

MEMORANDUM



TO: Michael G. Herring, City Administrator

FROM: Mike Geisel, Director of Planning & Public Works

SUBJECT: Planning & Public Works Committee Meeting Summary
Thursday, August 5, 2010

A meeting of the Planning and Public Works Committee of the Chesterfield City Council was held on Thursday, August 5, 2010 in Conference Room 101.

In attendance were: **Chair Matt Segal** (Ward I); **Councilmember Bruce Geiger** (Ward II), **Councilmember Mike Casey** (Ward III), and **Councilmember Connie Fults** (Ward IV).

Also in attendance were: G. Elliott Grissom, Planning Commission Chair; Mike Geisel, Director of Planning & Public Works; Brian McGownd, Public Works Director/City Engineer; Aimee Nassif, Planning & Development Services Director; Susan Mueller, Principal Engineer; Annissa McCaskill-Clay, Senior Planner; Mara Perry, Senior Planner; and Kristine Kelley, Recording Secretary.

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

Chair Segal announced that the next Planning & Public Works Committee scheduled for August 19th will be held in Council Chambers at which time the Eberwein Park project will be discussed.

I. APPROVAL OF MEETING SUMMARY

A. Approval of the June 24, 2010 Committee Meeting Summary.

Councilmember Casey made a motion to approve the Meeting Summary of June 24, 2010. The motion was seconded by Councilmember Geiger and passed by a voice vote of 4 to 0.

II. OLD BUSINESS

A. Amendment to City of Chesterfield Zoning Ordinance Section 1003.168 regarding Living Signs.

STAFF REPORT

Aimee Nassif, Planning & Development Services Director explained that in May the Committee asked Staff to research the issue of *human or living signage* and provide draft language regarding the regulation or prohibition thereof.

The majority of individuals who are outside holding up signage to advertise for a business establishment or commercial enterprise actually do so in the right of way. This can be a visual distraction to pedestrians and vehicular traffic resulting in injury to drivers, pedestrians, and individuals holding the signage.

During research both locally and nationwide, it was learned that a lot of municipalities do not address this issue in their City code; however this is starting to change as more and more municipalities are finding this as a problem in their cities. At the current time, the City of Chesterfield does not address the issue in its City code nor is there a definition for a *living or human sign*.

Staff proposes that a definition for *living or human signage* be created. Having a definition would make it a “sign” under the City Code, which means it would have to adhere to all the signage regulations – such as not being permitted in the right of way.

Staff suggests that there are two approaches that can be taken with respect to *living or human signs*: (1) prohibit them; or (2) allow them with restrictions.

Ms. Nassif noted that prohibiting *living or human signs* could make enforcement difficult and could also outlaw signs for charitable events, along with school and church functions. It could also have the unintended result of prohibiting characters such as Ronald McDonald, Fredbird, or others from site charitable events.

Staff recommends that *living or human signs* be defined and allowed with restrictions. The proposed definition is as follows:

Living or Human Sign. A living or human sign is a sign held by or attached to a human for the purposes of advertising or otherwise drawing attention to an individual, business, commodity, service, activity, or product. This can also include a person dressed in costume for the purposes of advertising or drawing attention to an individual, business, commodity, service, activity or product.

Staff also recommends that *living or human signs* be allowed under “Temporary and attention-getting devices” with the following restrictions:

- Allowed only on the premises of the commercial or retail business in which the advertising is for – and not allowed off-site.

- The maximum size of a sign that may be held by an individual is 3 square feet.

These signs would not require a permit and would not be allowed in the right of way at any time.

Ms. Nassif pointed out that *living or human signs* would still be governed by the particular site's Attachment A developed with its rezoning. If a specific Attachment A does not allow temporary or attention-getting devices, then *living or human signs* would not be allowed at that site.

DISCUSSION

Chair Segal supports allowing *living signs* with the proposed restrictions. He felt that the most significant area of concern for these signs is the area of Boone's Bridge and Chesterfield Airport Road where Amini, T-Mobile, and Chick-Fil-A advertise in the islands. He feels the goal of this ordinance is not to eliminate live signage but to get them away from this main intersection. He has spoken to representatives of THF to get their thoughts on the issue and they are in agreement that the *living signs* should not be allowed at this intersection because of safety concerns and the aesthetics of Chesterfield Commons.

Commissioner Fults commended Ms. Nassif on her report and noted her appreciation of how all the options were outlined. She agrees with tying *living signs* to commercial and retail businesses only and requiring them to stay on site – she does not want the ordinance to interfere with fund raisers, such as school car washes.

Commissioner Geiger shares Chair Segal's concern about the area of Boone's Bridge and Chesterfield Airport Road. He also felt there are safety concerns with the students who participate in fund-raising car washes at the Mobil Station on Clarkson and Baxter. It was noted that with the proposed regulations, the students would be required to stay on the grassy area next to the roadway and would not be allowed on the islands.

Councilmember Geiger made a motion to accept Staff's recommendation as outlined on page 8 of the July 22, 2010 Staff Report and directed Staff to prepare the appropriate legislation for City Council. The motion was seconded by Councilmember Fults. The motion **passed** by a voice vote of 3 to 1 with Councilmember Casey voting "no".

Councilmember Casey felt that the City is going in areas that are not necessary with respect to *living signs*. He is not convinced that there is a safety issue involved with such signs. He is more concerned about safety issues when students are holding fundraisers. He is opposed to the City being involved with *human living signs*.

Mr. Geisel clarified that events such as car washes still have to adhere to the regulations of the *living signs*, which restricts them to being on premises.

Note: One Bill, as recommended by the Planning & Public Works Committee, will be needed for the August 16, 2010 City Council Meeting. See Bill #

[Please see the attached report prepared by Mike Geisel, Director of Planning and Public Works, for additional information on Amendment to City of Chesterfield Zoning Ordinance Section 1003.168 regarding Living Signs].

B. Recommendation for Community Wildlife Habitat Signage

STAFF REPORT

Susan Mueller, Principal Engineer stated that in accordance with direction from the June 24th Planning and Public Works Committee Meeting, Staff has done the following:

1. Explored the National Wildlife Federation “Wildlife Habitat” sign with respect to downsizing the sign and limiting it to the scope of placement in Chesterfield parks.
 - There are currently two existing “Wildlife Habitat” signs – one at Dierberg Meditation Park and one by the Chesterfield pool near the butterfly garden. These signs measure 9” x 12”.

Staff recommends two proposed locations for additional “Wildlife Habitat” signs. The first near the City Hall detention ponds and the second to be located at the Millennium Tree area located at the Chesterfield Valley Athletic Complex. These signs would match the two existing 9” x 12” signs.

2. Prepared an inventory of “City Limit” sign locations, the condition of the signs and the scope of what consist of a City Limit sign.
 - There are 17 City Limit signs along the outer borders of the City. There are five different styles of these signs currently being used.
3. Prepared an inventory of “Tree City USA” and “Reduce, Reuse, Recycle” sign locations.
 - The majority of the 28 “Reduce, Reuse, Recycle” signs are in residential areas. There are two different styles of these signs being used.

DISCUSSION

Wildlife Habitat Signs

Mr. Mike Geisel, Director of Planning & Public Works stated that the National Wildlife Federation will not downsize the Wildlife Habitat signs as they are considered highway signs. Based on the Committee’s direction, Staff does not feel it is appropriate to locate them in the City’s parks or along the roadways.

He noted that the 9" x 12" signs are provided by the Wildlife Federation to identify the actual location of wildlife habitats while the larger highway signs would identify Chesterfield as a wildlife habitat community.

Reduce, Reuse, Recycle Signs

Chair Segal asked why there are so many (28) of these signs throughout the City. Mr. Geisel replied that at some prior point Staff was directed by City Council to install these signs.

Councilmember Geiger stated that he is not recommending that any of the signs be removed, but he would not like to see any more of them installed or replaced. Mr. Geisel indicated that they would be removed whenever they became faded or otherwise in poor condition.

Councilmember Casey made a motion directing Staff to install the two recommended Wildlife Habitat signs at City Hall and Chesterfield Valley Athletic Club; and to freeze the number of "Reduce, Reuse, Recycle" signs at their current level. The motion was seconded by Councilmember Geiger and **passed by a vote of 4 to 0.**

Chair Segal recognized a young man in the audience from the Boy Scouts earning his Merit Badge. He explained the procedures and the voting process.

III. NEW BUSINESS

- A. P.Z. 03-2010 Suburbia Gardens (40-Timberlake SE, LLC):** A request for a new public hearing for two additional uses for a change of zoning from "FPNU" Flood Plain Non-Urban District to a "PC" Planned Commercial District for an 8.7 acre tract of land located on the southeast corner of the intersection of S. Outer 40 and Timberlake Manor Parkway. (19R540055)

STAFF REPORT

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

The site is currently the Kirkwood Material and Supply plant nursery. A Public Hearing was held on April 26, 2010. A second Public Hearing was held on June 28, 2010 to add two additional uses to the list of requested uses. At the July 12, 2010 meeting of the Planning Commission, the Commission recommended approval of the rezoning by a vote of 7 – 0.

There were several residents at the Public Hearing and the following issues were discussed - additional uses on the site, vehicular traffic, increased noise from emergency medical vehicles, intrusive lighting, landscaping and flood plain issues.

PLANNING COMMISSION REPORT

Planning Chair Grissom noted that the petition passed by a vote of 7 – 0, but that there was some initial confusion about the retail use. Once it was explained that the site has a retail use already, the issue was resolved.

DISCUSSION

Councilmember Casey asked Commissioner Grissom as to whether there was any discussion during the first or second Public Hearing regarding the permitted uses. Commissioner Grissom noted that there were no issues brought forth to the Planning Commission regarding the proposed uses at the first Public Hearing. The second Public Hearing dealt with the additional uses.

The second Public Hearing was to allow Kirkwood Material and Supply plant nursery to continue to sell their remaining inventory.

Councilmember Casey commended Mr. George Stock of Stock and Associates, for meeting with the residents and trustees of the subdivision prior to the first Public Hearing to discuss the procedures that were to take place. Councilmember Casey was under the impression that the intended use for the site was a medical office or office use. Although Councilmember Logan was not present, he and Councilmember Casey have concerns related to some of the Permitted Uses in the Attachment A – specifically: *(e) Day care center, adult; (f) Day care center, child; and (j) Nursing home.*

Councilmember Casey has concerns that the nursing home use operates 24-hours a day and that that use and the day care uses would generate more intensity and volume seven days per week vs. a medical office/office use that would operate Monday - Friday. He is not aware of any nursing home establishments within a residential neighborhood. He explained that he would be making a motion to remove the above-listed uses from the Attachment A.

Chair Segal gave several examples where these types of uses currently exist within a residential area. Ms. Perry explained the time frame of construction in which it was noted that the nursing homes were built after the subdivisions were developed. One specific example is Gardenvue Care Center, which is completely surrounded by residential homes. Chair Segal feels that there has been some precedent set for nursing home type of uses within a residential district and asked whether zoning law looks at whether a nursing home is built after a subdivision is built. Mr. Geisel does not feel that timing is a factor because a nursing home is a permissible use in Residential Districts.

Councilmember Fults recommends restricting the hours of operation to address the concerns raised by Councilmember Casey.

Chair Segal stated that a nursing home requires less parking than a medical office or office building and will have less transient visitors throughout the day. Ms. Perry added that under the current zoning code, day care and nursing home uses can be requested in a residential district whereas a medical and office building cannot. She confirmed that a nursing home and day care center has less restrictive parking than an office building.

The Urban Land Institute (ULI) indicates that a medical office has a different peak use than day care or nursing home uses.

Councilmember Geiger does not feel that a child day care center would operate 24-hours a day as they provide service during normal business hours. He concurs with Councilmember Fults that the hours of operation need to be restricted. However, Councilmember Casey feels that an adult day care center will operate beyond the normal business hours. Ms. Nassif noted that there is no overnight stay at the adult day care center and the operations are similar to a child day care center. She further explained that under the new "Planned Industrial" and "Planned Commercial" districts an overnight stay is not permitted. Ms. Perry stated that Staff has addressed the hours of operation in the Attachment A as indicated below:

3. Hours of Operation

- a. Uses "d", "l", "k", "i", "m", "p" and "q" will be subject to hours of operation from 6:00 AM to 8:00 PM Monday through Friday and 8:00 AM to 3:00 PM on Saturdays. Ms. Perry left out the uses that require more flexibility such as day care centers. Staff would not have any objections to add (e) Adult day care center and (f) Child day care center to operate under these hours.
- b. Uses "r" and "s" will be subject to hours of operation from 7:00 AM to 6:00 PM Monday through Saturday and 8:00 AM to 5:00 PM on Sundays. These hours specifically relate to the Kirkwood Material and Supply plant nursery.
- c. All other uses shall have unrestricted hours of operation.

Councilmember Fults stated that she will be voting in opposition to Item c. as listed above. She feels there is current language to accommodate church gatherings such as; pot luck dinners, bingo, etc. Ms. Perry noted that; (a) *Administrative office for educational or religious facility*, (b) *Cafeterias for employees and guests only*, and (c) *Church or other places of worship* were left with unrestricted hours because Staff does not know when services would be held for particular religious institutions.

Mr. George Stock, representing the Petitioner indicated that he prefers that uses (e), (f), and (j) would remain. However, he is not opposed to restricting the hours of operation for Adult day care center, Child day care center and for visitors relative to the nursing home. The property is 8.7 acres and the Petitioner will only be developing three (3) of those acres. He feels that there is a natural buffer in the Creve Coeur Creek that separates the development from the residential properties. The closest residential

home to any of the parking is 500 feet, which is through the trees. This is a unique site and with a maximum F.A.R of 0.17, the most that can be constructed is 64,000 square feet. He does not feel a nursing home would be an intensive use as it would utilize only about 40 cars vs. 250 cars for an office building and would employ less staff. The access will only be from South Outer 40 Road with no direct access to Timberlake Manor Parkway. In speaking to the residents in relation to “The Willows at Brooking Park” and “Surrey Place Rehabilitation Center”, he feels that they co-exist very well. Ms. Perry stated that hours of operation have also been restricted at other developments in the past for deliveries.

Councilmember Casey would prefer that the site be developed as a medical office building or a brokerage house. He still feels that a nursing home operates 24-hours a day, 7 days a week and does not feel that this is an appropriate use and would like to eliminate *(j) Nursing home* from the Permitted Uses under the Attachment A. Chair Segal would prefer that a “permanent resident” occupy the site rather than transient traffic from a brokerage house that has several hundred employees. In his opinion, a nursing home is less intrusive than an office building noting that there is a natural barrier of 500 feet separating the site from the residential development.

Councilmember Geiger suggested that all the “Permitted Uses”- including the nursing home have restricted hours. He noted that if the hours are restricted, it would prohibit a nursing home use.

Motion A

Councilmember Fults made a motion to restrict the hours of operation for Commercial, Retail, Office, Residential, Educational and Industrial type uses from 6:00 AM – 8:00 PM Monday through Friday and 8:00 AM – 5:00 PM on Saturdays with the exception of churches. The motion was seconded by Councilmember Geiger.

Ms. Perry stated that the existing nursery is operating under an approved Occupancy Permit with the hours of operation from 7:00 AM to 6:00 PM Monday through Saturday and on Sundays from 8:00 AM – 5:00 PM.

Councilmember Fults feels that a nursing home would be appropriate for the site but she respects the concerns raised by the residents in that area.

Councilmember Casey feels that if the nursing home can operate under restricted hours, the residents will be more comfortable with it.

Mr. Geisel clarified that the City interprets “hours of operation” as those hours that a facility is open to the public. Chair Segal suggests expanding the hours for the nursing home so that family members may visit their loved ones and does not feel the hours should be restricted at all for a nursing home facility. Councilmember Fults does not feel expanding the hours would be effective and recommends that *(j) Nursing Home* be dealt with separately.

Councilmember Geiger withdrew his second to the motion because he wants to remove "Residential" from the language.

Motion B

Councilmember Fults then amended the original motion so that the Hours of operation for Commercial, Retail, Office, Educational or Industrial type uses shall be restricted to 6:00 AM – 8:00 PM Monday through Friday and 8:00 AM – 5:00 PM on Saturday noting that this does not address churches or nursing homes, and to remove **Item A.3.c. from the Attachment A.** The motion was seconded by Councilmember Geiger.

It was noted that the above motion replaces Items A.3.a. and A.3.b. in the Attachment A.

Mr. Stock asked for clarification for the hours of operation for the Kirkwood Material and Supply nursery for Sundays. Ms Perry noted that they are allowed to operate under their approved Occupancy Permit, which includes the Sunday hours of 8:00 A.M. to 5:00 P.M. Any new nurseries would not be allowed Sunday hours.

The motion as amended then **passed by a voice vote of 4 to 0.**

Motion C

Councilmember Casey made a motion to remove **Item (j) Nursing home** from the **list of the Permitted Uses.** The motion was seconded by Councilmember Fults.

Councilmember Casey stated that the residents have serious concerns with the proposed nursing home use. Limiting the hours of the operation does not address their concerns because it is still performing the function of a nursing home. Chair Segal recommends keeping the use, but widen the hours of operation for visitation – such as from 6:00 A.M. to 8:00 P.M.

Mr. Geisel clarified that just because there is activity occurring within a structure or a business, it does not necessarily mean that they are operating per the terms of zoning restrictions. Most commercial stores will have some kind of overnight activity – custodians, restocking of shelves, inventory, pricing, etc. The City has generally interpreted "hours of operation" as when the business is open to the public.

Councilmember Fults feels that there shouldn't be any hours of operation for a nursing home as it is a 24-hour a day operation and the nursing facility will put their own restrictions on their visiting hours. Chair Segal agrees that there should not be any restrictions to the hours of operation.

Councilmember Casey is in favor to forward the proposal onto City Council, but will be voting no at the Committee level.

The motion to remove item (j) *Nursing home* then **failed** by a voice vote of 1 to 3 with Chair Segal, and Councilmembers Fults and Geiger voting “no”.

Road Improvements

Councilmember Fults is requesting an additional turn lane into the development because she feels there is a safety concern. Ms. Perry stated that the Attachment A clearly states that *the Petitioner has to provide additional right of way and construct any improvements to South Outer 40 Road as required by the Missouri Department of Transportation (MoDOT) and the City of Chesterfield* and that the current MoDOT review of the Preliminary Plan already specified an additional lane. Mr. Stock stated that MoDOT concurs with a right-in turn lane. Mr. Geisel noted that the individual improvements are not generally listed in the Attachment A because it could be interpreted that if an improvement is not listed, it couldn't be required; however, the Committee has the ability to request an additional turn lane. Ms. Perry added that MoDOT has stamped off on a plan showing the turn lane but the language they sent for the Attachment A was very generic. Staff includes verbatim the language sent by the various agencies for the Attachment A.

Motion D

Councilmember Fults made a motion requiring the Petitioner to add a right-turn lane into the development off of South Outer 40 Road. The motion was seconded by Councilmember Geiger and **passed** by a voice vote of 4 to 0.

Motion E

Councilmember Geiger made a motion to forward P.Z. 03-2010 Suburbia Gardens (40-Timberlake SE, LLC), as amended with the hours of operation and the addition of a right turn lane, to City Council with a recommendation to approve. The motion was seconded by Councilmember Fults and **passed** by a voice vote of 3 to 1 with Councilmember Casey voting “no”.

**Note: One Bill, as recommended by the Planning Commission, will be needed for the August 16, 2010 City Council Meeting.
See Bill #**

[Please see the attached report prepared by Mike Geisel, Director of Planning and Public Works, for additional information on P.Z. 03-2010 Suburbia Gardens (40-Timberlake SE, LLC)].

- B. T.S.P. 24-2010 Clearwire US LLC (Drury Plaza Hotel):** A request to obtain approval for a Telecommunication Siting Permit for the purpose of adding an additional antenna canister and equipment on the roof of a “PC” Planned Commercial District-zoned tract of land located at 355 E. Chesterfield Center (18S230433)

STAFF REPORT

Annissa McCaskill-Clay, Senior Planner gave a PowerPoint presentation showing the site and surrounding area. Ms. McCaskill-Clay stated that the request is to place an additional antenna canister on top of the Drury Plaza Hotel, as well as associated equipment to be located in the parapet. The proposed antenna canister will be on the western elevation facing Chesterfield Center and Chesterfield Mall.

The site currently has an antenna canister that belongs to U.S. Cellular. The governing ordinance for the site allows up to four carriers on the site, as long as they are camouflaged. The Petitioner is proposing to provide an exact twin of the existing canister.

The major property owner around this site is Sachs Properties, who has sent a letter to the City stating they have no objections to the request.

Councilmember Fults made a motion to forward T.S.P. 24-2010 Clearwire US LLC (Drury Plaza Hotel) to City Council with a recommendation to approve. The motion was seconded by Councilmember Casey. The motion **passed** by a voice vote of 4 to 0.

Note: This is a Telecommunication Siting Permit, which requires a voice vote at the August 16, 2010 City Council Meeting.

[Please see the attached report prepared by Mike Geisel, Director of Planning and Public Works, for additional information on T.S.P. 24-2010 Clearwire US LLC (Drury Plaza Hotel)].

IV. ADJOURNMENT

The meeting adjourned at 6:50 P.M.