

**PLANNING COMMISSION
OF THE CITY OF CHESTERFIELD
AT CHESTERFIELD CITY HALL
SEPTEMBER 22, 2008**

The meeting was called to order at 7:05 p.m.

I. ROLL CALL

PRESENT

Ms. Wendy Geckeler
Mr. G. Elliot Grissom
Ms. Amy Nolan
Ms. Lu Perantoni
Mr. Stanley Proctor
Mr. Robert Puyear
Mr. Michael Watson
Chairman Maurice L. Hirsch, Jr.

ABSENT

Mr. David Banks

Councilmember Dan Hurt, Council Liaison
City Attorney Rob Heggie
Ms. Sarah Cantlon, Community Services & Economic Development Specialist
Ms. Aimee Nassif, Planning & Development Services Director
Ms. Annissa McCaskill-Clay, Lead Senior Planner
Ms. Mara Perry, Senior Planner
Mr. Kristian Corbin, Project Planner
Mr. Shawn Seymour, Project Planner
Ms. Mary Ann Madden, Recording Secretary

II. PLEDGE OF ALLEGIANCE – All

III. SILENT PRAYER

Chair Hirsch acknowledged the attendance of Councilmember Dan Hurt, Council Liaison; Councilmember Bruce Geiger, Ward II; and Councilmember Connie Fults, Ward IV.

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

- A. T.S.P. 05-2008 Cricket Communications (Baxter Gardens):** A request to obtain approval for a Telecommunication Facility Siting Permit on a "R1" Residence District-zoned 2.01 acre tract of land located at 17259 Wild Horse Creek Road, east of the intersection of Wild Horse Creek Road and Long Road (18U420104).

STAFF PRESENTATION:

Ms. Annissa McCaskill-Clay, Lead Senior Planner, gave a PowerPoint presentation showing photographs of the site and surrounding area. Ms. McCaskill-Clay stated the following:

- The proposed facility includes:
 1. Placement of three antennas within the existing stealth telecommunications tower; and
 2. Associated equipment within the existing equipment yard.
- Public Hearing notification was followed per State statute and City of Chesterfield requirements.
- There are two antennas located on the subject site. The original antenna was approved by the City of Chesterfield administratively on March 5, 1998. The second tower was approved on August 9, 2004 for U.S. Cellular.
- The site also has a temporary tower, which was approved by City Council pending review of the subject application to allow for coverage by Cricket Communications.
- Cricket Communications proposes to put its equipment cabinet within the existing fenced-in yard.
- Cricket is proposing to place three antennas within the existing U.S. Cellular tower.
- The temporary tower will be removed if the subject petition is approved.

PETITIONER'S PRESENTATION:

1. Mr. Jeff Wagener, 607 Sappington Barracks Road, St. Louis, MO stated the following:
 - The proposed antennas would be installed inside the existing flag pole tower and the temporary tower would be removed.

SPEAKERS IN FAVOR:

1. Mr. Eric Zust, 17206 Wild Horse Creek Road, Chesterfield, MO stated the following:
 - His home is the closest house to the subject cell tower on the south side of Wild Horse Creek Road.
 - He supports the proposal because he feels cell phones can provide communication during power outages.
 - He has read the proposal and feels it is "very well thought-through".
 - He feels the proposed antenna will benefit the residents living nearby.

SPEAKERS IN OPPOSITION:

1. Mr. Robert Lambrecht, Trustee of Spring Hill Bluffs Subdivision, 1119 Wildhorse Meadows Drive, Chesterfield, MO stated the following:

- His background includes a Bachelor's Degree in Electrical Engineering with a Communications Major, as well as a Master's Degree in Electrical Engineering and Power Systems.
- Spring Hill Bluffs is the subdivision adjacent to the subject site.
- It is their understanding that there will be no visible change to the tower with the addition of the proposed antennas.
- They do not support the petition because the Spring Hill Bluffs Subdivision was never notified about Tower 2 being installed. As a result, they did not have the opportunity to discuss the tower with City Council.
- Tower 2 is very close to Spring Hill Bluffs and they have safety concerns.
- They would like a study performed to prove that the sum of all current and proposed towers do not exceed published safety standards.
- A 100-foot radius is generally deemed a safe radius for a single tower for a residential dwelling. The 100-foot radius of the existing tower cuts through a swing set in the neighborhood and gets very close to a residential pool. If the existing tower were to fall, it would be about 10 feet short of the swing set.

Mr. Lambrecht presented a PowerPoint presentation outlining the following information:

- A Study would have to review the elements of Distance and Height:
 - At Property Line between tower and closest residence - 60 feet in the air
 - At 100 feet and 10 feet in the air
 - Contain all frequencies emitted from all towers
 - Positional – Before and After test would be needed
- The FCC's mandated power density limits for continuous uncontrolled RF exposure by the general public is 1 mW per square centimeter for 1900 MHz signal.
- Study should be conducted by Independent 3rd Party.
- Safety Standards (*Speaker noted that these are recognized industry standards.*)
 - In the frequency range from 100 MHz to 1500 MHz, exposure limits for field strength and power density are also generally based on guidelines recommended by the **American National Standards Institute (ANSI)** in Section 4.1 of **IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz**
 - o "ANSI/IEEE C95.1-1992, Copyright 1992 by the Institute of Electrical and Electronics Engineers, Inc., New York, New York 10017.

- These limits are generally based on recommended exposure guidelines published by the **National Council on Radiation Protection and Measurements (NCRP)**
 - o "Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields," NCRP Report No. 86, Sections 17.4.1, 17.4.1.1, 17.4.2 and 17.4.3. Copyright NCRP, 1986, Bethesda, Maryland 20814.
- 24 States have **OSHA** approved Standards for Radiofrequency and Microwave Radiation.
- If Study proves above safety standard, the vote should not be approved.
- How will the Council regulate future enhancements (say they double the power in one of the towers)?

[A copy of Mr. Lambrecht's presentation was given to Staff and made a part of the public record.]

Chair Hirsch informed the audience that the proposed petition will be forwarded to the Planning & Public Works Committee to be reviewed at their October 23rd meeting.

City Attorney Heggie thanked Mr. Lambrecht for his research on the topic. He then stated that pursuant to issues raised with cell tower construction within the City, the City Council passed a new Cell Tower Ordinance last year. The City is concerned about some of the same issues raised by Mr. Lambrecht in terms of safety of towers. He noted, however, that the Federal Communications Act of 1996 precludes the City from reviewing issues of radiation and frequencies being emitted by the towers. Mr. Lambrecht stated that it is his understanding that this Federal Communications Act refers more to issues of health conditions rather than safety conditions.

City Attorney Heggie asked Mr. Lambrecht to provide Staff with any information he may have with respect to any towers that have fallen as the City would be willing to consider any information in this regard. Mr. Lambrecht replied that he is not aware of any towers that have fallen.

City Attorney Heggie informed Mr. Lambrecht that the City's Cell Tower Ordinance No. 2391 requires a Petitioner to go through the entire petitioning process for any material modification to any of the equipment in the tower, the antennas, or the power that is being emitted.

SPEAKERS – NEUTRAL: None

RESPONSE: None

ISSUES:

1. Possible study of the sum of all current and proposed towers to determine if they exceed published safety standards. *It was noted that the City Attorney had responded to the issue of radiation and frequencies being emitted by the towers.*

Commissioner Puyear read the Closing Comments for the Public Hearing.

V. APPROVAL OF MEETING MINUTES

Commissioner Watson made a motion to approve the minutes of the **September 8, 2008 Planning Commission Meeting**. The motion was seconded by Commissioner Geckeler and **passed** by a voice vote of 7 to 0 with 1 abstention from Commissioner Proctor.

VI. PUBLIC COMMENT

A. Valley Gates Subdivision lot 2 (Value Place Hotel):

Petitioner:

1. Mr. Chris Harlow, Howard & Helmer Architects for Value Place Hotel, 7400 West 110th, Overland Park, KS stated the following:
 - Candlewood, Spring Hill, Residence Inn, and Value Place hotels all share the same founder, Jack DeBoer, who has set standards in the hotel industry for over 20 years. All his concepts carry with them the same three building blocks – *clean, simple, and safe*.
 - Value Place has over 100 properties across the country and they would like to bring Value Place Hotel to Chesterfield.
 - They have worked with Staff to integrate their building into the surrounding area by following Staff's comments.
 - Because of the site, it is not possible to have a drive-thru porte cochere and still meet the parking requirements.
 - They have reviewed the other hotels in the area and they feel Value Place's design is the "middle of the road".
 - They ask that all this be considered when reviewing the project and to understand that Value Place is part of a family of Candlewood, Spring Hill and Residence Inn - offering a quality product.
 - They ask that the Commission not let the "Value" in the name make them believe the hotel is "cheap because it is definitely not".

Commissioner Geckeler asked if any of the other Value Place facilities have covered entrances. Mr. Harlow replied that there is one under construction that has a covered porte cochere. The largest difference between that site and the

subject site is that the one under construction is on a 3.5-acre site with a four-story building. In Chesterfield, they have had to lower the building to three stories. The building is 50-feet wide and they cannot go any less than that without affecting the room size. Hallways have to be at least five feet wide so the building cannot be any less than the proposed 50 feet. They also want to provide one parking space for every room.

Chair Hirsch asked how many rooms and parking spaces are being proposed; and how many parking spaces would be lost with a porte cochere. Mr. Harlow replied that they are proposing 120 rooms and over 120 parking spaces. They would lose about 30 parking spaces with a porte cochere. The porte cochere would also prohibit ADA parking close to the building's entry.

VII. SITE PLANS, BUILDING ELEVATIONS AND SIGNS

- A. **1234 Walnut Hill Farm Drive:** A request for an addition to a residential structure that exceeds 500 square feet. House addition on the northeast and southwest side of an existing home zoned "NU" Non-Urban District, located at 1234 Walnut Hill Farm Drive in the Walnut Hill Farm Drive Subdivision.

Commissioner Grissom, representing the Site Plan Committee, made a motion recommending approval of the house addition for **1234 Walnut Hill Farm Drive**. The motion was seconded by Commissioner Geckeler and **passed** by a voice vote of 8 to 0.

- B. **Downtown Chesterfield:** A Record Plat for a 15.96 acre lot of land zoned "C-8" Planned Commercial District located on the northwest corner of Chesterfield Parkway West and Lydia Hill Road.

Commissioner Grissom, representing the Site Plan Committee, made a motion recommending approval of the Record Plat for **Downtown Chesterfield**. The motion was seconded by Commissioner Perantoni and **passed** by a voice vote of 8 to 0.

- C. **Spirit of St. Louis Corporate Center:** A Site Development Concept Plan, Conceptual Landscape Plan and Tree Stand Delineation Plan for 31.24 acre tract of land zoned "PC" Planned Commercial located on the northeast corner of the intersection of Chesterfield Airport Road and Spirit of St. Louis Boulevard.

Commissioner Grissom, representing the Site Plan Committee, made a motion recommending approval of the Site Development Concept Plan, Conceptual Landscape Plan and Tree Stand Delineation Plan for **Spirit of**

St. Louis Corporate Center. The motion was seconded by Commissioner Nolan and **passed** by a voice vote of 8 to 0.

- D. **Valley Gates Subdivision lot 2 (Value Place Hotel):** Architectural Elevations for 3.06 acre tract of land located in a "PC" Planned Commercial District north of US Highway 40 and east of Boones Crossing.

Commissioner Grissom, representing the Site Plan Committee, reported that the Site Plan Committee had no recommendation related to the Architectural Elevations for Valley Gates Subdivision, lot 2 (Value Place Hotel).

Commissioner Grissom then made a motion to approve the Architectural Elevations for **Valley Gates Subdivision lot 2 (Value Place Hotel)**. The motion was seconded by Commissioner Puyear.

Commissioner Geckeler then read a statement, as follows, explaining why she would be voting against the project:

"The Comprehensive Plan is suppose to guide our decisions. On page 133 a sentence reads 'Of particular concern is the image presented by development along I-64/US40 ... Care should be taken to make sure that any portion of the building that can be viewed from I-64/US 40 convey the image of a high-quality office or commercial development...'

Examples of high quality construction are seen in the all-brick Hampton Inn and the architectural interest of the Hilton Garden Inn. The precedent for high quality design has already been set in this area and in fairness to already-established businesses, we should ask no less of Value Place. This hotel does not have a functional covered entryway. The lack of this feature is in stark contract to the Double Tree, Homewood Suites, Spring Hill Suites, Drury Plaza, Hilton Garden, and Hampton Inn – each of which are in this area and all of which provide drive-under entrance protection. Even the value-priced Comfort Inn located west on Chesterfield Airport Road provides drive-under protection. Why should lower standards of design be approved when every other hotel has met the standard? In this location of high commercial value and high visibility to 64/40, we need to consider the guidance of the Comprehensive Plan and insist that Chesterfield visitors are welcomed with quality accommodations."

Upon roll call on the motion to approve, the vote was as follows:

Aye: Commissioner Grissom, Commissioner Proctor,
Commissioner Puyear, Chairman Hirsch

Nay: Commissioner Geckeler, Commissioner Nolan,
Commissioner Perantoni, Commissioner Watson

The motion failed by a vote of 4 to 4.

VIII. OLD BUSINESS

- A. **P.Z. 08-2008 Tpheris Israel Chevra Kadish Congregation**: A request for a change of zoning from “NU” Non-Urban to “R2” Residence District for a 4.94 acre tract of land located at 14550 Ladue Road, west of the intersection of Ladue Road and Green Trails. (17R220443)

Ms. Annissa McCaskill-Clay, Lead Senior Planner, stated that the petition has no Attachment A as it will be developed as straight zoning under the regulations specified by Section 1003.113 of the Zoning Ordinance. The subject site was zoned “NU” Non-Urban prior to the incorporation of the City of Chesterfield. The Public Hearing for this project was held on September 8, 2008 at which time seven issues were brought to the Commission’s attention. At that time, four of the issues were addressed. The remaining issues have been answered by the Petitioners as follows:

1. Use of the Brayhill lot (owned by the Congregation) as a driveway for entry to the subject site: The Petitioners have stated that they will not be using this lot as an entrance or access point to the Temple. They propose placing concrete posts in the walkway entrance. In addition, the Zoning Ordinance requires a barrier of some sort – either landscaping or a wall.
2. Drainage with respect to lots 5-9: The Petitioners will handle all development regarding the site per the regulations of MSD and the City. In addition, the Petitioners have included a deed restriction for the property behind lots 5-9 to prevent it from being developed resulting in minimal impact to these lots. Staff is already working with the Petitioners to minimize any impact from the proposed parking that will be close to the deed-restricted area.
3. Maintenance of the site: The Petitioners will provide a new parking lot and new landscaping, which will be maintained by the Temple. During the Public Hearing, the attorney for the Petitioner stated that there are funds available to satisfy maintenance needs in the future.

Chair Hirsch asked if all the issues have been adequately addressed from Staff’s perspective. Ms. McCaskill-Clay responded that they have.

Commissioner Watson made a motion to approve P.Z. 08-2008 Tpheris Israel Chevra Kadish Congregation. The motion was seconded by Commissioner Proctor.

City Attorney Heggie recommended that the motion be amended to include “*the Planning Commission expects that the deed restriction will be enacted by the Petitioners*”.

Commissioner Watson so amended his motion. The amendment was accepted by Commissioner Proctor.

Upon roll call, the vote was as follows:

**Aye: Commissioner Perantoni, Commissioner Proctor
Commissioner Puyear, Commissioner Watson,
Commissioner Geckeler, Commissioner Grissom,
Commissioner Nolan, Chairman Hirsch**

Nay: None

The motion passed by a vote of 8 to 0.

B. P.Z. 18-2008 City of Chesterfield (Architectural Review Board):

An ordinance repealing section 1003.177 of the City of Chesterfield Zoning Ordinance and creating a new section to address the Architectural Review Board Policies, Procedures and Architectural Standards.

Ms. Mara Perry, Senior Planner, stated that the petition was held at the last meeting for two outstanding issues. These issues have been discussed in Staff's Issue Report as follows:

1. Definitions in Section B of the document: There were some inconsistencies in the document that Staff has corrected.
2. Additional language proposed by the Chair of the Architectural Review Board under “Powers and Duties”: In consultation with the City Attorney, Staff felt that the proposed language was already included in the document and would be redundant to include it.

Chair Hirsch clarified that Issue #2 refers to Section A.7.a. which currently states:

“To make recommendations to the Planning Commission concerning the architectural elevations, amendments to and other architectural matters for projects that are forwarded or assigned to be reviewed by the Architectural Review Board.”

Commissioner Grissom made a motion to approve P.Z. 18-2008 City of Chesterfield (Architectural Review Board). The motion was seconded by Commissioner Nolan.

DISCUSSION ON THE MOTION:

Commissioner Perantoni expressed concern that “other architectural matters” as stated in Section A.7.a. may not be definitive enough. She questioned whether there would be any problem with changing the language as recommended by the Chair of the Architectural Review Board, as follows: **(changes shown in bold)**

““To make recommendations to the Planning Commission concerning **proposed projects in regard to their massing, proportion, rhythm, scale and building elevations to insure that they are compatible and complimentary with surrounding properties to enhance the streetscape, and also to address the** ~~architectural elevations,~~ amendments to and other architectural matters for projects that are forwarded or assigned to be reviewed by the Architectural Review Board.”

Commissioner Perantoni did not feel it would be detrimental to have this language included. She felt that the recommended language would make a stronger document - even if it is repetitive.

City Attorney Heggie stated that it is clear under the case law in Missouri that third-class cities have the ability to have Architectural Review Boards. It is less clear to him that cities have the ability to address some of the topics recommended for Section A.7.a. – such as “*massing, proportion, rhythm, scale and building elevations*”. There are no particular cases that say third-class cities can review these specific items – however, there are a couple of cases which clearly say “*architectural review*” is allowed. By including such specific items, City Attorney Heggie felt the City may be exposing itself to “exceeding our grasp”.

Chair Hirsch stated that he has heard Commissioners express concern about the scope of the ARB’s review - not about the power of the ARB. He feels that some members of the Commission are asking whether the current wording in the draft document is comprehensive enough to allow for an overall review by ARB so ARB can make recommendations to the Planning Commission.

City Attorney Heggie felt that the draft language is comprehensive enough. He noted that the language in Section A.7.a. is within the body of the document.

Commissioner Perantoni asked what “other architectural matters” might include. City Attorney Heggie stated that the Ordinance defines terms starting on page 2

such as *massing, rhythm, scale, facades*, etc. – which he feels would fall under “*other architectural matters*”.

Commissioner Perantoni stated that if the review is confined to the elevations and the architectural items, the Board would not be looking at such things as whether a building is compatible with other buildings in the area. She feels that the ARB Chair is trying to point out that “there is no bridge between the two potentially”.

Ms. Perry referred to “Design Standards” on page 3 of the draft document noting that the section on “Applicability” includes language stating “*Projects will be reviewed by the Architectural Review Board which will provide recommendations to the City of Chesterfield Planning Commission.*” All the items that the ARB Chair had suggested are being used to define terms within these Design Standards.

Councilmember Hurt stated that there can be Design Standards on a particular matter, such as an elevation, but it doesn’t mean that it addresses the massing or the landscaping of the project. Ms. Perry noted that the “*Design Standards*” section includes sections on “*Site Relationships*”, “*Circulation System and Access*”, “*Topography*”, “*Retaining Walls*”, “*General Requirements for Building Design*”, “*Materials and Colors*”, “*Landscape Design and Screening*”, “*Signage*”, and “*Lighting*”.

Commissioner Proctor referred to the language “*other architectural matters*” and noted that it could be interpreted in two different ways – 1) meaning that it refers to only those items that are defined, or 2) meaning that it refers to anything that ARB considers to be architectural matters.

Upon roll call for the motion to approve, the vote was as follows:

**Aye: Commissioner Puyear, Commissioner Watson,
Commissioner Geckeler, Commissioner Grissom,
Commissioner Nolan, Commissioner Proctor,
Chairman Hirsch**

Nay: Commissioner Perantoni,

The motion passed by a vote of 7 to 1.

IX. NEW BUSINESS

On behalf of the Commission and City Attorney Heggie, Chair Hirsch congratulated Ms. Nassif and her fiancée upon their upcoming wedding and presented her with a card and gift as a token of their appreciation.

- X. COMMITTEE REPORTS – Upcoming Meetings:**
- A.** Landscape Committee – Sept 25th, 3:00 p.m.
 - B.** Ordinance Review Committee – Sept. 29th, 2:00 p.m.
 - C.** Comprehensive Plan Committee – To be scheduled – Chair Hirsch stated that recommended updates to the Comp Plan were presented at the last Planning & Public Works Committee meeting and noted that the Commission could review the meeting packet online. These updates will be expanded and Ms. McCaskill-Clay will be the point person from Staff on this topic.

XI. ADJOURNMENT

The meeting adjourned at 8:00 p.m.

Michael Watson, Secretary