BOARD OF ADJUSTMENT

Attached for your review is the packet for the March 1, 2007 session of the City of Chesterfield Board of Adjustment. The agenda and meeting packet are now also available on the City of Chesterfield website in the “Agendas” section.

Please contact Annissa McCaskill-Clay at amccaskill@chesterfield.mo.us or 636-537-4737 if you cannot attend or have any questions.

Board of Adjustment Meeting Agenda
Thursday, March 1, 2007
7:00 p.m.
City Council Chambers, 690 Chesterfield Parkway West

I. Introduction of the Board and City Staff

II. February 1, 2007 Meeting Summary

Note: A copy of the official transcript has been requested from Midwest Litigation.

III. Request for Affidavit of Publication

IV. Public Hearing Items:

A. **B.A. 3-2007 Davis Street Land Company (c/o Doster Mickes James Ullom Benson & Guest, LLC):** A request for a variance from Section VIII Specific Criteria, I(4) "Sign Requirements" of City of Chesterfield Ordinance 1884 to permit erection of an off-site free-standing directional sign at 1596 Clarkson Road. (19S420415)

IV. Adjournment

Notice of Public Hearing
City of Chesterfield
Board of Adjustment

NOTICE IS HEREBY GIVEN that the Board of Adjustment of the City of Chesterfield will hold a Public Hearing on Thursday, March 1, 2007 at 7:00 p.m. in the City Council Chambers at the City of Chesterfield City Hall, 690 Chesterfield Parkway West, Chesterfield, Missouri, 63017.

The Board will consider the following:

B.A. 3-2007 Davis Street Land Company (c/o Doster Mickes James Ullom Benson & Guest, LLC): A request for a variance from Section VIII Specific Criteria, I(4) "Sign Requirements" of City of Chesterfield Ordinance 1884 to permit erection of an off-site free-standing directional sign at 1596 Clarkson Road. (19S420415)

All interested parties are invited to appear and be heard at the hearing.

Copies of the request are available for review at the City Government Center Monday through Friday, from 8:30 a.m. to 4:30 p.m. If you should need additional information about this project, please contact Annissa McCaskill-Clay, Assistant Director of Planning by telephone at 636-537-4737 or by email at amccaskill@chesterfield.mo.us .

City of Chesterfield

Annissa McCaskill-Clay, AICP
Assistant Director of Planning.

EXHIBIT
2

City of Chesterfield

690 Chesterfield Pkwy W • Chesterfield MO 63017-0760
Phone: 636-537-4000 • Fax 636-537-4798 • www.chesterfield.mo.us

IV. A.

February 23, 2007

Board of Adjustment
City of Chesterfield
690 Chesterfield Parkway West
Chesterfield, MO 63017

Re: **B.A. 3-2007 Davis Street Land Company (c/o Doster Mickes James Ullom Benson & Guest, LLC):** A request for a variance from Section VIII Specific Criteria, I(4) "Sign Requirements" of City of Chesterfield Ordinance 1884 to permit erection of an off-site free-standing directional sign at 1596 Clarkson Road. (19S420415)

Dear Board Members:

Michael Doster, on behalf of Davis Street Land Company has submitted for your review and action a request to the Board of Adjustment for the above-mentioned variance. In review of the petitioner's request, the Department of Planning submits the following report:

Background of site and request

1. Davis Street Land Company is the owner of The Shops of Clarkson Corner, a "PC" Planned-Commercial zoned retail center. Said center is located at 1550 Clarkson Road.
2. Access to the site is via a common access drive from Leak Oak Drive through Chesterfield Oaks retail center, located at 1596 Clarkson Road.
3. Signage Criteria for the site is established in Section VII.I.(4) of City of Chesterfield Ordinance 1884.
4. Said Section VII.I.(4) of City of Chesterfield Ordinance 1884, which governs the Shops at Clarkson Corner, states: "No advertising signs, temporary signs, portable signs, **off-site signs**, or attention getting devices shall be permitted in this development."
5. On January 24, 2007, the City of Chesterfield rejected an application for Municipal Zoning Approval for an off-site directional sign to be located at Chesterfield Oaks.

EXHIBIT
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The purpose of said sign was to direct traffic through Chesterfield Oaks to The Shops at Clarkson Corner.

6. Signage criteria for the site is as established in Section 1003.168 C.2(1)(b) of the City of Chesterfield Zoning Ordinance. Said section prohibits signage over six (6) feet within the minimum front yard setback.

Petitioner's Request

From Petitioner's Application, pg. 2: *"Erection of free-standing directional sign to guide motorists to shopping center. "*

Basis for Appeal of the above action

From Petitioner's Application, Exhibit B, second paragraph *"The directional sign is necessary to guide motorists from the entrance on Lea Oak Drive, along the common access drive in front of Chesterfield Oaks to The Shops at Clarkson Corner. The location of the sign is proposed to be on the south side of the access drive (the only access for The Shops at Clarkson Corner), as shown on Exhibit "D". Under the specific circumstances of The Shops at Clarkson Corner, the directional sign will aid traffic circulation and improve safety of vehicular movement. Motorists bound for The Shops of Clarkson Corner, immediately north of Chesterfield Oaks, would see the directional sign and go directly to their destination, making the common access drive safe for all drivers."*

Approval Criteria

Davis Street Land Company is seeking a variance from City of Chesterfield Ordinance 1884 to permit an off-site directional sign at 1596 Clarkson Road (Chesterfield Oaks retail center).

1. In order to grant a variance, there must be proof that the applicant did not bring the burden upon himself through some action, but instead had the burden imposed on him.

2. An individual cannot create a situation and then claim he needs a variance. *Wolfner v. Board of Adjustment of City of Warson Woods*, 114 S.W.3d 298 (Mo.App.E.D.,2003).

3. The burden of proving the elements is on the applicant.

4. Missouri Revised Statute Chapter 89.090 requires that a Board of Adjustment may only grant variances when the applicant has established the necessary "practical difficulties or unnecessary hardship" and when "the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done."

5. Section 2-216 of the City of Chesterfield Municipal Code states that the Board of Adjustment shall have the following powers:

"To permit a variation in the yard requirements of any zoning district or the building or setback lines from major highways as provided by law where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions, provided that such variance will not seriously affect any adjoining property or the general welfare of the public;"

6. Section 2-216 (5) of the City of Chesterfield Municipal Code states that,

"In making its decision, the Board must be satisfied that the granting of such a variance will not merely serve as a convenience to the applicant but will alleviate some demonstrable and unusual hardship or difficulty which is unique to the petitioner in his use, so great as to warrant a variation form the sign regulations as established by the City of Chesterfield Zoning Code or Zoning Ordinance enacted by the City of Chesterfield and at the same time place conditions upon said variance, if necessary, so that the surrounding property will be properly protected."

Action is requested on B.A. 03-2007 Davis Street Land Company.

Respectfully Submitted,

Annissa McCaskill-Clay

Annissa G. McCaskill-Clay, AICP
Assistant Director of Planning

Exhibits:

1. City of Chesterfield Zoning Ordinance (not in packet)
2. Notice of Publication.
3. Affidavit of Publication (not in packet)
4. Staff Report
5. Petitioner's Application
   i. Application to Board of Adjustment
   ii. Rejected Application for Municipal Zoning Approval
6. Ordinance 1884

City of Chesterfield

DEPARTMENT OF PLANNING

RECEIVED
FEB 14 2007
PLANNING
DEPARTMENT

APPLICATION TO THE BOARD OF ADJUSTMENT FOR A VARIANCE

The Board of Adjustment is a local body consisting of volunteers appointed by the Mayor. Its responsibility is to hear appeals from decisions of the City of Chesterfield Department of Planning and to consider requests for variances and exceptions. A variance is an approved departure from the provisions of the zoning requirements for a specific parcel, without changing the zoning ordinance underlying zoning of the parcel. A variance usually is granted only upon demonstration of hardship based on the peculiarity of the property in relation to other properties in the same zone district. For questions about this application, please contact the "Planner of the Day" at 636-537-4733. For information about this and other projects under review by the Department of Planning, please visit "Planning Projects" at www.Chesterfield.mo.us.

Check (✓) the type of variance for which you are applying:

[X] **Area (bulk) variance: A request to allow deviation from the dimensional (i.e. height, bulk yard) requirements of a zoning district.**

[ ] **Appeal of an Administrative determination**

Note: A $70 fee applies

Please note areas in gray will be completed by the Department of Planning.

STATE OF MISSOURI)
)
CITY OF CHESTERFIELD)
Petition for Appeal from Zoning Regulations

BOA NUMBER 03-2007
HEARING DATE 03-01-2007

I. APPLICANT INFORMATION

Owner(s) of record of the hereinafter described property according to St. Louis County Assessor's Record: Chesterfield Oaks, LLC c/o Capitol Land Company
Address: 11850 Studt Avenue
City: St. Louis **State:** MO **Zip:** 63141
Tel.: (314) 991-8900 **Fax:** (314) 991-2474

Petitioner, if other than owner(s): Davis Street Land Company of Missouri II, LLC
Address: 622 Davis Street, Suite 200
City: Evanston **State:** IL **Zip:** 60201
Tel.: (847) 425-4004 **Fax:** (847) 425-4014
Legal Interest: Owner
(Provide date of contract and date of expiration of contract)

***Attach additional sheets as necessary for other Parties of Interest (Architect, Engineer, etc.)**

EXHIBIT
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II. PROPERTY INFORMATION

Project Address: 1596 Clarkson Road

Locator Number(s): 19S-42-0415

(List additional locator numbers on separate sheet and attach to petition)

Acreage: 6.5 (To the nearest tenth of an acre)

Subdivision Name (If applicable): Chesterfield Oaks

Current Zoning District: "PC" Planned Commercial

Legal Description of Property: See Exhibit "A"

(Attach additional sheets as necessary)

III. NATURE OF REQUEST FOR VARIANCE

Unique physical characteristics of the lot (e.g., size, slope, etc.):

None

(Attach additional sheets as necessary)

Description of the necessity of the proposed improvement: Erection of free-standing directional sign to guide motorists to shopping center.

(Attach additional sheets as necessary)

Ordinance Number and section to which a variance is sought: Ordinance #1884, Section VII Specific Criteria, I(4) Sign Requirements: "... no off-site signs..."

(Attach additional sheets as necessary)

Basis for appeal of the above action: See Exhibit "B"

(Attach additional sheets as necessary)

Do deed restrictions or subdivision trust indentures for the property prohibit the use or construction which is requested by this petition? Check (✓) one [ ] Yes [X] No

Specify the action to which the appeal is sought:

Denial of Sign Permit Application

(Attach additional sheets as necessary)

Description of the effect or impact on neighboring properties: None

(Attach additional sheets as necessary)

Statement of any other hardship or information for this appeal:

See Exhibit "B"

(Attach additional sheets as necessary)

Please complete the sections below as applicable:

A. Setbacks/Height:

The Petitioner(s) request the following setback(s):

Front yard: N/A
Side yard:
Rear yard:
Height:

The City of Chesterfield Zoning Ordinance Regulations require the following setback(s) for this site:

N/A
Front yard:
Side yard:
Rear yard:
Height:

The following information correctly presents the true conditions and also describes the practical difficulties and unnecessary hardships warranting action by the Board.

N/A

Include two (2) completed copies of this application with original signatures and two (2) copies of the following:

1. A site development plan showing:
   - The dimensions and location (including distance from property lines) of all existing and proposed buildings and structures.
   - Letters from abutting property owners stating their position.
2. A $70.00 fee. (Checks/money orders to be made payable to the City of Chesterfield.)
3. A copy of the City of Chesterfield rejection or denial.

B. Signage:

Number and size of allowable attached business signs by ordinance:

N/A

Number and size of allowable freestanding business signs by ordinance:

One (1) Monument Sign on site permitted.

The petitioner further represents that the increased sign size or height would not be injurious to the neighborhood, or otherwise be detrimental to the public welfare for the following reasons: See Exhibit "B"

Include two (2) completed copies of this application with original signatures and two (2) copies of the following:

1. A site plan showing:
   - The subject property with adjoining streets, existing buildings, major parking lot, and distance to property lines.
   - The location of proposed signs.
   - If attached wall signs, the cross section of wall on which sign is to be placed with dimensions and total square feet (or portion of total wall that will contain petitioner's business)

2. A detail sign plan indicating:
   - Dimension of signs with detail sign lettering layout.
   - Total square feet of signs. If attached, what percent of wall.
   - Light detail, if any.

3. Letters from abutting property owners stating their position.

4. A $70.00 fee. (Checks/money orders to be made payable to the City of Chesterfield.)

5. A copy of the City of Chesterfield rejection or denial.

III. COMPLIANCE

Is property in compliance with all previous conditions of approval of all applicable Ordinance requirements?

[X] **Yes** [ ] **No. If no, please explain:** _____

_____

_____

Is property in compliance with all Zoning, Subdivision, and Code requirements?

[X] **Yes** [ ] **No. If no, please explain:** _____

_____

_____

[THIS SPACE INTENTIONALLY LEFT BLANK]

We cannot sign this page as the sign is proposed to be located on property not owned by Davis Street Land Company of Missouri II, LLC. Please see the attached Easement Agreement with Capitol Land Company (Exhibit "C").

IX. LIENS AND FINES CERTIFICATION

Project Name: _____ **Ward**: _____

STATE OF MISSOURI, CITY OF CHESTERFIELD

[I] [we], _____ (a duly licensed attorney or title insurance company
(print, type or stamp name of attorney or title company)

in the State of Missouri), do hereby certify to the Council of the City of Chesterfield that [I] [we] have examined the title to the herein described property; that [I] [we] find the title to the property is vested to _____ ; that there are no fines and/or liens of record on the property
(name of owner(s))

by or owed to the City of Chesterfield [or] that the following fines and/or liens are owed to the City of Chesterfield:

1. _____
2. _____
3.
4. _____

_____ _____
(Attorney-at-law licensed in Missouri) Date

Missouri Bar # _____

-or-

_____ _____
(Officer of title insurance company) Date

_____
Print, type or stamp name and title

[THIS SPACE INTENTIONALLY LEFT BLANK]

XI. STATEMENT OF CONSENT

Consent is required from the property owner(s) and contract purchaser, if applicable, to their agent if the property owner(s) or contract purchaser do not intend to attend all meetings and public hearings and submit in person all material pertaining to the application. A separate form is required from each owner/contract purchaser. Consent to a firm shall be deemed consent for the entire firm, unless otherwise specified. Consent is valid for one year from date of notary, unless otherwise specified. Attach copy of last recorded warranty deed for subject property.

STATEMENT OF CONSENT

I hereby give CONSENT to Michael J. Doster (type, stamp or print clearly full name of agent) to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) indicated above. Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify I have full knowledge of the property I have an ownership interest in is the subject of this application. I further certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the City of Chesterfield, Missouri, and will not be returned. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I acknowledge that additional information may be required to process this application. I further consent to the City of Chesterfield to publish, copy or reproduce any copyrighted document submitted as a part of this application for any third party. I further agree to all terms and conditions which may be imposed as part of the approval of this application.

OWNER/CONTRACT PURCHASER INFORMATION:

I am the [X] owner [ ] contract purchaser. (check (✓) one)

ROBERT PERLMUTTER
(Name- type, stamp or print clearly)

(Signature)

(Name of Firm)

622 DAVIS STREET, EVANSTON, IL 60201
(Address, City, State, Zip)

Note: Attach additional sheets as necessary.

NOTARY PUBLIC INFORMATION: STATE OF MISSOURI, CITY OF CHESTERFIELD

The foregoing instrument was subscribed and sworn to before me this 6th day of February, 20 07.

Signed _____ Print Name: KIMBERLY A. MARTIN
Notary Public

Seal/Stamp:

OFFICIAL SEAL
KIMBERLY A MARTIN
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:02/18/08

My Commission Expires: 2/18/08

XII. AFFIDAVIT OF COMPLETENESS AND ACCURACY

INSTRUCTIONS: To be completed by individual submitting application (property owner, petitioner with consent, or authorized agent).

Project Name: The Shops at Clarkson Corner **Submittal Date**: 2/14/2007

STATEMENT OF COMPLETENESS AND ACCURACY

I hereby certify all property owners have full knowledge the property they own is the subject of this application. I hereby certify that all owners and petitioners have been provided a complete copy of all material, attachments and documents submitted to the City of Chesterfield relating to this application. I further certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related application material and all attachments become official records of the City of Chesterfield, Missouri and will not be returned. I understand that any knowingly false, inaccurate or incomplete information provided by me will result in the denial, revocation or administrative withdrawal of this application, request, approval or permit. I further acknowledge that additional information may be required by the City of Chesterfield to process this application. I further represent and warrant that I have not made any arrangement to pay any commission, gratuity, or consideration, directly or indirectly, to any official, employee, or appointee of the City of Chesterfield with respect to this application. I further consent to the City of Chesterfield to publish, copy or reproduce any copyrighted documents submitted as a part of this application for any third party. I further agree to all terms and conditions which may be imposed as part of the approval of this application.

Check (✓) one: [ ] I am the property owner. [ ] I am the contract purchaser.

[X] I am the duly appointed agent of the petitioner.

Michael J. Doster
(Name- type, stamp or print clearly)

(Signature)

Doster Mickes James Ullom
Benson & Guest, LLC
(Name of Firm)

17107 Chesterfield Airport Road, Ste.300
Chesterfield, Missouri 63005
(Address, City, State, Zip)

Note: Attach additional sheets as necessary.

NOTARY PUBLIC INFORMATION: STATE OF MISSOURI, CITY OF CHESTERFIELD

The foregoing instrument was subscribed and sworn to before me this 14th day of February, 20 07.

Signed _____ Print Name: JANICE HOWELL BATYE
Notary Public

My Commission Expires: 3/17/07

Seal/Stamp: JANICE HOWELL BATYE
Notary Public - Notary Seal
STATE OF MISSOURI
St. Charles County
My Commission Expires: Mar. 17, 2007

STAFF / BOA USE ONLY

Intake Date: _____

This petition is granted / denied (circle one) **on the** _____ **day of** _____ **20** ___

Signed: _____

Chairman

[THIS SPACE INTENTIONALLY LEFT BLANK]

Legal Description:

A tract of land being all of Lot "A" of Swantner Acres, a subdivision according to the plat thereof recorded in Plat Book 143, page 50 of the St. Louis County Records, part of Parcel 1 and all of Parcel 2 of "A Boundary Adjustment Plat of a Tract of Land in U.S. Survey 2002, Township 45 North, Range 4 East" according to the plat thereof recorded in Plat Book 255, page 52 of the St. Louis County Records, part of a tract of land conveyed to Francis Macalady by deed recorded in Book 8811, page 1587, all of a tract of land conveyed to Francis Macalady by deed recorded in Book 6713, page 2348 and part of a tract of land conveyed to Emil Rauscher by deed recorded in Book 2401, page 634 all of the St. Louis County Records, all being situated in U.S. Survey 2002, Township 45 North, Range 4 East, St. Louis County, Missouri and being more particularly described as follows:

Beginning at a point in the Western line of Baxter Road, 30 feet wide, being the Southeastern corner or a tract of land conveyed to Raymond Felling by deed recorded in Book 2285, page 468 of the St. Louis County Records; thence along the Southern line of Felling, South 76 degrees 38 minutes 20 seconds West, 10.54 feet to the Northeastern corner of aforesaid Lot "A" of "Swantner Acres"; thence along the Eastern line of said Lot "A", South 4 degrees 59 minutes 46 seconds West, 106.50 feet to an angle point therein; thence South 5 degrees 04 minutes 14 seconds East, 96.47 feet to the Southeastern corner of said Lot "A"; thence along the Southern line of said Lot "A" and the Southern line of a tract of land conveyed to Caparco Two, Inc. by deed recorded in Book 10020, page 1926 of the St. Louis County Records, South 72 degrees 57 minutes 29 seconds West, 755.18 feet to a point in the Eastern Right-of-Way of Relocated Route 340 (aka Clarkson Road) as established by deed recorded in Book 8383, page 2153 of the St. Louis County Records; thence along said Eastern Right-of-Way, North 30 degrees 58 minutes 26 seconds East, 45.26 feet to an angle point therein; thence North 24 degrees 07 minutes 52 seconds East, 125.90 feet to an angle point therein; thence continuing along said Right-of-Way and along the Eastern Right-of-Way as established by deeds recorded in Book 8538, page 2270 and Book 8442, page 2359 of the St. Louis County Records, North 30 degrees 58 minutes 26 seconds East, 620.62 feet to a point on the Southern line of property conveyed to Elmer A. Weinrich by deed recorded in Book 2260, page 446 of the St. Louis County Records; thence along said Southern line of Weinrich, South 84 degrees 12 minutes 17 seconds East, 360.24 feet to a point on the Western line of Baxter Road, as aforementioned; thence along said Western line, South 4 degrees 59 minutes 46 seconds West, 224.36 feet to the point of beginning and containing 6.494 Acres (282,860 Square Feet) more or less.

THE PETITIONER FURTHER REPRESENTS…:

The Directional Sign is proposed to be located along the road leading to *The Shops at Clarkson Corner* (Davis Street development). It will not be visible from the residential areas behind the center or impede traffic in any way. In fact, the Directional Sign, under the specific circumstances of *The Shops at Clarkson Corner*, will aid traffic circulation and improve safety of vehicular movement. The proposed sign is 9.4 square-feet in size.

BASIS FOR APPEAL:

The request for variance involves signage for *The Shops at Clarkson Corner* shopping center. The proposed directional sign, however, is to be placed on the *Chesterfield Oaks* shopping center property. An Easement Agreement between the two property owners allowing the sign is attached as "Exhibit "C". The location of the proposed sign as well as the dimension and front elevation are depicted in Exhibit "D". Ordinance Number 1884, governing *The Shops at Clarkson Corner*, does not allow off-site signage. We are requesting a variance form the "no off-site signage" provision.

The directional sign is necessary to guide motorists from the entrance on Lea Oak Drive, along the common access drive in front of *Chesterfield Oaks* to *The Shops at Clarkson Corner*. The location of the sign is proposed to be on the south side of the access drive (the only access for *The Shops at Clarkson Corner*), as shown on Exhibit "D". Under the specific circumstances of *The Shops at Clarkson Corner*, the directional sign will aid traffic circulation and improve safety of vehicular movement. Motorists bound for *The Shops at Clarkson Corner*, immediately north of Chesterfield Oaks, would see the directional sign and go directly to their destination, making the common access drive safer for all drivers.

STATEMENT OF ANY OTHER HARDSHIP OR INFORMATION FOR THIS APPEAL:

See Basis for Appeal.

In addition, Petitioner submits that the appropriate standard for reviewing this request for variance is "*practical difficulty*" and not "*unnecessary hardship*". Petitioner is seeking a non-use variance involving numbers, height and size of signs. Under the applicable law, "practical difficulty" is the standard for reviewing requests for non-use variances.

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

FIRST AMENDMENT TO EASEMENT AGREEMENT

THIS FIRST AMENDMENT TO EASEMENT AGREEMENT made and entered into as of this 20th day of November, 2006, by and between CHESTERFIELD OAKS, LLC, a Missouri limited liability company, with an address c/o Capitol Land Company, 11850 Studt Avenue, St. Louis, Missouri 63141 (hereinafter called "Chesterfield Oaks" and being Grantor) and DAVIS STREET LAND COMPANY OF MISSOURI II, L.L.C., a Missouri limited liability company, not personally but as Trustee for Chesterfield Place Trust, with an address at 622 Davis Street, Suite 200, Evanston, Illinois 60201 (hereinafter called "Davis" and being Grantee).

WITNESSETH:

WHEREAS, Chesterfield Oaks, as the successor in interest to CAPLACO EIGHTEEN, INC., a Missouri corporation, CAPARCO TWO, INC., a Missouri corporation, and DIERBERGS HERITAGE, INC., a Missouri corporation, owns the fee simple title to the real estate described in Exhibit A, attached hereto and incorporated herein by reference (the "Chesterfield Oaks Parcel"), which is affected by that certain EASEMENT AGREEMENT dated September 19, 2003, which has been recorded in Book 16256, Page 2647, St. Louis County Records, the "Easement Agreement",

WHEREAS, Davis owns fee simple title to the real estate described in Exhibit B, attached hereto and incorporated herein by reference (the "Davis Parcel"), which is affected by the Easement Agreement,

WHEREAS, the four conditions to the easement granted by paragraph 8 of the Easement Agreement have never been fulfilled,

WHEREAS, the parties hereto have agreed to terminate the easement for a sign granted by paragraph 8 of the Easement Agreement,

WHEREAS, Chesterfield Oaks has agreed to grant Davis a new easement for a sign as herein provided,

NOW THEREFORE, for and in consideration of the foregoing, and the mutual covenants hereof, the parties hereto hereby stipulate, covenant and agree as follows:

1. The easement granted by paragraph 8 of the Easement Agreement is hereby terminated and extinguished.

2. Chesterfield Oaks hereby gives, grants, and conveys to Davis for the use and benefit of the Davis Parcel a new exclusive, perpetual easement in and on the approximate location on the Chesterfield Oaks Parcel shown on Exhibit C, attached hereto and incorporated herein by reference (the "Davis Sign Location") to install and maintain from time to time a sign of the size, design, and color shown on Exhibit D, attached hereto and incorporated herein by reference. The aforesaid easement to Davis includes the right to install and maintain, at the sole cost and expense of Davis, an electrical conduit for electrical service to the Davis Sign Location, said conduit to be in a location subject to the reasonable approval of Chesterfield Oaks.

TO HAVE AND TO HOLD the said Easement, together with all rights and appurtenances to the same belonging unto Davis and its successors and assigns forever.

3. Except as hereby amended, the Easement Agreement shall remain in full force and effect and is hereby ratified and confirmed.

4. This FIRST AMENDMENT TO EASEMENT AGREEMENT shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns, as owners of the Parcels hereinbefore described. Upon the conveyance of all of its interest in the Parcels hereinbefore described, any party hereto shall be automatically released from all obligations hereunder accruing thereafter and the grantee of any such conveyance shall have the benefits and obligations of this FIRST AMENDMENT TO EASEMENT AGREEMENT during its period of ownership of the Parcel in question as an agreement running with the land.

IN WITNESS WHEREOF, the undersigned have caused this FIRST AMENDMENT TO EASEMENT AGREEMENT to be executed by their representatives thereunto duly authorized as of the day and year first above written.

CHESTERFIELD OAKS, LLC
(a Missouri limited liability company)

by CAPLACO EIGHTEEN, INC.
(a Missouri corporation)
Its Member

by _____
George K. Capps
President

by CAPARCO TWO , INC.
(a Missouri corporation)
Its Member

by _____
George K. Capps
President

by DIERBERGS HERITAGE, INC.
(a Missouri corporation)
Its Member

by _____
Robert J. Dierberg
Chairman and President

"Chesterfield Oaks"

DAVIS STREET LAND COMPANY OF MISSOURI II, L.L.C.
(a Missouri limited liability company, not personally but as Trustee for Chesterfield Place Trust)

by _____
Robert Perlmutter
Manager

"Davis"

STATE OF MISSOURI)
) SS:
COUNTY OF ST. LOUIS)

On this 20th day of NOVEMBER, 2006, before me personally appeared GEORGE K. CAPPS, to me personally known, who, being by me duly sworn, did say that he is the President of CAPLACO EIGHTEEN, INC., a corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Boards of Directors, and said GEORGE K. CAPPS acknowledged said instrument to be the free act and deed of said corporation, and he further declared that said corporation is a Member of CHESTERFIELD OAKS, LLC, a Missouri limited liability company, and he acknowledged said instrument to be the free act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Rose Wagstaff

Name(print): ROSE WAGSTAFF
Notary Public

My Commission Expires:

Rose Wagstaff - Notary Public
Notary Seal, State of
Missouri - St. Louis County
Commission #05540340
My Commission Expires 3/8/2009

PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX.

STATE OF MISSOURI)
) SS:
COUNTY OF ST. LOUIS)

On this 20th day of November, 2006, before me personally appeared GEORGE K. CAPPS, to me personally known, who, being by me duly sworn, did say that he is the President of CAPARCO TWO, INC., a corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Boards of Directors, and said GEORGE K. CAPPS acknowledged said instrument to be the free act and deed of said corporation, and he further declared that said corporation is a Member of CHESTERFIELD OAKS, LLC, a Missouri limited liability company, and he acknowledged said instrument to be the free act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Rose Wagstaff

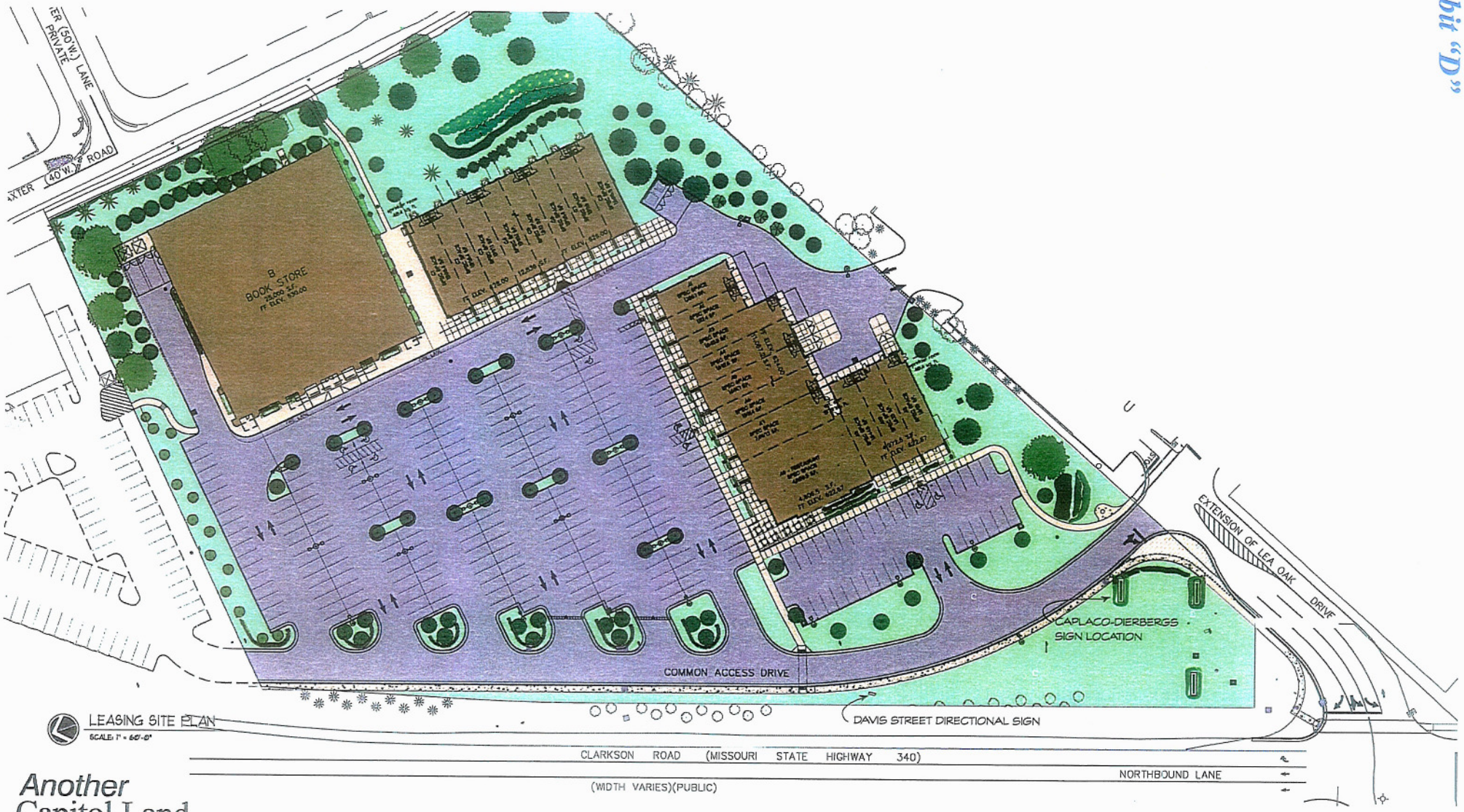
Name(print): ROSE WAGSTAFF
Notary Public

My Commission Expires:

Rose Wagstaff - Notary Public
Notary Seal, State of
Missouri - St. Louis County
Commission #05540340
My Commission Expires 3/8/2009

PLEASE AFFIX SEAL FIRMLY AND CLEARLY IN THIS BOX.

Exhibit "D"



LEASING SITE PLAN
SCALE: 1" = 60'-0"

Another
Capitol Land
Dierbergs
Development

CHESTERFIELD OAKS

Dawdy & ASSOCIATES, INC.

© 2005 D & A, i

05-17-05
JOB # 2179

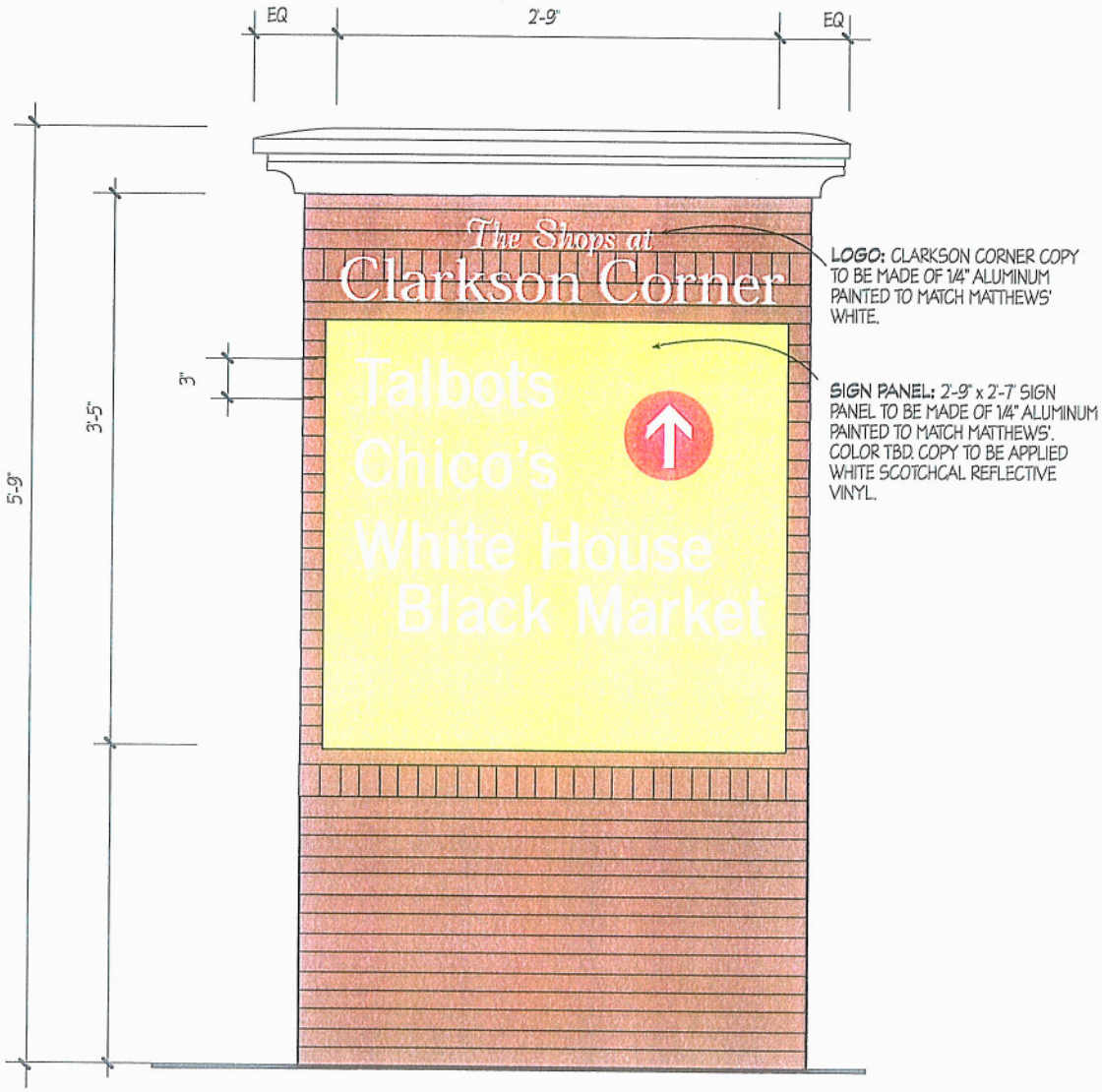
Exhibit "D"

Directional Sign

Design
Development

August 8, 2006

Clarkson Corner



A FRONT ELEVATION
SCALE: 1" = 1'-0"

BLISS COLLABORATIVE
Since 1999
1709 Washington Avenue #806 Saint Louis, Missouri 63103
p 314.621.1493 f 314.621.1593

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DIRECTIONAL SIGN

City of Chesterfield

DEPARTMENT OF PLANNING

APPLICATION FOR MUNICIPAL ZONING APPROVAL

TO:	Department of Public Works Division of Code Enforcement St. Louis County Government 41 South Central Clayton, Missouri 63105	FROM:	City of Chesterfield

The City of Chesterfield contracts with the St. Louis County Department of Public Works to provide permitting and inspection services. Review of plans, collection of fees, and issuance of permits are handled by the County. However, before obtaining any permit, or beginning any construction project, a zoning approval must be obtained from the City of Chesterfield.

Zoning approval signifies that the property can be used as requested and that the location of a proposed structure is within the legal limits of the property lines as delineated by regulations contained within the City of Chesterfield Zoning Ordinance. Please be advised that some sites have regulations that are more restrictive as part of conditions of the ordinance governing a particular Planned Commercial District, Planned Industrial District, Estate District, Mixed Use Development District, Conditional Use Permit, Commercial-Industrial Designed Development Procedure, Planned Environmental Development Procedure, or Landmark Preservation Area.

Petitioners are strongly urged to visit the County web site at http://www.stlouisco.com/pubworks/ or contact the St. Louis County Department of Public Works at (314) 615-7155 for submittal requirements, permitting information and a detailed list of work that does not require a building permit and/or zoning approval

For questions about this application, please contact the "Planner of the Day" at 636-537-4733.

I. APPLICANT INSTRUCTIONS

1. Obtain City of Chesterfield approval;
2. Obtain *Fire District approval; An additional separate permit is required from the fire district.
3. Obtain St. Louis County approval.

*NOTE: It is the responsibility of the applicant to determine which Fire District covers the project property.

- Monarch Fire Protection District: Tel. 314-514-0900, ext. 309
- Metro West Fire Protection District: Tel. 636-458-2100

II. PROJECT INFORMATION

Property Owner:	Chesterfield Oaks, LLC c/o Capitol Land Company				
Project Address:	1596 Clarkson Road				
City:	Chesterfield	State:	MO	Zip:	63017
Tenant Name (if different than above):	N/A				
Owner/Tenant Authorization to Applicant:	See attached Exhibit "C"				
	(Signature of owner/tenant or duly authorized agent required)				

EXHIBIT 5.i

2132 - no off site signs

195 42 0415

City of Chesterfield

DEPARTMENT OF PLANNING

APPLICATION FOR A SIGN PERMIT

Signs are permitted in accord with the regulations of the City of Chesterfield Zoning Ordinance. Some sites have regulations for signs that are more restrictive as part of the conditions of the ordinance governing a particular Planned Commercial District, Planned Industrial District, Mixed Use Development District, Conditional Use Permit, Commercial-Industrial Designed Development Procedure, Planned Environmental Development Procedure, or Landmark Preservation Area.

For questions about this application, please contact the "Planner of the Day" at 636-537-4733.

I. APPLICANT INFORMATION

Project Address: 1596 Clarkson Road

City: Chesterfield **State:** MO **Zip:** 63017

Property Owner(s) of record of the hereinafter described property according to St. Louis County Assessor's Record: Chesterfield Oaks, LLC c/o Capitol Land Company

Address: 11850 Studt Avenue

City: St. Louis **State:** MO **Zip:** 63141

Applicant Name: Davis Street Land Company of Missouri II, LLC
(If different than owner)

Address: 622 Davis Street, Suite 200

City: Evanston **State:** IL **Zip:** 60201

Tel.: (847) 425-4004 **Fax:** (847) 425-4014

II. SIGN PACKAGE

Is a *Sign Package* required for this project site? Check (✓) one [X] Yes [ ] No

If yes, does the requested sign conform to the *Sign Package*? Check (✓) one [ ] Yes [X] No

[THIS SPACE INTENTIONALLY LEFT BLANK]

STAFF USE ONLY

Zoning District: PC

	Check (✓) one Yes	No	Notes
Compliance with Ordinance(s)	[ ]	[✓]	
Conforms to *Sign Package*	[ ]	[✓]	

Calculations:

Remarks: Ord bans off site signs

Department of Planning Approval:

Approved by: _____ Date: _____

Title: _____

Planning Commission approval if necessary:

On _____ ,20 ____ the application was referred to the Planning Commission for review and action. The application was *approved* / *denied* (CIRCLE ONE).

Remarks:

(FOR CITY OF CHESTERFIELD AND ST. LOUIS COUNTY STAFF USE ONLY)

Municipal Zoning Classification: PC

Is this project located within a Flood Plain: (Check one) Yes ____ No X

Status 1: APPROVED REJECTED (circle one)

Approved/Rejected by: [signature] **Date:** 1/24/07

Print Name and Title: Derrick Redhead - Planning Tech

Comments: Ord bans off site signs

Status 2: APPROVED REJECTED (circle one)

Approved/Rejected by: ____ **Date:** ____

Print Name and Title: ____

Comments: ____

EXTERIOR FIRE PROTECTION

Approved by: ____ **Date:** ____

Print Name and Title: ____

Fire Protection Provided By: ____

ST. LOUIS COUNTY PERMIT APPLICATION NUMBER: ____

Notes: ____

Applicant Name:	Davis Street Land Company of Missouri II, LLC		
Applicant Address:	622 Davis Street, Suite 200 Evanson, Illinois 60201		
Phone Number:	(847) 425-4004	**Attn:**	Robert Perlmutter

If the property is located within a subdivision, the applicant is to notify Subdivision Trustees of the proposed work.					
Subdivision Name:	N/A Chesterfield Oaks				
Subdivision Trustee Acknowledgement:					
	(Signature of trustee or duly authorized agent)				
Were the Subdivision Trustees Notified?		Check (✓) one	[ ] Yes	[ ] No	

Description of Work: Construction of a directional sign for retail establishment.

Advisory: Applications for Municipal Zoning Approval which are rejected may be resubmitted once changes have been made. Please note that relief from some requirements, in the form of a variance, may be requested via application to the Board of Adjustment. For information about the Board of Adjusment, please contact the Department of Planning at 636-537-4746.

III. TYPE OF SIGN

[ ] Temporary Post Date: _____ Remove Date: _____

[x] Directional

[ ] Informational

[x] Free-Standing

[ ] Building

[ ] Other: _____

IV. DESCRIPTION OF SIGN

Size (Dimensions): 2'9" x 3'5" (9.4 sqft) See attached Exhibits "A" and "B"

Color(s): Dark Red (brick) and green with white lettering.

Estimated Cost: $10,000

V. TYPE OF STRUCTURE ON WHICH SIGN WILL BE LOCATED

Amusement/Recreation	[ ]	Office/Bank/Professional	[ ]	School/Educational	[ ]
Church/Religious	[ ]	Industrial	[ ]	Service Station	[ ]
Hospital/Institution	[ ]	Parking Garage	[ ]	Common Area	[ ]
Store/Retail	[X]	Public Works/Utility	[ ]	Free standing/Pole	[ ]

VI. SUBMITTAL REQUIREMENTS

The following documents are to be submitted to the City of Chesterfield:

1) Completed *Application for Sign Permit* for each sign proposed.
2) For free standing/directional/informational signs: A copy of the approved site development plan showing the location of the sign.
3) For building signs: Scaled drawing of the approved/existing building elevation showing location of the sign.
4) Scaled drawings showing size, color, and material of the sign.
5) If St. Louis County approval is required:
   a) Completed Application for Municipal Zoning Approval
   b) Five sets of application materials

VII. AUTHORIZATION TO APPLY

I, Robert Permutter (PRINT NAME) certify that I am the owner in fee or agent authorized to apply for this permit.

Owner/Agent: [signature] (SIGN NAME)

Tel.: 847-425-6021

BILL NO. 2099 ORDINANCE NO. 1884

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF CHESTERFIELD BY CHANGING THE BOUNDARIES OF A "C-8" PLANNED COMMERCIAL DISTRICT TO A "PC" PLANNED COMMERCIAL DISTRICT FOR A 1.983 ACRE TRACT OF LAND LOCATED BETWEEN CLARKSON ROAD AND OLD BAXTER ROAD, SOUTH OF CHESTERFIELD PARKWAY EAST (P.Z. 38-2001).

WHEREAS, the petitioner, Davis Street Land Company, L.L.C., has requested a change in zoning from a "C-8" Planned Commercial District to a "PC" Planned Commercial District for a 1.983 acre tract of land located between Clarkson Road and Old Baxter Road, south of Chesterfield Parkway East; and,

WHEREAS, the Planning Commission, having considered said request, recommends approval of the request for a change of zoning from a "C-8" Planned Commercial District with conditions in the Attachment "A" regarding access, floor area, parking and loading, landscape, architectural, and green space requirements to a "PC" Planned Commercial District for a 1.983 acre tract of land located between Clarkson Road and Old Baxter Road, south of Chesterfield Parkway East; and

WHEREAS, the configuration of this parcel and the attached parcel were originally joined as one single project for the purposes of rezoning under Ordinance 411; and

WHEREAS, the parcel as originally zoned to "C-8" is now split with two separate projects proposed for the original site; and

WHEREAS, with this site the City desires to preserve the advantages provided by unified development so as to protect the health, safety, and welfare of adjacent residential community as well as accessibility and safety issues related to traffic at this location; and

WHEREAS, the original approval for commercial development of this site called for a cross access over the entire site, with ingress and egress located away from the current signalized intersection of Lea Oak and Clarkson Road; and

WHEREAS, in the approval of the Drew Station development provisions were made for cross access at least 200' distance from the Lea Oak/Clarkson intersection; and

WHEREAS, for the public safety and public welfare, the development of this site for commercial use is dependant upon access away from the intersection, ultimately requiring the access at the three-way intersection on Lea Oak as approved by the City Department of Public Works; and

WHEREAS, the City Council, having reviewed the proposed preliminary plan, architectural elevations and landscape plan as set forth finds that petitioner has presented sufficient cause to vary from the required performance standards for parking and open space

EXHIBIT 6

set forth in Ordinance No. 1747 for Planned Commercial Districts as provided in Attachment "A" herein;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The City of Chesterfield Zoning Ordinance and the Official Zoning District Maps, which are part thereof, are hereby amended by establishing a "PC" Planned Commercial District for a 1.983 acre tract of land located on located between Clarkson Road and Old Baxter Road, south of Chesterfield Parkway East, and described as described as follows:

A tract of land in U.S. Survey 2002, Township 45 North, Range 4 East of the 5th Principal Meridian, City of Chesterfield, St. Louis County, Missouri, and being more particularly described as follows:

Beginning at the Southeast corner of a tract of land conveyed to Elmer E. and Janet C. Weinrich, Trustees, by deed recorded in Book 13047 Page 1869 of the records of the Recorder of Deeds Office in St. Louis County, Missouri, being a point on the Western line of Old Baxter Road (originally 30 feet wide); thence along the Southern line of said Weinrich property North 84 degrees 17 minutes 00 seconds West 405.66 feet to a point on the Southeastern line of Clarkson Road (Route 340) as established by deed recorded in Book 8558 Page 2087 of the above said records; thence along the Southeastern line of Clarkson Road North 33 degrees 59 minutes 09 seconds East 97.63 feet to a point 85.48 feet perpendicular distance Southeast of Station 210 + 95.65 on the base line of the northbound of Clarkson Road; thence North 49 degrees 58 minutes 03 seconds East 182.94 feet to a point 145.00 feet perpendicular distance Southeast of Station 212 + 68.64 feet on the base line of the northbound lane of Clarkson Road; thence along the Southeast line and the Southwest line of Clarkson Road, as established by deed recorded in Book 8325 Page 413 of the above said records the following courses and distances: North 48 degrees 40 minutes 57 seconds East 165.62 feet to a point 65.50 feet perpendicular distance Southeast of Base Line Ramp No. 2, South 46 degrees 57 minutes 47 seconds East 122.50 feet to a point 187.00 feet perpendicular distance Southeast of Station 6 + 00 on the Base Line Ramp No. 2 South 06 degrees 51 minutes 57 seconds West 43.78 feet to a point 213.30 feet perpendicular distance Southeast of Station 5+ 69.84 feet on the Base Line Ramp No. 2 (Station 5 + 72.3 record), South 83 degrees 12 minutes 15 seconds East 19.33 feet to a point on the Western line of Old Baxter Road; thence along the Western line of Old Baxter Road South 04 degrees 56 minutes 00 seconds West 219.84 feet to the Point of Beginning and containing 86,371 square feet or 1.983 acres more or less.

Section 2. The preliminary approval, pursuant to the City of Chesterfield Zoning Ordinance is granted, subject to all of the ordinances, rules and regulations and the specific conditions as recommended by the Planning Commission in its recommendations to the City Council, which are set out in the Attachment "A", which is attached hereto and made a part hereof.

Section 3. The City Council, pursuant to the petition filed Davis Street Land Company, L.L.C., in P.Z. 38-2001, requesting the amendment embodied in this ordinance, and pursuant to the recommendations of the City of Chesterfield Planning Commission that said petition be granted and after public hearing, held by the Planning Commission on the 28th day of January, 2002, does hereby adopt this ordinance pursuant to the power granted to the City of Chesterfield under Chapter 89 of the Revised Statutes of the State of Missouri authorizing the City Council to exercise legislative power pertaining to planning and zoning.

Section 4. This ordinance and the requirements thereof are exempt from the warning and summons for violations as set out in Section 1003.410 of the Zoning Ordinance of the City of Chesterfield.

Section 5. This ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 21st day of OCTOBER, 2002.

MAYOR

ATTEST:

CITY CLERK

ATTACHMENT "A"

In keeping with the following Comprehensive Plan policies, these conditions have been developed:

1.1.1 Conservation of Existing Quality of Life
1.1.2 Reinforce Existing Development Pattern
1.2.1 Coordinated Growth
1.2.2 Quality New Development
1.3.3 Urban Core
2.23 Neighborhood/Service Oriented Retail Facilities
2.2.4 Control Strip Development
4.1.12 Internal Commercial Circulation
4.1.6 Limit Curb Cuts

I. PERMITTED USES

A. The uses allowed in this "PC" Planned Commercial District shall be:

(e) Associated work and storage areas required by a business, firm, or service to carry on business operations.

(h) Barber shops and beauty parlors.

(s) Financial institutions.

(z) Offices or office buildings.

(ii) Restaurants, sit down.

(pp) Permitted signs (See Section 1003.168 'Sign Regulations').

(rr) Stores, shops, markets, service facilities, and automatic vending facilities in which goods or services of any kind, including indoor sale of motor vehicles, are being offered for sale or hire to the general public on the premises.

B. The above uses in the "PC" Planned Commercial District shall be restricted as follows:

1. Restaurants, sit down shall be limited to specialty establishments where a limited variety of food and beverages such as baked goods or coffee may be prepared and consumed on site.

2. Indoor sale of motor vehicles shall be prohibited.

3. Hours of operation for all uses shall be between 7:00 a.m. and 9:30 p.m.

4. Stores, shops, markets, service facilities, and automatic vending facilities in which goods or services of any kind, including indoor sale of motor vehicles, are being offered for sale or hire to the general public on the premises shall be limited to "low intensity specialty retail establishments" where uses that are compatible with, and targeted to, local residential consumers, and that reduce the hazards of local traffic by limiting the size of the building and restricting uses to those that need significantly fewer parking spaces than is required by the established retail performance standard. Such stores or services may include high-end clothiers, pharmacies, bakeries, coffee shops, barbershops and beauty parlors, drycleaners, shoe repair, small commercial postal services, flower shops, and similar uses. Drive-in establishments, such as gas stations, fast-food or drive-through restaurants, and other high traffic generators such as "discount" or "outlet retailers," and "big-box" or "large-format" retailers do not meet this definition. Building structures or shopping centers designated for "Low Intensity Specialty Retail" shall not be located adjacent to other stores, shops, markets, or service facilities not designated "Low Intensity Specialty Retail" where parking lots could potentially be shared.

5. Any second story construction of building structures shall be limited in use to storage areas required by a business, firm, or service to carry on business operations.

II. FLOOR AREA, HEIGHT AND BUILDING REQUIREMENTS

A. The following requirements shall apply to the permitted uses:

1. The uses permitted within this "PC" Planned Commercial District shall be contained in a maximum of two (2) buildings.

2. Building height shall not exceed two (2) stories or thirty-five (35) feet, whichever is less, as measured from the average finished ground elevation of the building.

3. Gross floor area constructed for the two (2) buildings shall not exceed 20,500 square feet.

4. The square footage constructed shall be based on the development's ability to comply with the parking and stormwater regulations of the City of Chesterfield.

5. The architectural style of the permitted building and any fencing shall be of traditional residential character comparable in quality, material, construction and scale to the adjacent residential neighborhood and shall be approved by the Planning Commission on building elevations and architectural renderings reviewed in conjunction with the Site Development Plan.

III. SITE DEVELOPMENT PLAN SUBMITTAL REQUIREMENTS

A. Within eighteen (18) months from the preliminary development plan approval exclusively to storage date by the City of Chesterfield and prior to issuance of any building permit, the developer shall submit to the City of Chesterfield for their review and approval a Site Development Concept Plan. Within twelve (12) months of the Site Development Concept Plan approval date, the developer shall submit the first Site Development Section Plan to the City of Chesterfield for review and approval. Where due cause is shown by the developer, this time interval may be extended by the City of Chesterfield.

B. Failure to comply with aforementioned time limits will result in the expiration of the preliminary plan/site development concept plan for that portion not developed and will require a new public hearing. Said Site Development Plans shall include but not be limited to the following:

IV. GENERAL CRITERIA - CONCEPT PLAN

A. The Site Development Concept Plan shall include the following:

1. Outboundary plat and legal description of the property.

2. Conceptual location, design (with design statement), materials, and size, including height, of all proposed buildings, parking and loading areas, and lots.

3. Specific structure and parking setbacks along all roadways and property lines.

4. The size and approximate location of the proposed internal and adjacent roadway, major utility easements, necessary right-of-way dedications, road improvements, and curb cuts.

5. Existing and proposed contours at 2-foot intervals extending 150 feet beyond the limits of the site.

6. Preliminary stormwater and sanitary sewer facilities.

7. Show existing improvements, including roads and driveways on the opposite side of roadways adjacent to the site.

8. Comply with all preliminary plat requirements of the City of Chesterfield Subdivision Ordinance.

9. The scale to which the Site Development Concept Plan will be drawn shall be no greater than one (1) inch equals one hundred (100) feet.

10. Show the location of significant natural features, such as wooded areas and rock formations that are to remain or be removed.

11. Signed and sealed in conformance with the State of Missouri Department of Economic Development, Division of Professional Registration, Missouri Board for Architects, Professional Engineers and Land Surveyors requirements.

12. Provide the greenspace percentage for each lot on the plan. Greenspace is calculated by dividing the pervious surfaces by the site area (excluding right-of-ways).

V. GENERAL CRITERIA - SECTION PLANS

A. Site Development Section Plans shall include the following:

1. Location and size, including height, of all uses, buildings, parking and loading areas, light standards, fencing, free-standing signs, trash enclosures, other above ground structures and landscaping.

2. Existing and proposed contour intervals of not more than one (1) foot, and extending 150 feet beyond the limits of the site.

3. Existing and proposed roadway, drives, and walkways on and adjacent to the property in question, including location of curb cuts, necessary right-of-way dedications and road improvements, and locations of the existing roads and driveways on the opposite side of the development.

4. All existing and proposed easements/rights-of-way on site and all existing or proposed off-site easements required for utilities, storm water drainage, grading or other improvements.

5. Specific structure and parking setbacks along all roadways and property lines.

6. The location of the proposed storm sewers, detention basins, sanitary sewers, and connection(s) to existing systems.

7. Location and size of all parking areas.

8. A landscape plan, including, but not limited to, location, size, and type of all plant and other material to be used.

9. Area of each building phase.

10. Architectural elevations and building materials addressing City of Chesterfield Design Guidelines.

11. Show existing improvements, including roads and driveways on the opposite side of roadway adjacent to the site.

12. Show the location of significant natural features, such as wooded areas and rock formations that are to remain or be removed.

13. Provide comments/approvals from the Metropolitan St. Louis Sewer District, Missouri Department of Transportation, Laclede Gas, and the Chesterfield Fire Protection District.

14. Signed and sealed in conformance with the State of Missouri Department of Economic Development, Division of Professional Registration, Missouri Board for Architects, Professional Engineers and Land Surveyors requirements.

15. Provide the greenspace percentage for each lot on the plan. Greenspace is calculated by dividing the pervious surfaces by the site area (excluding right-of-ways).

VI. SITE DEVELOPMENT PLAN SUBMITTAL OPTION

In lieu of submitting a Site Development Concept Plan and Site Development Section Plans, the petitioner may instead submit a Site Development Plan for the entire development within

eighteen (18) months of the date of approval of the Preliminary Development Plan by the City. Said Plan shall be submitted in accord with the combined requirements for Site Development Section and Concept Plans. The submission of Amended Site Development Plans by sections of this project to the Planning Commission shall be permitted if this option is utilized.

VII. SPECIFIC CRITERIA

The Site Development Concept and Section Plans shall illustrate adherence to the following specific design criteria. Information to be shown on the Site Development Concept Plan shall be limited to those items specified in Section A, General Criteria-Concept Plan.

A. Structure Setbacks

No building or structure, other than boundary walls, retaining walls, signs, light standards, flagpoles or fences, shall be located within the following setbacks:

1. Eight (8) feet from the right-of way of Clarkson Road (Rte. 340) bearing N 48° 40' 57" E 165.62'

2. Eight (8) feet from the right-of way of Clarkson Road (Rte. 340) bearing N 49° 58' 03" E 182.94'

3. Eight (8) feet from the right-of way of Clarkson Road (Rte. 340) bearing N 33° 59' 09" E 97.63'

4. Forty-nine (49) feet from the right-of way of Old Baxter Road bearing S 46° 57' 47" E 122.50'

5. Forty (40) feet from the right-of way of Old Baxter Road bearing S 06° 51' 57" W 43.78'

6. Thirty-nine (39) feet from the proposed right-of way of Old Baxter Road bearing S 04° 56' 00" W 219.84'

7. Twenty-nine (29) feet from the southern boundary of the total tract bearing N 84° 17' 00" W 405.66'

B. Parking and Loading Space Setbacks

No parking stall, loading space, internal driveway, or roadway, except points of ingress and egress, shall be located within the following setbacks:

1. Thirty (30) feet from the right-of way of Clarkson Road (Rte. 340) bearing N 48° 40' 57" E 165.62'

2. Ten (10) feet from the right-of way of Clarkson Road (Rte. 340) bearing N 49° 58' 03" E 182.94'

3. Five (5) feet from the right-of way of Clarkson Road (Rte. 340) bearing N 33° 59' 09" E 97.63'

4. One hundred fifty-five (155) feet from the right-of way of Old Baxter Road bearing S 46° 57' 47" E 122.50'

5. One hundred twenty (120) feet from the proposed right-of way of Old Baxter Road bearing S 04° 56' 00" W 219.84' with the exception of loading spaces. Said loading spaces shall not be located within the following setback: Sixty-eight (68) feet from the proposed right-of way of Old Baxter Road bearing S 04° 56' 00" W 219.84' as shown on the preliminary plan.

6. Ten (10) feet from the southern boundary of the total tract bearing N 84° 17' 00" W 405.66'

C. Landscape Setback

1. There shall be a densely screened landscape buffer, and a berm where appropriate, along the eastern edge of the site that shields the proposed building from the existing neighborhoods adjacent to Old Baxter Road. The landscape buffer along the Old Baxter Road property line shall be a minimum width of not less than 10% of the width of the property to be developed. A minimum of thirty (30) feet will be required, as measured from the new right-of-way of the roadway to the building and include preservation of the existing trees with 85% of any additional trees in the landscape buffer area consisting of evergreen species, specifically to include Norway Spruce and shrubbery (For additional information see section VII. H. Landscape Plan).

D. Parking and Loading Requirements

1. Handicapped parking and access requirements should comply with Section 512.4 of the St. Louis County Building Code.

2. Parking requirements shall be four (4) spaces per one thousand (1000) square feet of gross floor area.

3. All other parking and loading requirements shall be in accord with the regulations of Section 1003.165 of the City of Chesterfield Zoning Ordinance.

E. Access

1. Future permanent access to this site shall be located a minimum of 200 feet east of the Clarkson Road/Lea Oak intersection, at the current terminus of the three lane entrance road to Drew Station. Until such time as this future permanent access is acquired and constructed, the existing access for this site shall be along the State outer road. The existing access shall be for this site only and shall be abandoned in favor of the future permanent access once that access is acquired and constructed. If Petitioner is unable to obtain the necessary easements and other appropriate legal instruments or agreements for the future permanent access, and the necessary easements or rights-of-way for the future permanent access are acquired by the City of Chesterfield, Petitioner shall pay the cost of acquiring such easements or rights-of-way and all costs of constructing the access. The cost of acquiring such easements or rights-of-way shall include the cost of the land, attorney's fees, appraiser's fees and costs of litigation, if any.

2. Final location and geometry of the access shall be as approved by the City of Chesterfield.

3. Right-of-way dedication equal to up to one half of a 50' wide right-of-way will be required along Old Baxter Road.

4. A hardened surface pedestrian plaza with dual use as an emergency vehicle access way shall be sited between the building structures, as directed by the Chesterfield Fire Protection District and the City of Chesterfield. No permanent structures or fixed-element features shall be permitted in said plaza.

5. No direct vehicular access will be allowed to Old Baxter Road.

6. Provide cross access easement and temporary slope construction license or other appropriate legal instrument or agreements guaranteeing permanent access between this site and adjacent properties as directed by the City of Chesterfield.

F. Public/Private Road Improvements, Including Sidewalks

1. Provide a 5' wide sidewalk along Old Baxter Road. Said sidewalk shall begin at the southern property line and connect to the proposed sidewalk to be constructed with the Highway 340 Enhancement project.

G. Traffic Study

1. Prior to Site Development Plan approval, a traffic study will be required as directed by the City of Chesterfield and the Missouri Department of Transportation.

H. Landscape Plan

1. The developer shall submit a landscape plan in accord with the Landscape Guidelines adopted by the Planning Commission, either as part of the appropriate Site Development Concept Plan or on a separate drawing.

2. Building and paved area setbacks and landscaped areas shall contain adequate landscaping as required and approved by the Planning Commission on the Site Development Plan.

3. There shall be a densely screened landscape buffer, and a berm where appropriate, along the eastern edge of the site that shields the proposed building from the existing neighborhoods adjacent to Old Baxter Road. The landscape buffer shall be, at a minimum, thirty (30) feet wide, and include preservation of the existing trees with 85% of any additional trees in the landscape buffer area consisting of evergreen species, specifically to include Norway Spruce and shrubbery (For additional information see section VII. C. Landscape Setback).

4. Other landscape buffer areas should consist of multi-stem canopy trees.

5. Irrigation system sprinkler heads shall be a minimum of 40 feet from any existing trees.

6. If the estimated cost of new landscaping indicated on the Site Development Section Plans as required by the Planning Commission exceeds one thousand ($1,000) dollars, as determined by a plant nursery, the petitioner shall furnish a two (2) year bond or escrow sufficient in amount to guarantee the installation of said landscaping.

7. Prior to release of the Landscape Installation Bond/Escrow, a two (2) year Landscape Maintenance Bond/Escrow will be required.

8. 37.5% Minimum Open Space shall be required for the total tract.

I. Sign Requirements

1. A Sign Package will be submitted to the Department of Planning in conjunction with the Site Development Plan. Approval of sign package by the Planning Commission does not constitute issuance of a permit for signage. Signs shall be permitted in accord with the regulations of Section 1003.168 of the City of Chesterfield Zoning Ordinance.

2. Freestanding signs: The location of the freestanding signs shall be as approved by the Planning Commission on the Site Development Plan and shall be in conformance with the City of Chesterfield's Zoning Ordinance.

3. Ornamental Entrance Monument construction, if proposed, shall be reviewed by the City of Chesterfield department of Public Works, and/or the Missouri Department of Transportation, for sight distance considerations prior to installation or construction.

4. No advertising signs, temporary signs, portable signs, off-site signs, or attention getting devices shall be permitted in this development.

5. All permanent freestanding business and identification signs shall have landscaping, which may include, but not be limited to, shrubs, annuals, and other materials, adjacent to the sign base or structural supports. This landscaping shall be as approved by the Planning Commission on the Site Development Plan.

6. Illumination of any sign shall be by an internal source only.

7. All other signs shall be permitted in accord with the regulations of Section 1003.168 of the City of Chesterfield Zoning Ordinance.

J. Lighting Requirements

1. The Lighting Plan submittals for Concept and Section Site Development Plans shall conform to the Lighting Plan presented with the Preliminary Plan package.

2. The location of the light standards shall be as approved by the Planning Commission on the Site Development Plan and shall be in conformance with City of Chesterfield regulations. A Lighting Plan, with specific product information, is required in conjunction with the Site Development Plan.

3. Except for required street lighting, no source of illumination shall be so situated that light is cast on any public right-of-way or adjoining property. Lighting shall be required in compliance with City of Chesterfield regulations, including the Subdivision Ordinance.

4. All light standards within this development shall not exceed a total vertical height of fourteen (14) feet.

5. All light standards located on the parking structure, other than those for security purposes, shall be turned off by 9:30 p.m., seven (7) days a week.

K. Architectural elevations

1. The architectural style of the permitted buildings and any fencing shall be of traditional residential character, comparable in quality, material, construction and scale to the adjacent residential neighborhood and will include a faux window or windows on any second story portion of said buildings. Permitted buildings and any fencing shall be approved by the Planning Commission on building elevations and architectural renderings reviewed in conjunction with the Site Development Plan.

2. The developer shall submit architectural elevations and building materials. Architectural information is to be reviewed by the Architectural Review Board prior to submission to the Planning Commission.

L. Power of Review

1. Either Council member of the Ward where a development is proposed, or the Mayor, may request that the site plan for a development be reviewed and approved by the entire City Council. This request must be made no later than twenty-four (24) hours before posting the agenda for the next City Council meeting after Planning Commission review and approval. The City Council will then take appropriate action relative to the proposal.

M. Miscellaneous

1. Trash enclosures: The location and elevation of any trash enclosures shall be as approved by the Planning Commission on the Site Development Plan. All exterior trash areas shall be enclosed with a six (6) foot high sight-proof enclosure complimented by adequate landscaping approved by the Planning Commission on the Site Development Plan. The material shall be as approved by the Planning Commission in conjunction with the Site Development Plan.

2. Mechanical equipment shall be adequately screened by roofing or other material as approved by the Planning Commission.

3. All utilities shall be installed underground. The development of this parcel shall coordinate the installation of all utilities in conjunction with the construction of any roadway on site.

4. Sleeves for future telecommunication services shall be installed adjacent and/or parallel to any proposed roadway, or other location as directed by the City of Chesterfield, in order to facilitate the installation of utilities and telecommunication infrastructure for current and future users.

VIII. VERIFICATION PRIOR TO APPROVAL

Prior to approval of the Site Development Concept and Section Plans, the developer shall provide the following:

A. Roadway Improvements and Curb Cuts

1. Obtain approval from the City of Chesterfield Department of Public Works and the Missouri Department of Transportation of the locations of proposed curb cuts, areas of new dedication, and roadway improvements.

B. Stormwater and Sanitary Sewer

1. Detention/retention is to be provided for this site as directed by the City of Chesterfield Department of Public Works. Detention of storm water runoff is required by providing permanent detention/retention facilities such as dry reservoirs, ponds, underground vaults or another alternative acceptable to the Department of Public Works. The detention/retention basin shall be operational prior to paving of any driveways or parking areas. The location and types of detention facilities shall be identified on the Site Development Plan.

2. The site shall provide for the positive drainage of storm water and it shall be discharged at an adequate natural discharge point. No change in watersheds shall be permitted. The adequacy of any existing downstream storm water facilities shall be verified and upgraded if necessary as directed by the City of Chesterfield Department of Public Works. Emergency overflow drainage ways to accommodate the 100-year storm shall be provided. Off-site easements for areas inundated by headwater from on site improvements shall be provided as required by the Department of Public Works.

C. Geotechnical Report

1. Provide a geotechnical report, as directed by the City of Chesterfield, Department of Public Works, prepared by a Professional Engineer, licensed to practice in the state of Missouri. Said Report shall verify the suitability of grading and proposed improvements with soil and geologic conditions. A statement of compliance, signed and sealed by the Geotechnical Engineer preparing the report, shall be included on all Site Development Plans. This report shall address the existence of any potential sinkhole, ponds, dams, septic fields, etc., and recommendation for treatment.

D. Grading and Improvement Plans

1. A clearing/grading permit or improvement plan approval is required prior to any clearing or grading on the site. Be advised, the Site Development Plan and Tree Preservation Plan must be approved prior to issuance of a clearing and grading permit.

2. Interim storm water drainage control in the form of siltation control and/or siltation basins is required. A Stormwater Pollution Prevention Plan (SWPPP) must be submitted and approved by the Department of Public Works prior to any clearing, grading, and/or improvement plan approval. The SWPPP covers required erosion control practices specific to site conditions and maintenance and implementation, management and maintenance of the Best Management Practices (BMP's) in order to reduce the amount of sediment and other pollutants in stormwater discharges associated with land disturbance activities. It shall comply with the Missouri Water Quality Standards, and ensure compliance with the terms and conditions of the NPDES.

3. Temporary settlement basins, as required by the City of Chesterfield Department of Public Works, shall be constructed during construction to allow for settling of sediment, prior to the discharge of storm water from this

site. Erosion and siltation control shall be installed prior to any grading and be maintained throughout the project until acceptance of the work by the owner and/or controlling regulatory agency and adequate vegetative growth insures no future erosion of the soil.

4. When clearing and/or grading operations are completed or suspended for more than 30 days, all necessary precautions shall be taken to retain soil materials on site. Protective measures, such as permanent seeding, periodic wetting or other means, may be required by the Director of Public Works/City Engineer.

5. Provide adequate temporary off-street parking for construction employees and a vehicle washdown/cleaning area shall be provided during construction. Parking on non-surfaced areas is prohibited in order to eliminate the condition whereby mud from construction and employee vehicles is tracked onto the pavement causing hazardous roadway and driving conditions. The contractor shall keep the road clear of mud and debris at all times. The streets surrounding this development and any street used for construction access thereto shall be cleaned throughout the day. No construction parking or access shall be allowed along Old Baxter Road. No construction parking shall be allowed along Clarkson Road (Rte. 340) ROW.

6. If cut and fill operations occur during a season not favorable for immediate establishment of a permanent ground cover, a fast germinating annual such as rye grasses or sudan grasses shall be utilized to retard erosion, if adequate stormwater detention and erosion control devices have not been established.

7. Prior to issuance of an occupancy permit, all disturbed areas shall be seeded and mulched at the minimum rates defined in Appendix "A" of the City of Chesterfield's "Model Sediment & Erosion Control Guidelines" or sodded. A temporary occupancy permit may be issued by the Department of Planning in cases of undue hardship because of unfavorable ground conditions.

8. Prior to improvement plan approval; provide comments/approvals from the Metropolitan St. Louis Sewer District and the appropriate Fire District.

9. Prior to improvement plan approval, copies of recorded easements/right-of-way dedications for off-site work, including book and page information, shall be provided.

IX. RECORDING

Within sixty (60) days of approval of any development plan by the City of Chesterfield, the approved Plan shall be recorded with the St. Louis County Recorder of Deeds. Failure to record the plan within sixty (60) days of approval shall deem the plan void.

X. VERIFICATION PRIOR TO SPECIAL USE PERMIT ISSUANCE

Prior to Special Use Permit issuance by St. Louis County Department of Highways and Traffic, a special cash escrow or a special escrow supported by an Irrevocable Letter of credit must be established with this Department to guarantee completion of the required roadway improvements.

XI. VERIFICATION PRIOR TO IMPROVEMENT PLAN APPROVAL

Prior to Site Development Plan approval, provide comments/approvals from the appropriate Fire District, the Metropolitan St. Louis Sewer District, and the Missouri Department of Transportation.

XII. VERIFICATION PRIOR TO FOUNDATION OR BUILDING PERMITS

Subsequent to approval of the Site Development Plan and prior to the issuance of any foundation or building permit, the following requirements shall be met:

A. Notification of Department of Planning

Prior to the issuance of foundation or building permits, all approvals from the above mentioned agencies and the City of Chesterfield Department of Public Works, as applicable, must be received by the City of Chesterfield Department of Planning.

B. Notification of St. Louis County Department of Public Works

Prior to issuance of foundation or building permits, all approvals from the City of Chesterfield, the Department of Highways and Traffic and the Metropolitan St. Louis Sewer District must be received by the St. Louis County Department of Public Works.

C. Certification of Plans

Provide verification that construction plans are designed to conform to the requirements and conditions of the Geotechnical Report. The Geotechnical Engineer shall be required to sign and seal all plans with a certification that the proposed construction will be

completed in accordance with the grading and soil requirements and conditions contained in the report.

XIII. OCCUPANCY PERMIT/FINAL OCCUPANCY

A. The developer shall cause, at his expense and prior to the recording of any plat, the reestablishment, restoration or appropriate witnessing of all Corners of the United States Public Land Survey located within, or which define or lie upon, the outboundaries of the subject tract in accordance with the Missouri Minimum Standards relating to the preservation and maintenance of the U.S. Public Land Survey Corners.

B. Prior to final occupancy of any building the developer shall provide certification by a Registered Land Surveyor that no U.S. Public Land Survey Corner has been disturbed during the construction activities or that it has been corrected and the appropriate documents filed with the Missouri Department of Natural Resources Land Survey Program.

XIV. FINAL RELEASE OF ESCROW

Prior to the release of final escrow, the developer shall provide certification by a Registered Land surveyor that all monumentation depicted on the Record Plat has been installed and that the U.S. Public Land Survey Corners have not been disturbed during the construction activities or that they have been corrected and the appropriate documents filed with the Missouri Department of Natural Resources' Land Survey Program.

XV. VERIFICATION PRIOR TO BUILDING PERMITS

Subsequent to approval of the appropriate development plan and prior to issuance of any building permit, the following requirements shall be met:

A. Sanitary Sewers

Provide verification to the St. Louis County Department of Public Works and the City of Chesterfield of provision of adequate sanitary services.

B. Notification of City of Chesterfield

Prior to issuance of zoning approvals for foundation or building permits, the City of Chesterfield must receive approvals from the St. Louis County Department of Highways and Traffic and the Metropolitan St. Louis Sewer District.

XVI. SUPPLEMENTARY DEVELOPMENT CONDITIONS

Supplementary development conditions relating to the operation of this development are as follows:

A. The developer shall cause, at his expense and prior to the recording of any plat, the reestablishment, restoration or appropriate witnessing of all Corners of the United States Pubic Land Survey located within, or which define or lie upon, the outboundaries of the subject tract in accordance with the Missouri Minimum Standards relating to the preservation and maintenance of the U.S. Public Land Survey Corners.

B. Prior to final occupancy of any building, the developer shall provide certification by a Registered Land Surveyor that no U.S. Public Land Survey Corner has been disturbed during the construction activities or that it has been corrected and the appropriate documents filed with the Missouri Department of Natural Resources' Land Survey Program.

C. Notice requirements set forth in Section 1003.410.2 of the Zoning Ordinance shall not apply to violations pursuant to this Attachment A.

XVII. GENERAL DEVELOPMENT CONDITIONS

General development conditions relating to the operation, construction, improvement and regulatory requirements to be adhered to by the developer are as follows:

A. The developer is advised that utility companies will require compensation for relocation of their utility facilities within public road right-of-way. Utility relocation cost shall not be considered as an allowable credit against the petitioner's traffic generation assessment contributions. The developer should be aware of extensive delays in utility company relocation and adjustments. Such delays will not constitute a cause to allow occupancy prior to completion of road improvements.

B. Failure to comply with any or all the conditions of this ordinance shall be adequate cause for revocation of permits by issuing Departments and Commissions.

C. The City of Chesterfield, Missouri shall enforce the conditions of this ordinance in accord with the Site Development Concept Plan approved by the City of Chesterfield and any Site Development Section Plans approved by the City of Chesterfield.