree Protection, Subdivision Ordinance, Zoning Ordinance, Comprehensive Plan and Noise Contour disclosure and Policy recommendations) to City Council was made by Councilmember Flachsbart, seconded by Councilmember Streeter, and approved by a vote of 4 to 0.

Note: Five bills (revisions to the Zoning Ordinance, revisions to the Subdivision Ordinance, Tree Protection Ordinance (2), Noise Impact and Comprehensive Plan disclosure statement) and one resolution (Policy Recommendations) will be needed for the November 17, 1997, City Council Meeting.

SEE Bill #1474, #1475, #1476, #1477, #1478

SEE Resolution #229

- III. **P.Z. 28-97 City of Chesterfield Planning Commission** a proposal to amend Section 1003.168 of the City of Chesterfield Zoning Ordinance relative to balloons.

A motion to approve the Planning Commission recommendation relative to prohibiting balloons was made by Councilmember Flachsbart, seconded by Councilmember Streeter, and approved by a vote of 4 to 0.

**Note: One bill relative to this matter will be needed for the November 17, 1997, City Council Meeting.
SEE Bill #1479**

IV. P.Z. 24-97 THF Chesterfield Development, L.L.C., (Chesterfield Commons); "M-3" Planned Industrial District and "NU" Non-Urban District to "C-8" Planned Commercial District; north and south sides of Chesterfield Airport Road, east of the intersection of Boone's Crossing Street.

Director of Planning Teresa Price noted that the Planning Commission added five items. The staff wants to look into #18, trash pickup and #19, delivery times, to make sure the proposed hours agree with existing City Ordinances.

There was extensive discussion about outdoor sales (appropriateness, types of merchandise, location).

A motion was made by Councilmember Streeter to allow seasonal merchandise to be displayed within 10' of the main building.

The motion died for lack of a second.

A motion was made by Chairman Hurt, seconded by Councilmember Streeter, to revise #21 as follows: No retail sales, storage or displays are permitted outside the main building unless it is located on the sidewalk or one side is attached to said building. Screening for remaining three (3) sides, if not on the sidewalk, shall be approved by the Planning Commission as part of the Site Development Concept Plan.

The motion was defeated by a vote 2 to 2, with Councilmembers Brown and Flachsbart voting no.

A motion was made by Councilmember Brown, seconded by Councilmember Flachsbart, to revise #21 as follows: No retail sales, storage or displays are permitted outside the main building unless one side is attached to said building. Screening for remaining three (3) sides shall be approved by the Planning Commission as part of the Site Development Concept Plan.

The motion was approved by a vote of 3 to 1, with Councilmember Streeter voting no.

Councilmember Brown stated that there were several meetings with residents. The residents have consistently been opposed to 24 hour retail. She felt that the City needs the project and the proposed infrastructure.

A motion was made by Councilmember Brown, seconded by Councilmember Flachsbart, to revise the hours of operation as follows: Retail Sales, 6 a.m. to 11 p.m. Sunday through Thursday, 6 a.m. to 12 midnight Friday and Saturday, with Seasonal Hours of: from the day after Thanksgiving until December 23, 6 a.m. to 12 midnight everyday. In addition, 4 promotions per calendar year, with the same hours as seasonal, by permit only, 3 days each.

Councilmember Tilley stated that the City would be setting a precedent by approving 24 hours for this development. It would be the first time that the City has approved a 24 hour retail development. We will end up with 24 hour businesses in all parts of the City, not just in the Valley.

Councilmember Flachsbart stated that he has been to cities where there are stores open 24 hours, and it was beneficial to be able to go there after hours. He stated that he understands the concern of the residents. He intends to vote with Councilmember Brown.

Councilmember Streeter stated that the precedent for 24 hour retail has already been set by the County.

Councilmember Tilley replied that the City incorporated because of what the County had done.

Chairman Hurt stated that he has no problems with 24 hour operations.

Councilmember Flachsbart inquired as to the square footage permitted on the outlots.

Director of Planning Teresa Price explained that the entire development has to come in for Site Development Concept Plan approval and at that time everything has to be specified. The overall approved square footage includes the outlots.

Mike Doster, attorney, spoke on behalf of the developer. He stated that there has been compromise on the part of the developer concerning this development. He clarified that THF is not WalMart - THF has been negotiating with WalMart. THF is prepared to take Councilmember Brown's changes to WalMart and see if they will accept them. THF wanted 1 a.m. on the extended hours.

There was general discussion of hours of operation.

Councilmember Brown amended her motion to extend the hours on Friday and Saturday, during the holidays, until 1 a.m.

Councilmember Flachsbart accepted the amendment.

It was clarified that the specified hours of operation are only for retail sales.

There was discussion of restaurant and theater hours.

A representative from Chesterfield Farms Trustees stated that they are looking for consistency in the City. Approving 24 hours here is setting a precedent in Chesterfield.

Councilmember Brown stated that the issue is one of lighting and noise.

The motion was approved by a vote of 4 to 0.

Mike Doster requested a written confirmation of amendments voted on this evening

A motion to direct the City Administrator to write a letter about the changes was made by Chairman Hurt, seconded by Councilmember Flachsbart, and approved by a vote of 4 to 0.

Chairman Hurt, relative to #19, stated that the issue is trucks.

A motion to change the wording of #19 to "no commercial vehicles from 12 midnight to 6 a.m." was made by Chairman Hurt and seconded by Councilmember Flachsbart.

There was general discussion of this issue.

Chairman Hurt amended his motion to refer to "during non-business hours".

Councilmember Flachsbart accepted the amendment.

The motion, as amended, was approved by a vote of 4 to 0.

A motion to approve P.Z. 24-97, as amended, was made by Councilmember Brown, seconded by Chairman Hurt, and approved by a vote of 3 to 1, with Councilmember Flachsbart voting no.

**Note: Two bills relative to this matter will be needed for the November 17, 1997, City Council Meeting (one as recommended for approval by the Planning Commission and one as recommended for approval by the Planning and Zoning Committee).
SEE Bill #1480 and #1481**

ADD ON:

City Administrator Michael Herring noted that there was a Highway 109 Committee meeting last night. At that meeting, it was requested that a letter be sent from the city's impacted by the delay in Highway 109 improvements (Ellisville, Ballwin, Clarkson Valley, Chesterfield) to MoDOT requesting that a MTIA of Highway 109 Corridor be authorized and initiated as soon as possible.

A motion to direct such a letter be written was made by Chairman Hurt, seconded by Councilmember Flachsbart, and approved by a vote of 4 to 0.

The next regularly scheduled meeting will be held at 5:30 p.m. on Thursday, November 20, 1997.

The meeting adjourned at 7:00 p.m.

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