



MEMORANDUM

TO: Michael G. Herring, City Administrator

FROM: Mike Geisel, Director of Planning & Public Works

SUBJECT: Planning & Public Works Committee Meeting Summary
August 7, 2008

A meeting of the Planning and Public Works Committee of the Chesterfield City Council was held on Thursday, August 7, 2008 in Conference Room 101.

In attendance were: **Chair Dan Hurt** (Ward III); **Councilmember Bruce Geiger** (Ward II); and **Councilmember Bob Nation** (Ward IV).

Also in attendance were; Councilmember Mike Casey (Ward III); David Banks, Planning Commission Liaison; Wendy Geckeler, Planning Commission; Michael Herring, City Administrator; Police Chief Ray Johnson; Mike Geisel, Director of Planning & Public Works; City Attorney Rob Heggie; Aimee Nassif, Planning & Development Services Director; Annissa McCaskill-Clay, Lead Senior Planner; and Kristine Kelley, Administrative Secretary.

The meeting was called to order at 5:30 p.m.

It was agreed upon to change agenda order.

I. APPROVAL OF MEETING SUMMARY

A. Approval of the July 24, 2008 Committee Meeting Summary

Councilmember Nation made a motion to approve the Meeting Summary of July 24, 2008. The motion was seconded by Councilmember Geiger and **passed** by a voice vote of 3 to 0.

II. OLD BUSINESS - None

III. NEW BUSINESS

A. Discussion: Enforcement of illegal signs – City Administrator, Michael Herring

City Administrator Michael Herring asked the Committee for guidance regarding City Council's desired level of effort for enforcement of the City's sign regulations. City Staff regularly and routinely enforces the laws of the City with regards to placement of illegal signs within Public rights-of-way. The inspections are done throughout the week during regular working hours with our Code Enforcement Division and are done after hours and weekends by the City Police Department. While this is not a priority activity, it is a standard enforcement process which the City pursues. He commended the work that both the Police and the Department of Planning and Public Works have done to control the situation. Mr. Herring stated that his general perception is that the City does not have an overwhelming problem with "illegally placed" signs, but is asking the Committee for its input.

Mr. Herring noted that the placement of illegal signs is a City-wide problem and Staff tries to manage the issue by responding to calls reporting such signs. Illegal signs collected after hours are turned over to the Code Enforcement Division. If the signs include contact information, Staff will send a follow-up letter the following business day to educate and inform residents of the City's ordinance regarding illegal signs.

Mr. Herring noted that Ward I Councilmember Barry Flachsbart, who has long been a proponent of aggressive enforcement of City ordinances prohibiting signs within the rights-of-way, had expressed a desire for the City to increase its efforts on weekends, in particular, by assigning Code Enforcement personnel to supplement the efforts of our Police Dept. Mr. Herring responded by indicating that he, Mr. Geisel and Chief Johnson routinely review this situation and that it was their collective impression that the current level of effort was producing an acceptable level of results. With that in mind, paying overtime and/or assigning Code Enforcement personnel to work on weekends was not, in Mr. Herring's opinion, warranted. However, if the Committee felt otherwise, he and Staff would immediately respond by assigning additional personnel to work after hours and on weekends. Chief Ray Johnson acknowledged that collecting signs was not a priority for his department; however, his officers routinely remove and dispose of a large number of signs, after hours and each weekend.

Mr. Geisel stated that the Police Department continues to deal with the situation appropriately and effectively for signs located within the rights-of-way. He further stated that Councilmember Flachsbart has expressed additional concerns regarding signs located at certain business establishments, which are on private property. The Police Department and the Code Enforcement Division can not enter onto private property to confiscate such signs. Staff responds to such

situations by sending violation letters and/or by personal phone calls. He noted that there are both “on right-of-way” and “off right-of-way” signs that are identified in Councilmember Flachsbar’s email.

Chair Hurt commended Staff for the outstanding job they have done to control these issues. He does not want to allocate additional funds to cover this type of situation and recommends that the Police Department and the Code Enforcement Division continue with their standard procedure.

Councilmember Geiger concurred with Chair Hurt regarding the level of enforcement, but asked about procedures regarding signs located on non-City streets. Police Chief Johnson responded that any illegal sign located within the right-of-way will be confiscated, regardless of the jurisdiction.

Councilmember Geiger asked for clarification on the procedures regarding illegal signs located on private property. Mr. Geisel responded that the current ordinances are very site specific with very little uniformity across the spectrum. If someone reports an alleged illegal sign, Staff must review the site specific ordinance to determine if any action should be made.

Mr. Herring stated that most of the time, residents are not aware of what the current ordinance requires. Police Chief Johnson replied that the Officers on the street can very effectively deal with a sign in the right-of-way, but the Officers do not know if certain establishments have the authority to place specific signs on their property.

Mr. Herring stated that the Police Department confiscates a good number of signs throughout the week and on weekends, on a regular basis.

Councilmember Nation stated that he does not want to spend additional funds on overtime to address this issue, but would like to impose a fine violation for signs posted illegally on weekends.

Councilmember Casey commended Staff for addressing signs in the rights-of-way and indicated that he does not want to spend overtime hours addressing this issue.

Chair Hurt advised Staff that the general consensus of the Committee is to continue the current procedures and level of enforcement with respect to illegal signs.

- C. **T.S.P. 03-2008 Cricket Communications (Wildwood Plaza Shopping Center)**: A request to obtain approval for a Telecommunication Facility Siting Permit in a “C2” Shopping District-zoned 6.82 acre tract of land located at 14808 Clayton

Road, at the intersection of Clayton Road and Wildwood Parkway. (21R420686).

STAFF REPORT & PRESENTATION

Lead Senior Planner, Annissa McCaskill-Clay directed the Committee to a PowerPoint presentation that showed the location of an existing monopole located on the subject site. The monopole is located in the rear of the shopping center facing Wildwood Subdivision, which is located in the City of Ballwin.

Ms. McCaskill-Clay stated the following:

- The proposed facility Includes:
 - Two flush-mounted antennas to be added to an existing tower;
 - Associated equipment; and
 - Vinyl sight-proof fence to shield the Cricket Communications equipment.

DISCUSSION

Chair Hurt stated that when this came before the Planning Commission for Public Hearing on July 28, 2008, several speakers expressed concerns about the original pole. One individual expressed concern that the additional antennas would cause television interference.

Councilmember Geiger asked for information on the size of the fence that would be located around the equipment. Ms. McCaskill-Clay stated the fence would be a six (6) foot tall sight-proof fence to shield the equipment with the additional bollards around it. The existing equipment for the monopole is currently hidden within the building.

Councilmember Casey asked whether a cell phone tower would cause any interference with television reception. Chair Hurt replied that interference with television reception would be a Federal Communications Commission (FCC) issue and that the City has no authority in such matters. City Attorney Heggie stated that in all the years of cell tower litigation, he is not aware that this has been an issue.

PLANNING COMMISSION REPORT

Planning Commission Liaison David Banks noted that there is another tower located east of Wildwood Plaza Shopping Center. Ms. McCaskill-Clay stated that tower is located at the Shell Service Station.

Councilmember Geiger made a motion to forward T.S.P. 03-2008 Cricket Communications (Wildwood Plaza Shopping Center) to City Council with a recommendation to approve. The motion was seconded by Councilmember Nation and **passed** by a voice vote of 3 to 0

[Please see the attached report prepared by Mike Geisel, Director of Planning & Public Works, for additional information on T.S.P. 03-2008 Cricket Communications (Wildwood Plaza Shopping Center.)]

- B. **Power of Review being exercised for the following project: Jared's Jewelers (Chesterfield Mall):** A request for amendment to the architectural elevations on a freestanding building in a "C8" Planned Commercial-zoned regional shopping center to permit lighting of an architectural feature.

STAFF REPORT & PRESENTATION

Planning & Public Works Director, Mike Geisel explained why this issue was being presented. Originally the Architectural Review Board and the Planning Commission approved the architectural elevations for Jared's Jewelers. In this case, the keystone, which is a diamond, is part of the facade. This feature was included and is shown on the architectural elevations.

Separately, the petitioner submitted a Lighting Plan which meets City standards and was approved. Now the petitioner is stating that the diamond on the facade is to be lit, which in Staff's opinion, changes the character and appearance of the architectural elevations. Staff took the revised architectural elevations back to the Planning Commission and asked if they wanted to approve the revised architectural elevations. The Planning Commission passed the revised elevations by a vote of 4 – 2.

Councilmember Geiger subsequently asked for a power of review. If the Committee elected not to approve the revised elevations, then the existing approved elevations will stand.

DISCUSSION

Chair Hurt asked what kind of vote would be necessary to overturn the Planning Commission's decision. City Attorney Heggie replied that the Planning Commission's vote would not be overturned, but a simple majority vote is necessary to approve the revised elevations.

Ms. Nassif stated if the Committee would choose not to approve, the diamond feature will still be included with the elevations, but the diamond will not be illuminated.

Chair Hurt had a concern regarding the diamond being located on three sides.

Councilmember Geiger stated that the site is the closest point off of Clarkson Road. He does not have a problem with the first plan that was approved, but does not want the diamond to be illuminated. He is requesting that the Committee deny the revised architectural elevations.

Mr. Geisel stated that this freestanding building is a double frontage lot with frontage on more than one street. Ms. Nassif confirmed that the Zoning Ordinance allows one sign on three walls if the site has double frontage, or is a corner lot.

Councilmember Geiger requested clarification regarding the signage on all three sides. Mr. Geisel responded that the location is on a corner lot. He added that Staff reviewed the plan extensively noting that the ring road is no different than the side road. If there was parking off of it, then Staff would have interpreted it differently, but inasmuch as it is strictly a road, Staff has interpreted the location as a double frontage lot.

Councilmember Geiger stated that essentially the building is located in a parking lot of Chesterfield Mall. Mr. Geisel added that the building is adjacent to two roads - the ring road around the Mall and the dedicated roadway that goes into the Mall.

Ms. Nassif confirmed that the building is set on a corner lot on the property and according to the Ordinance, corner lots are allowed one sign on three walls.

Ms. McCaskill-Clay gave background information on the project stating that Jared's submitted everything that they would typically submit to a municipality for signage, which included awnings. Although the awnings do not have anything on them, they were included with the sign package. In reviewing the specs for the diamond, it was noted that the diamond was illuminated. It was then presented to Planning Commission for review.

Councilmember Geiger asked Staff whether awnings are considered part of signage. Ms. McCaskill-Clay replied that an applicant can have signage on awnings, but it is limited to logo or letters. However, in this instance the awnings are plain.

Councilmember Casey commented that because the Planning Commission was in agreement, and if the diamond features are not at a higher intensity than the rest of the lighting, he does not have an issue with the proposed project.

Mr. Geisel confirmed that the illuminated diamonds meet the City's Lighting Plan standards.

Councilmember Nation requested that the intensity of the diamonds be reduced to match the brightness of the sign below.

PLANNING COMMISSION REPORT

Planning Commissioner Wendy Geckeler stated she is not certain that the Planning Commissioners realized that there are three diamonds on the building. Commissioner Geckeler noted that the lighting of the diamonds would put light up

into the sky. She referred to the “dark sky initiative”, which is trying to get down lights in an effort to reduce light pollution at night. She considered the illumination of the diamond to be a “visual clutter”. She also noted that Jared’s has additional stores throughout the nation that do not have the diamond feature lit. Ms. Nassif confirmed that the top of the diamond is shielded.

Planning Commissioner Banks stated that he initially had misgivings regarding the diamond; however, the feature is five feet wide and six or seven feet tall and uses two 40 Watt fluorescent light bulbs. He expects the light to emit just a glow.

The Petitioner discussed the additional locations throughout the country that do have the diamond illuminated. Stores in Fairview Heights and St. Louis Mills, which are stand alone buildings, have illuminated diamonds. The store located at The Boulevard, across from The Galleria on Brentwood, does not have an illuminated diamond because it is built into a shopping center.

Councilmember Geiger made a motion to deny approval of the Revised Architectural Elevations clarifying that the diamonds will not be illuminated and to forward to City Council with a recommendation to deny. The motion was seconded by Councilmember Hurt

Chair Hurt allowed the Petitioner to comment at this time.

Paul Wolenski, on behalf of the Petitioner Sterling Jewelers, stated that they had reviewed the intensity of the diamond feature and it could possibly be reduced. He stated the diamond is approximately 430 lumens whereas the letters are approximately 410 lumens. He suggested that they could change the lighting to reduce the intensity to match that of the sign.

Chair Hurt advised Mr. Wolenski that the Committee is a subcommittee of City Council, which will have the final vote. He encouraged Mr. Wolenski to work with Councilmember Geiger regarding his concerns before the revised architectural elevations go before City Council.

The motion to deny passed by a voice vote of 2 to 1 with Councilmember Nation voting “no”.

Note: This is an Amendment to Architectural Elevations which requires approval by City Council. A voice vote will be needed at the August 18, 2008 City Council Meeting.

[Please see the attached report prepared by Mike Geisel, Director of Planning & Public Works, for additional information on Jared’s Jewelers (Chesterfield Mall).]

- D. **City of Chesterfield Section 1003.168.D.7 (Temporary Signs-Development Related):** A request to amend the City of Chesterfield Zoning Ordinance Section 1003.168.D.7 for Temporary Signs-Development Related to amend the criteria for Subdivision Direction Signs, Subdivision Promotion Signs and to add criteria for Display House Signs.

STAFF REPORT

Planning & Development Services Director, Aimee Nassif stated that Staff is recommending amendments to the current ordinance to clean up the language and regulations. This project went before the Planning Commission on July 28, 2008. The Planning Commission recommended approval by a vote of 6 – 0 with the following amendment.

- (d) (1) All subdivision direction signs, display house promotion and subdivision promotion signs shall be removed from the site on which they are located within one year of the date the authorization was issued for said sign. Application for one, 1-year extension may be made through the Department of Planning at any time within the last thirty (30) days of expiration.

Ms Nassif noted that Staff had intended for the above language to be included in the proposed new language but it was inadvertently omitted. To address Planning Commission's concern, Staff prepared the following language.

- (d) **All Subdivision Direction Signs shall be removed within one (1) year of the date the authorization was issued for said sign. Applications for an extension up to a one (1) additional year may be submitted to the Department of Planning and Public Works at least 30 days prior to the expiration of the original authorization.**

Since that time, Staff has been working with City Attorney Rob Heggie to ensure that the City is consistent with Case Law and the City's current Zoning Ordinance.

Ms. Nassif distributed a hand-out to the Committee specifically showing Staff's recommended language for item (d), which should prevent any legal conflicts for the City.

- (d) **All Subdivision Direction Signs shall be removed within one (1) year of the date the authorization was issued for said sign.**

Mr. Geisel clarified that the net effect of this language addresses concerns that the temporary signs would be there for extended periods of time. As originally directed by the Planning & Public Works Committee, Staff added language

allowing only one, 1-year time extension. He noted that "Section 1003.165.D – Temporary Signs" which regulates all temporary signs in the City of Chesterfield, states that, by definition, a "temporary sign" is a sign that is allowed to be up for *one year or less*. By using this language, the ordinance becomes more restrictive - there are no extensions and all temporary signs are only allowed for one year.

DISCUSSION

Chair Hurt asked whether the applicant can request approval to re-issue the application and move the sign to a different location. Mr. Geisel replied in the affirmative. He added that one of the Committee's primary purposes in revising the Ordinance was to limit the duration of temporary signs, which would reduce the total number of signs throughout the City. The current code does not allow for an extension of a temporary sign.

Ms. Nassif pointed out that Section (e) states the following and noted Staff's recommendation to remove specific language.

- (e) Not more than four (4) Subdivision Direction Signs, each authorizing the placement of a single Subdivision Direction Sign will be authorized for each development, at any given time. Each development is allowed not more than four (4) sign locations concurrently. ~~Upon expiration of a permit for a Subdivision Direction Sign at a given location, application can be made to place the same or similar Subdivision Direction Signs at other locations within the City, in conformance with all other provisions of this section.~~ For purposes of this Section, multiple plats or phases of contiguous development shall be considered a single development without regard to ownership.

Ms. Nassif noted that by removing such language, it remains consistent with the proposed language in Section (d).

Councilmember Nation stated that he does not want to restrict promotional and display signs, but he is interested in having the directional signs limited to one (1) year. He added that he is willing to accept a one 1-year extension for directional signs. City Attorney Heggie clarified that the Subdivision Promotion Signs and the Display House Signs can have long-term duration of over a year. However, Staff is proposing that the temporary Subdivision Direction Signs be limited to one year at one particular location.

Ms. Nassif pointed out that the current Ordinance has removed the ability for Developers to place signs in Chesterfield advertising residential subdivisions in other municipalities. The Home Builders Association has submitted a letter to the City expressing their concerns about this issue. The HBA would like the City to allow Promotional and Directional Signs for subdivisions that are located within other municipalities. Copies of the letter were provided to the Committee

Chair Hurt mentioned that neighboring municipalities are currently not allowing signs that advertise developments within other cities.

Ms. Nassif noted the cities that do not allow temporary signs in their own municipalities;

- Brentwood, Clarkson Valley, Creve Coeur, Des Peres, Ellisville, Hazelwood, Ferguson, St. Charles City, Town and Country, Webster Groves and Wildwood

Councilmember Geiger requested clarification that display house signs, subdivision promotion signs and direction signs are all considered temporary signs. Ms. Nassif responded in the affirmative. Councilmember Geiger then noted that the longest the described signs can be placed is one year at one location.

City Attorney Heggie clarified that subdivision direction signs, which are not on-site signs, could under the Staff's language have a one year license. The Ordinance does allow Developers to renew the application for promotional signs. The change which Staff is requesting is for "off-site signs" only. Mr. Heggie confirmed the legal distinction between "on-site" promotion and display signs versus "off-site" directional signs.

Mr. Geisel stated if the Committee agrees with the current ordinance, other than the issue relative to signs advertising developments in other municipalities, then there are two alternatives: keep the one year limitation and incorporate Staff's changes; or change the definition of "temporary signs" to two years globally.

Councilmember Nation made a motion to approve the language with Staff's recommendation and to forward City of Chesterfield Section 1003.168.D.7 (Temporary Signs-Development Related) to City Council with a recommendation to approve. The motion was seconded by Chair Hurt

Councilmember Geiger expressed concern with respect to larger developments having restrictions of one-year signs. City Attorney Heggie responded that the promotion and display signs can stay up, but "off-site" directional signs are limited.

PLANNING COMMISSION REPORT

Planning Commissioner Banks stated that the Planning Commission strongly recommended that the one year limitation be put back into the language.

The motion to approve passed by a voice vote of 2 to 1 with Councilmember Geiger voting no. Councilmember Geiger stated that his objection relates solely to the one year limitation. He would prefer that the definition of "temporary signs" be changed to two years

Note: One bill, as recommended by the Planning Commission, will be needed for the **August 18, 2008** City Council Meeting.

See Bill # _____

[Please see the attached report prepared by Mike Geisel, Director of Planning & Public Works, for additional information on City of Chesterfield Section 1003.168.D.7 (Temporary Signs-Development Related)].

IV. ADJOURNMENT

The meeting adjourned at 6:32 p.m.