PLANNING COMMISSION
OF THE CITY OF CHESTERFIELD
AT CHESTERFIELD CITY HALL
JUNE 28, 2010

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

I. ROLL CALL

PRESENT	ABSENT
Mr. David Banks	Mr. Stanley Proctor
Ms. Wendy Geckeler	
Mr. Maurice L. Hirsch, Jr.	
Ms. Amy Nolan	
Mr. Robert Puyear	
Mr. Michael Watson	
Chairman G. Elliot Grissom	

Mayor John Nations
Councilmember Matt Segal, Council Liaison
City Attorney Rob Heggie
Ms. Aimee Nassif, Planning & Development Services Director
Ms. Mara Perry, Senior Planner
Ms. Susan Mueller, Principal Engineer
Ms. Mary Ann Madden, Recording Secretary

II. PLEDGE OF ALLEGIANCE – All

III. SILENT PRAYER

Chair Grissom acknowledged the attendance of Mayor John Nations; Councilmember Matt Segal, Council Liaison; Councilmember Bruce Geiger, Ward II; Councilmember Mike Casey, Ward III; and Councilmember Randy Logan, Ward III.

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

A. <u>P.Z. 03-2010 Suburbia Gardens (40-Timberlake SE, LLC):</u> 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 PRESENTATION:

<u>Mr. Mara Perry</u>, Senior Planner gave a PowerPoint presentation showing photographs of the site and surrounding area. Ms. Perry stated the following:

- This petition had a previous Public Hearing on April 26, 2010.
- The petition was published in accordance with the Public Hearing notification requirements of both State statute and the City of Chesterfield.
- The site was zoned "NU" Non-Urban and "FPNU" Flood Plain Non-Urban prior to the incorporation of the City of Chesterfield.
- <u>Requested Permitted Uses</u> – It was noted that uses *a*. thru *q*. were published for the April 26th Public Hearing. Uses *r.* and *s.* are the two new uses being requested at this time.
  a. Administrative office for educational or religious facility
  b. Cafeteria for employees & guests only
  c. Church and other place of worship
  d. Coffee shop
  e. Day care center, adult
  f. Day care center, child
  g. Educational facility - vocational school
  h. Educational facility - college/university
  i. Financial institution
  j. Nursing home
  k. Office, dental
  l. Office, general
  m. Office, medical
  n. Park
  o. Parking area, including garages, for automobiles
  p. Professional and technical service facility
  q. Research facility
  r. ***Retail sales establishment – neighborhood***
  s. ***Retail sales, outdoor***
- The Comprehensive Land Use Plan designates the site as *Residential – Single Family.*
- The two new uses being requested - *Retail Sales Establishment – Neighborhood* and *Retail Sales, Outdoor* - are uses permitted within the "PC" Planned Commercial District. The Petitioner is requesting these additional uses in order to allow the existing nursery to remain on the site and to use the site as a nursery facility until such time as the Petitioner is ready to develop the site.

- Staff is suggesting restrictions to uses *r.* and *s*. as follows:
  - Use "*r*" *Retail sales establishment – neighborhood* shall be limited to a plant nursery. The Zoning Ordinance contains a definition for *plant nursery*. The definition for *Retail Sales Establishment – Neighborhood* specifies that no more than 4,000 square feet of existing structures is allowed. The site currently has two structures on the site, which are less than 4,000 square feet.
  - Use "*s*" *Retail sales, outdoor* shall be limited to plants and landscaping supplies. This will allow the outdoor sale of plants and landscaping supplies to continue the existing business.

PETITIONER'S PRESENTATION:

Mr. George Stock, Stock & Associates Consulting Engineers – representing 40-Timberlake SE, LLC, 257 Chesterfield Business Parkway, Chesterfield, MO stated the following:

- The request is to add two additional uses to the uses previously requested at the April 26th Public Hearing to accommodate the existing tenant at the property.
- At the time of the April 26th Public Hearing, the Petitioner was not aware of Kirkwood Material Supply being involved with this site. In 2009, Kirkwood Material Supply acquired the assets and inventory from Heartland Bank under foreclosure proceedings for Suburbia Gardens. The property was then purchased by 40-Timberlake SE, LLC.
- In late April, 2010, the Petitioner and Kirkwood Material Supply reached an agreement wherein a two-year lease was signed to allow Kirkwood Material Supply to operate a nursery on the site.
- The Petitioner still intends to redevelop the property as indicated at the April 26th Public Hearing. However, upon rezoning to "PC" Planned Commercial, the existing nursery would be a non-conforming use. Therefore, the two new uses are being requested with restrictions that would allow the landscape material company to continue as it currently operates. No other retail activity is being considered for this site.
- After consulting with Staff, it was determined that a second Public Hearing was necessary in order to advertise the requested new uses.

SPEAKERS IN FAVOR: None

SPEAKERS IN OPPOSITION:

Ms. Lois Galluzzo, homeowner in the Town section of Thousand Oaks subdivision, 14615 Mallard Lake Drive, Chesterfield, MO stated the following:

- She feels the new request is a significant change since she is under the impression that Suburbia Gardens did wholesale work only and no retail work.
- When the residents learned about the requested rezoning, a significant number of residents attended the Public Hearing and expressed their concerns.

- She is concerned about retail at this site because of the residential character of the neighborhood.
- She is concerned that if retail is allowed, it will not be "as temporary" as she would like it to be and that it could be extended to a future owner who may have another type of retail business.

Ms. Aimee Nassif, Planning & Development Services Director, stated that Staff is proposing that the requested uses be limited to plant sales or nurseries only. If the owner wants a new retail use in the future, a new public hearing would have to be held at which time the property owners would be notified, and the developer would be required to go through the full public hearing process again to amend the ordinance.

SPEAKERS – NEUTRAL:
Mr. John Wright, resident of Thousand Oaks subdivision, 1521 Timber Point Court, Chesterfield, MO stated the following:

- The residents are not exactly sure of what they are being notified of or what the long-term impact may be.
- Since the retail use being requested is for a "temporary" interim, he asked if it could be so stated in writing. He is not opposed to the existing business continuing until such time as the property is redeveloped, but he feels there should be some time limits placed upon it.

Mayor Nations asked City Attorney Rob Heggie to explain the zoning process to the residents present.

Mr. Heggie then stated that the property owner has come to the City asking to change the zoning on the property. The request was advertised and a public hearing scheduled. The City is obligated to conduct the Public Hearing, and the Planning Commission is obligated to make a recommendation to City Council on whether the requested change in zoning is consistent with the neighborhood uses, surrounding zoning, and the City's Comprehensive Plan – the City's zoning guideline developed by the Planning Commission in conjunction with the citizens. Once the Public Hearing is held, the Planning Commission will conduct an Issues Meeting followed by a Vote Meeting on the rezoning. The Vote Meeting will be scheduled after all issues have been addressed. The subject Change of Zoning cannot be made "temporary" but it is very limited in what types of uses will be permitted. The requested retail uses will only allow for the operation of a plant nursery – no other retail sales operation is allowed for this site. Any type of other retail uses that may be requested in the future for this site would probably not be in compliance with the City's Comprehensive Plan. The Planning Commission and City Council are generally very hesitant to go against the Comprehensive Plan so it is not very probable that any retail operation, other than a nursery, would be permitted at this site. But this does not preclude a property owner from asking for such a use. When reviewing rezoning requests, City Council considers what the neighbors desire, what the Comprehensive Plan says, and what the surrounding zoning is.

Mayor Nations asked City Attorney to further explain why a public hearing is necessary for the rezoning and permitted uses when the nursery will continue to operate as it has been for the past number of years.

City Attorney Heggie pointed out that there has been a change in ownership on the property and they are requesting additional uses, such as office building uses, which they feel will be helpful to them in the future. When Staff began researching the rezoning request, it was determined that the nursery is an allowed use for the site in order to grow plants, but not to sell plants. Since the business had been operating this way prior to the City's incorporation, the retail activity is allowed as a legal non-conforming use. However if the site is rezoned to the requested "PC" Planned Commercial District, the retail sale of plants and landscaping material would not be allowed unless specifically requested and approved.

Mr. Wright still expressed concern that if the retail use is approved, it would be easy for the property owner to request a modification to the use allowing different types of retail at this site.

Mayor Nations stated that Mr. Wright's "point and concern are well taken".

Commissioner Geckeler stated that it was her understanding that Suburbia Gardens was a wholesale operation. Ms. Nassif replied that because sales were taking place at the site, Suburbia Gardens was considered a retail operation. She noted that the nursery presently being run by Kirkwood Material Supply Company would not have been allowed if the rezoning request at the April 26th Public Hearing had been approved because retail use was not a requested use. Staff has worked with the Petitioner to request a retail use but has limited it so that only a retail nursery use is permitted.

Mayor Nations questioned whether the current nursery would be allowed to continue operating if the rezoning request is denied. Ms. Nassif replied that the applicant was required to add this use to the petition in order for the use to continue and be legal once the zoning was approved. If zoning is not approved, it would be considered a legal non-conforming use.

REBUTTAL:

Mr. Stock stated that the intent for the retail nursery is a temporary use. They are agreeable with Staff's recommendation of restricting the retail use to the nursery operation. The plan is to redevelop the property into an office, medical office, or nursing/senior living use. He understands the concerns of the residents and will continue to communicate with them to address their concerns.

City Attorney Heggie notified Mr. Stock that based on his statements regarding timing for development and based on the Site Development Plan submittal requirements in the Attachment A, the Petitioner will be beyond the 18-month submittal requirement. If the plans are not submitted within the required timeframe, a new Public Hearing may be necessary.

ISSUES:
Ms. Perry noted that the one outstanding issue relates to uses, which she will address under "Old Business" later in the meeting.

Commissioner Proctor read the Closing Comments for the Public Hearing.

V. APPROVAL OF MEETING MINUTES

Commissioner Hirsch made a motion to approve the minutes of the June 14, 2010 Planning Commission Meeting. The motion was seconded by Commissioner Watson and **passed by a voice vote of 6 to 0 with 1 abstention from Commissioner Nolan.**

VI. PUBLIC COMMENT - None

VII. SITE PLANS, BUILDING ELEVATIONS AND SIGNS

A. Chesterfield Commons West (Lot 6B): A Site Development Section Plan, Landscape Plan, Lighting Plan and Architectural Elevations for a 1.1 acre tract of land zoned "PC" Planned Commercial District located on the west side of RHL Drive between THF Boulevard and Edison Avenue.

Commissioner Nolan, representing the Site Plan Committee, made a motion recommending approval of the Site Development Section Plan, Landscape Plan, Lighting Plan and Architectural Elevations for Chesterfield Commons West (Lot 6B). The motion was seconded by Commissioner Banks and **passed by a voice vote of 7 to 0**.

B. River Crossings, Lot E3 (Auto Tire): Amended Architectural Elevations for a 1.106 acre tract of land zoned "PC" Planned Commercial District located on the north side of Chesterfield Airport Road, east of the corner of Arnage Road and Chesterfield Airport Road.

Commissioner Nolan, representing the Site Plan Committee, made a motion recommending approval of the Amended Architectural Elevations for River Crossings, Lot E3 (Auto Tire). The motion was seconded by Commissioner Puyear and **passed by a voice vote of 7 to 0**.

C. THF Chesterfield Seven Development (P.Z. 28-2007 Time Extension): A request for a one (1) year extension of time to submit a Site Development Concept Plan for a 6.7 acre tract of land zoned "PC" Planned Commercial District located on the north side of Chesterfield Airport Road, one half mile west of the corner of Chesterfield Airport Road and Boone's Crossing.

Commissioner Nolan, representing the Site Plan Committee, made a motion recommending approval of the one-year extension of time to submit a Site Development Concept Plan for THF Chesterfield Seven Development. The motion was seconded by Commissioner Watson and **passed by a voice vote of 7 to 0**.

VIII. OLD 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)

Ms. Mara Perry, Senior Planner stated that the Public Hearing was held on April 26th, along with the second Public Hearing held earlier this evening. A number of issues were identified at the first Public Hearing and were reviewed below as follows:

Comprehensive Plan

A lot of discussion was held at the previous Public Hearing regarding the surrounding uses, zonings, densities, and what could be built on the subject site.

The chart below identifies the existing zoning, the year zoned, and the existing uses for the surrounding developments along South Outer 40 Road.

Subdivision	Existing Zoning	Year Zoned	Existing Uses	Notes
Corporate Plaza	"C8"	1986	Office Buildings	Zoned prior to incorporation of the City
Stoneridge Office Building	"PC"	2005	Medical Office Building	Resolution of Litigation to zone to PC from R5
Chesterfield Hill	"R1A"	1972	Single Family Residential	Zoned prior to incorporation of the City
Thousand Oaks Addition	"R3"	1985	Single Family Residential	Zoned prior to incorporation of the City
SUBJECT SITE	"NU" & "FPNU"	1965	Plant Nursery	Zoned prior to incorporation of the City
New Covenant Church	"R2" & "FPR2"	1965	Religious Institution	Church built in 1998
Royalwood	"R1A"	1977	Single Family Residential	Zoned prior to incorporation of the City
Westchester Place	"R2" & "R1A"	1983	Single Family Residential	Zoned prior to incorporation of the City

It was noted that the office/medical office use is grouped on the north side of Highway 40 and two buildings just to the east of the subject site.

Staff has found that a lot of limitations were placed on the surrounding developments based on the location of the floodplain and floodway. Areas of floodplain and floodway impact the way that many of the developments were planned and built in this area. Structures cannot be built within a floodway. Within a floodplain, there is a required flood elevation upon which a structure can be built. The subject site is limited due to the extensive location of floodway within its boundary. It was noted that even though the petition is for a rezoning of an 8.7 acre tract of land, only 3.87 acres are available for development outside the floodway.

Discussion

It was noted that the floodway is defined by FEMA and that the area of the floodway cannot be changed by the Petitioner through grading or other improvements. As a result, no more than 3.87 acres can be developed on this site.

Floodplain Study

The previous Public Hearing generated a lot of questions regarding the Floodplain Study and whether there would be any issues with water and back-ups through the sewer system onto adjacent properties. Staff is currently reviewing the submitted floodplain study and continues to work with the Petitioner to make sure there are no adverse impacts on adjacent properties. The floodplain study will also have to be approved by FEMA.

Question had been raised as to whether there was any information from the Metropolitan Sewer District in regards to past flooding or back-ups on adjacent properties. MSD has verified that there have been back-ups on adjacent properties but MSD does not provide detailed information to petitioners. MSD will review all the work that is done through the floodplain study, as well as the Improvement Plans for the site to determine whether there are any adverse impacts. The Petitioner has received information from MSD that they will be making a major improvement to one of the sewer trunk lines through this area.

Discussion

Commissioner Watson asked whether the sewer improvements are in the sanitary or in the storm sewer. It was noted that there is a new sanitary relief sewer to be installed within the next five years.

Traffic and Access Management

There were a number of issues in regards to how the development was going to address traffic and access management for the site. Specific concerns related to:

- The proposed improvements and how they would be done. Language has been included in the Attachment A which requires a traffic study as

directed by the Missouri Department of Transportation and the City of Chesterfield. Language has also been added that addresses providing additional right of way or improvements to South Outer 40 as required by the Missouri Department of Transportation and the City of Chesterfield

- Pedestrian and bicycle circulation. The City of Chesterfield recently adopted a Citywide Bikeable Walkable Community Master Plan under City Council Resolution 302. Language has been included in the Attachment A for this development related to the Community Master Plan.

- Turn-around traffic within the subdivision: Should additional signage be required that is not within the City of Chesterfield Code, the Attachment A has language allowing the Petitioner to propose a sign package for the development to help direct motorists to the access point on Outer Forty.

Landscape and Tree Protection

Question had been raised as to how much of the tree canopy would be retained along the southern and eastern edges of the property. The Tree Stand Delineation Plan currently shows 2.43 acres of existing tree canopy on the site. Per the City of Chesterfield Tree Preservation and Landscape Requirements, they are required to save 30% of the existing tree canopy. The Petitioner is proposing to save 2.04 acres, which is approximately 83% of the existing canopy.

Discussion

Commissioner Banks stated that the required buffering will be restricted as to where it can be placed because of the floodplain. He noted that the existing tree line is fairly broken up in the winter and he feels lighting from the subject development will not be adequately screened. He questioned whether the residential property owners should consider asking the Petitioner to add buffering on their properties. Ms. Nassif stated that this process should be considered at Site Plan review noting that the stream bank buffer is located to the south of the site and there are a number of ordinances that the Petitioner will have to adhere to with respect to the stream bank buffer. It's quite possible that landscaping may not be allowed in this area.

Uses and Hours of Operation

Concern was expressed about noise coming from ambulances possibly coming to the site on a regular basis. A hospital use has not been requested nor is it permitted for this property. Ambulances, fire trucks, or other emergency response providers would only be coming on an emergency basis. Staff does not feel that any other restrictions need to be placed on the uses restricting ambulances from the site.

To address noise concerns during the evening hours, restricted hours of operation have been proposed. Specific restrictions pertain to the hours of operation for the plant nursery, offices, medical offices, and other such uses.

Discussion

Commissioner Hirsch asked whether the restricted hours of operation would prohibit employees from working later into the evening. It was noted that the restricted hours would pertain only to the general public coming to the development.

Lighting

Staff had concern with the site lighting during the evening hours based on the close proximity to the residential dwellings. The Petitioner has agreed to match the language used in other ordinances for developments along North and South Outer 40 Road, which designate the hours when site lighting, other than emergency lighting, should be turned off. Restrictions to evening lighting for the parking areas have been included in the Attachment A.

Discussion

Commissioner Banks asked if the existing nursery would have to abide by the lighting requirements as outlined in the Attachment A. Ms. Perry stated that when the Petitioner gets to the point of making changes to the site, the lighting requirements would be enforced at that time.

Additional Uses

Staff has included language in the Draft Attachment A which restricts the new use request.

Plan Submittal

Staff added the issue of reviewing the timeframe for submitting a Concept Plan or Site Development Plan for the site.

IX. NEW BUSINESS - None

X. COMMITTEE REPORTS - None

XI. ADJOURNMENT

The meeting adjourned at 7:51 p.m.

_____

Michael Watson, Secretary