PLANNING COMMISSION
OF THE CITY OF CHESTERFIELD
AT CHESTERFIELD CITY HALL
MARCH 26, 2012

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

I. ROLL CALL

PRESENT	ABSENT
Mr. Bruce DeGroot	
Ms. Wendy Geckeler	
Ms. Laura Lueking	
Ms. Debbie Midgley	
Mr. Stanley Proctor	
Mr. Robert Puyear	
Mr. Michael Watson	
Mr. Steven Wuennenberg	
Chair Amy Nolan	

Mayor Bruce Geiger
Councilmember Connie Fults, Council Liaison
Mr. Harry O'Rourke, Representing City Attorney
Mr. Mike Geisel, Director of Planning, Public Works and Parks
Ms. Aimee Nassif, Planning & Development Services Director
Ms. Mara Perry, Senior Planner
Mr. Shawn Seymour, Senior Planner
Mr. Kristian Corbin, Project Planner
Ms. Mary Ann Madden, Recording Secretary

II. PLEDGE OF ALLEGIANCE

III. SILENT PRAYER

Chair Nolan acknowledged the attendance of Mayor Bruce Geiger; Councilmember Connie Fults, Council Liaison; and Councilmember Bob Nation, Ward IV.

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

A. P.Z. 03-2012 Lungo Estates (1458 Kehrs Mill Rd): A request for a zoning map amendment from "NU" Non-Urban District to "E1" Estate One-Acre District for a 3.01 acre tract of land located on the east side of Kehrs Mill Road south of Country Side Manor Parkway (18U120035).

STAFF PRESENTATION:

Project Planner Kristian Corbin gave a PowerPoint presentation showing photographs of the site and surrounding area. Mr. Corbin stated the following:

- The intent of the request is to utilize the "E-1" Estate One-Acre District minimum lot size requirement to allow the lot to be reduced to two acres by a boundary adjustment plat in the future. The boundary adjustment plat will not create any new lots; it will merely shift an existing property line.
- The "E1" District is a straight zoning district so no modifications can be requested.
- All State and local Public Hearing notification requirements were met.
- The site is heavily wooded and includes a single-family home, which was constructed in 1977.
- The site is surrounded by single-family homes and has a single access point from Kehrs Mill Road.
- The property was zoned "NU" Non-Urban District prior to the incorporation of the City of Chesterfield.
- Lot 2 of the property was subdivided in 1987 and became the McCarthy Subdivision.
- Permitted Uses for the "E1" District:
    a. Churches and other places of worship
    b. Dwellings, single-family detached
    c. Educational facilities – College/university, primary/secondary, kindergarten or nursery school.
    d. Home occupations.
    e. Local public utility facility.
    f. Parks and playgrounds.
    g. Public safety facilities.
    h. Wildlife Reservation and Conservation Project.
- The Comprehensive Land Use Plan designates the subject site as *Residential Single Family*, which is compatible with the Petitioner's request.
- Staff has no issues with the petition.

PETITIONER'S PRESENTATION:

Ms. Nancy Gianino, 1466 Kehrs Mill Road, Chesterfield, MO stated the following:

- She and her husband live in the home located on Lot 2, which they bought 12 years ago. They expanded the 2,400 square foot home to 6,000 square feet so their interest is in protecting their home.
- They purchased Lot 1 three years ago and now want to move the boundary line with the idea of selling the home as a two-acre site. It was

noted that the site first needs to be rezoned prior to a boundary adjustment.

SPEAKERS IN FAVOR: None

SPEAKERS IN OPPOSITION:
Ms. Sandy Kraner, 1348 Carriage Crossing Lane, Chesterfield, MO stated the following:

- Her home is just east of the subject property.
- She is joined by her husband and neighbors on both sides of her home.
- Their concerns relate to the existing buffer on the land and how it would be affected if something should be constructed on the subject site.
- They also have questions about what uses would be permitted on the site – such as a school, day care center, or church – and whether such uses would require a Conditional Use Permit.

Ms. Aimee Nassif, Planning and Development Services Director informed Ms. Kraner that the existing buffer is not required by City Code; however, if the site is rezoned to the "E1" One-Acre District, a 30-foot buffer will be required. Mr. Corbin added that the referenced buffer is on the Country Place Estates subdivision's property so the buffer is protected.

Regarding permitted uses for the site, Ms. Nassif explained that there are minimum lot size requirements which would preclude a school or church as these uses require a minimum lot size of 3-5 acres. Any use requiring a Conditional Use Permit would require a Public Hearing before the Planning Commission.

Based on a lot size of two acres, Commissioner Wuennenberg asked what could be constructed on the site other than a house. Mr. Corbin replied that because of the lot size and minimum frontage requirements, a house is the only thing that could be constructed. However, a Conditional Use Permit could be requested, which would require a Public Hearing. Ms. Nassif stated that there are only a couple of Conditional Use Permit uses that would be allowed because of the size of the site.

SPEAKERS – NEUTRAL: None

Commissioner Midgley read the Closing Comments for the Public Hearing.

V. APPROVAL OF MEETING MINUTES

Commissioner Lueking made a motion to approve the minutes of the February 27, 2012 Planning Commission Meeting with an amendment on page 6 as follows: (changes shown in **bold)**

> Commissioner Lueking inquired as to how far the parking spaces for compact cars are from the base of the levee. Mr. Stock indicated that they are approximately **18-**20 feet**, inclusive of the gravel road,** from the base of the levee.

The motion was seconded by Commissioner Watson and **passed by a voice vote of 7 to 0** with Commissioners DeGroot and Puyear abstaining.

Commissioner Lueking made a motion to approve the minutes of the March 12, 2012 Planning Commission Meeting. The motion was seconded by Commissioner Wuennenberg and **passed by a voice vote of 7 to 0** with Commissioners DeGroot and Puyear abstaining

VI. PUBLIC COMMENT

A. Chesterfield Blue Valley

Petitioners:

1. Mr. George M. Stock, Stock and Associates, Consulting Engineers, 257 Chesterfield Business Parkway, Chesterfield, MO was available for questions.

2. Mr. Dean Wolfe, Developer of Blue Valley, 7711 Bonhomme, Clayton, MO was available for questions.

VII. SITE PLANS, BUILDING ELEVATIONS AND SIGNS

A. Chesterfield Commons Seven: A Sign Package 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 Puyear, representing the Site Plan Committee, made a motion recommending approval of the Sign Package for Chesterfield Commons Seven. The motion was seconded by Commissioner Wuennenberg and **passed by a voice vote of 9 to 0**.

B. **Chesterfield Commons Seven, Lot 2 (Valvoline)**: A Site Development Section Plan, Landscape Plan, Lighting Plan, Architectural Elevations, and Architect's Statement of Design for a 0.977 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 Puyear representing the Site Plan Committee, made a motion recommending approval of the Site Development Section Plan, Landscape Plan, Lighting Plan, Architectural Elevations, and Architect's Statement of Design for Chesterfield Commons Seven, Lot 2 (Valvoline). The motion was seconded by Commissioner DeGroot and **passed by a voice vote of 9 to 0**.

C. **Chesterfield Retail:** A request for an amendment to the Sign Package for the Chesterfield Retail development for an increase in height to the existing monument sign.

Commissioner Puyear, representing the Site Plan Committee, made a motion recommending approval of the amendment to the Sign Package for Chesterfield Retail. The motion was seconded by Commissioner Wuennenberg and **passed by a voice vote of 9 to 0**.

D. **Chesterfield Blue Valley:** A Second Amended Site Development Concept Plan, Conceptual Landscape Plan and Conceptual Lighting Plan for a 137.6 acre tract of land zoned "PC" Planned Commercial District located on the north side of Olive Street Road, west of its intersection with Chesterfield Airport Road.

Commissioner Puyear, representing the Site Plan Committee, made a motion recommending approval of the Second Amended Site Development Concept Plan, Conceptual Landscape Plan, and Conceptual Lighting Plan for Chesterfield Blue Valley. The motion was seconded by Commissioner DeGroot and **passed by a voice vote of 9 to 0**.

VIII. OLD BUSINESS

A. **P.Z. 09-2011 Simpson Construction Materials (17971 North Outer Forty Road)**: A request for an Amendment to a Conditional Use Permit authorized by St. Louis County in a "FP-M3" Flood Plain Planned Industrial District of 81.64 acres in size and located on the east side of US Highway 40/Interstate 64 south of its crossing of the Missouri River (16W240030).

Senior Planner Shawn Seymour stated that the Petitioners are requesting to amend the existing Conditional Use Permit (CUP) granted by St. Louis County to locate an asphalt batching plant. The requested land use is *extraction of raw materials from the earth and processing thereof, but not including the manufacture of a product.*

In 1967, St. Louis County approved Petition 18-67 granting a CUP to St. Charles Sand Company for the subject site for the purpose of *dredge barge docking facilities, unloading conveyor belt system, and outdoor storage of sand materials.* This activity is currently in place on the site.

Mr. Seymour then gave process information on Conditional Use Permits. He noted that upon granting of a decision by the Planning Commission, the City Council has 15 days to call Power of Review. If 15 days pass and no action is made by City Council, then the Planning Commission decision stands. If Power of Review is called, the City Council may review and either approve or deny the request. If Council's decision goes against the Planning Commission's decision, a two-thirds vote is required by Council.

The Public Hearing for this petition was held on October 11, 2011. Following are highlights of the issues brought up at that time:

1. **Provide all applicable approvals and permits from the Missouri Department of Natural Resources (DNR).**
   The Petitioner agrees to provide copies of all approvals and permits. Language has been added to the draft CUP, requiring that these approvals and permits be furnished to the City of Chesterfield during Site Development Plan review.

2. **The site is currently not serviced by water.**
   The Petitioner has stated that they will add a water pump and line to the site in order to draw water from the Missouri River. The site is also serviced with an existing septic system.

3. **Modification to the requested permitted Conditional Use as follows:** (changes shown in **bold)**

Extraction of raw materials from the earth and the processing thereof, ~~but not including manufacturing of a product~~ **for the purpose of creating asphalt for use off site.**

The Petitioner agrees to the modified land use language.

4. **Confirm that the proposed location of the asphalt batching plant is located in or out of the floodway.**
The proposed location of the batching plant is in the floodway.

A number of issues were also generated through Staff. A major concern is the issue related to the **floodplain**.

Mr. Seymour noted that there is a significant distinction between *floodway* and *floodplain*. While the City's ordinances allow restrictive use of the floodplain, use of the floodway is based upon a much more rigorous standard. The floodway is defined as *that area of the waterway which is necessary to carry the volume of water from the 100 year flood occurrence.* Further, the floodway is characterized by high velocities and debris. To simply elevate structures, materials, and equipment creates a danger to nearby structures during flood occurrences. Placement of materials, tanks, and equipment in or near the floodway creates the potential for such items to become dislodged and float down the river. Such debris can create significant hazards to bridges and other structures. The debris itself can impact foundations, or can simply accumulate and create debris jams which prevent water flow and damaging upstream hydraulic forces.

FEMA is in the process of issuing new flood maps. In addition, the Missouri Department of Transportation has initiated its project for constructing a new Highway Bridge, which will ultimately remove the old bridge. Once the bridge is removed, it is very probable that the floodway will get larger in this area further impacting the subject site.

The introduction of a stored petroleum-based product, in or adjacent to the floodway, is a significant concern.

The Petitioner has stated that they will conduct a Floodplain Study.

Staff also has concerns with issues related to traffic study, on-site parking, geotechnical report, and trust fund contribution.

The Petitioner has stated that they will provide all studies and insure that they meet all other City codes.

Staff believes that there are considerable concerns as they relate to the location of the proposed asphalt batching plant in the floodway and floodplain. Staff further believes that approval of the CUP may provide an unrealistic or false sense of a vested right to this land use in this location because Staff may not be

able to grant a Floodplain Permit due to the floodplain and floodway issues. As such, Staff recommends denial of the requested CUP.

Mr. Seymour noted that no one representing the Petitioner was present to respond to questions from the Commission.

DISCUSSION

Commissioner Watson asked for confirmation that there is no fire hydrant located on the site. Mr. Seymour stated that this is correct.

Commissioner Lueking noted that the Staff Report indicates that the Petitioner would be providing water, along with required sanitary lines and anything else required by the City, including a fire hydrant and approval by the Monarch Fire Protection District. Mr. Geisel clarified that the Petitioner has not agreed to put sanitary sewers to the site or to bring potable water to the site. Mr. Seymour explained that the Petitioner only proposes adding a pump to the site that would pull water from the Missouri River. In addition, the site has an existing septic system. The Petitioner has indicated that they will work with Monarch Fire to obtain the appropriate approvals.

Commissioner Proctor noted that he had a number of questions for the Petitioner but was unable to have them addressed since the Petitioner was not present.

Commissioner Lueking agreed that if the Commission approves the CUP, it could give the Petitioner an unrealistic hope because if the floodway is changed by the construction of the new bridge, the Petitioner will not be able to do what they are requesting.

Mr. Geisel pointed out that FEMA will not review the hydraulics – they will simply issue the flood maps. The City has sole authority in issuing the Floodplain Permit. The Staff Report indicates that even if the Petitioner meets the technical requirements of elevating an asphalt tank within the floodway, the placement of asphalt materials within the floodway poses a threat. So if the CUP is granted, Staff would be in a position of having to rely on the technical merits of the petition which says they have to provide a no-rise certificate. Staff would not be able to ameliorate those concerns related to a floating asphalt tank going down the river or liquid asphalt being discharged into a waterway as those things are outside of the Floodplain Development Permit. Staff believes that it is inappropriate in this case to place such materials in that hazardous of a location.

Commissioner Proctor stated that although the Petitioner argues that there will be a berm to contain any accidentally-spilled asphalt materials, in the event of a flood, the flood waters would cover the berm; and since hydrocarbons in the asphalt are lighter than water, they would float on top of the water into the waterway.

Commissioner Wuennenberg asked if it would be appropriate to make a motion denying the petition. Mr. O'Rourke, representing the City Attorney, advised that the motion should be *to approve* the petition.

Commissioner Wuennenberg made a motion to approve P.Z. 09-2011 Simpson Construction Materials (17971 North Outer Forty Road). The motion was seconded by Commissioner Watson.

Discussion on the Motion

Commissioner Lueking asked for clarification on the location of the other asphalt plant with respect to the levee. Mr. Seymour stated that the existing asphalt plant is located across Olive Street Road on the Airport property - it is levee-protected and is not in the floodplain.

Upon roll call, the vote was as follows:

Aye: None

Nay: Commissioner Proctor, Commissioner Puyear, Commissioner Watson, Commissioner Wuennenberg, Commissioner DeGroot, Commissioner Geckeler, Commissioner Lueking, Commissioner Midgley, Chair Nolan

The motion to approve failed by a vote of 0 to 9.

Mayor Geiger thanked the Commission for its denial of the petition stating that the City does not need this type of project in the location proposed.

B. P.Z. 03-2012 Lungo Estates (1458 Kehrs Mill Rd): A request for a zoning map amendment from "NU" Non-Urban District to "E1" Estate One-Acre District for a 3.01 acre tract of land located on the east side of Kehrs Mill Road south of Country Side Manor Parkway (18U120035).

Commissioner Wuennenberg made a motion to approve P.Z. 03-2012 Lungo Estates (1458 Kehrs Mill Rd). The motion was seconded by Commissioner DeGroot.

Upon roll call, the vote was as follows:

Aye: Commissioner Puyear, Commissioner Watson, Commissioner Wuennenberg, Commissioner DeGroot, Commissioner Geckeler, Commissioner Lueking, Commissioner Midgley, Commissioner Proctor, Chair Nolan

Nay: None

The motion passed by a vote of 9 to 0.

IX. NEW BUSINESS

Ms. Nassif reported that the Section Plan for St. Louis Premium Outlet Mall should be submitted in the near future for review by the Commission.

X. COMMITTEE REPORTS - None

XI. ADJOURNMENT

The meeting adjourned at 7:35 p.m.

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Michael Watson, Secretary