

**PLANNING COMMISSION
OF THE CITY OF CHESTERFIELD
AT CHESTERFIELD CITY HALL
JANUARY 26, 2015**

The meeting was called to order at 7:02 p.m.

I. ROLL CALL

PRESENT

Ms. Merrell Hansen
Ms. Laura Lueking
Ms. Debbie Midgley
Mr. Stanley Proctor
Mr. Steven Wuennenberg
Chair Michael Watson

ABSENT

Ms. Wendy Geckeler
Ms. Fay Heidtbrink
Ms. Amy Nolan

Councilmember Dan Hurt, Council Liaison
City Attorney Rob Heggie
Ms. Aimee Nassif, Planning & Development Services Director
Mr. Jonathan Raiche, Senior Planner
Ms. Purvi Patel, Project Planner
Ms. Mary Ann Madden, Recording Secretary

II. PLEDGE OF ALLEGIANCE

III. SILENT PRAYER

Chair Watson acknowledged the attendance of Mayor Bob Nation, Councilmember Dan Hurt, Council Liaison; Councilmember Connie Fults, Ward IV, Councilmember Bruce DeGroot, Ward IV; and Bridget Nations, Candidate for Ward II Councilmember.

IV. PUBLIC HEARINGS – None

V. APPROVAL OF MEETING SUMMARY

Commissioner Midgley made a motion to approve the Meeting Summary of the January 12, 2015 Planning Commission Meeting. The motion was seconded by Commissioner Hansen and passed by a voice vote of 5 to 0 with 1 abstention from Chair Watson.

VI. PUBLIC COMMENT

A. P.Z. 11-2014 THF Chesterfield Development LLC (The Commons):

Petitioners:

1. Mr. Lance Mills, Cedar Creek Consulting, 11700 S. County Line Road, Oklahoma City, OK was available for questions.
2. Mr. Matthew Minton, Lowe's Corporate Office, 1605 Curtis Bridge Road, Wilkesboro, NC.

Mr. Minton stated that Lowe's is requesting: (1) a one-hour earlier opening time in order to be competitive with the neighboring Home Depot store; and (2) additional outdoor storage room for customer convenience.

3. Ms. Pamela Heaps, Lowe's Store Manager, 290 THF Blvd., Chesterfield, MO.

DISCUSSION

Commissioner Wuennenberg expressed his appreciation for the efforts Lowe's has made to meet the Commission's requests.

Traffic Flow

Commissioner Hansen referred to the Queuing Exhibit provided by Cedar Creek Consulting and asked how Lowe's intends to prevent trucks from coming down the drive aisle next to the outdoor storage in order to exit the site – she indicated that this is a tight turn in the area near the front of the store and had concerns that trucks in this area would have a negative impact on the traffic circulation. Mr. Minton explained that delivery trucks to the store will utilize the back entrance. Customers will park adjacent to the outdoor storage area where their vehicles will be loaded with items already purchased and will exit the site by making either a left or right-hand turn.

Councilmember Hurt asked for clarification about the proposed stop bar depicted on the Queuing Exhibit. Mr. Minton stated that the stop bar is painted on the ground; loaders will be outside in the storage area and will motion to motorists as to where they should turn around and park for loading.

Signage

Commissioner Lueking stated that previous discussions included the possibility of utilizing temporary signage during the peak seasons to help motorists understand how to use the queuing lane in order to pick up their purchases.

Ms. Heaps explained that there will be one or two dedicated loaders who will be positioned near the outdoor storage pallets to quickly load vehicles either in the queuing lane or possibly in the parking area across from the pallets. Lowe's trucks will not be near the quick-load area.

Councilmember Hurt felt there is still the possibility of motorists being confused without any directional signage.

Chair Watson asked if signage could be installed during the peak seasons that would clearly indicate the loading area. Ms. Aimee Nassif, Planning and Development Services Director, stated that if a motion is made requiring signage, Staff would work with the Applicant.

Outdoor Storage Area

Ms. Heaps stated that the outdoor storage area will not include any fixed racks; there will only be pallets and they will be no taller than 8 feet in height. It was confirmed that the soil, fertilizer, and mulch will be placed on the pallets by forklifts.

Commissioner Wuennenberg stated he feels the proposed design is a lot safer and cleaner than the current situation where vehicles are being loaded in front of the store.

Ms. Heaps also pointed out that Lowe's is requesting outdoor storage year-round vs. the current restriction of having outdoor storage from March 15-October 15. Removing this restriction would allow them to display Christmas trees outside of the building. It was then noted that the requested outdoor year-round storage is included in the proposed Attachment A.

4. Mr. Phil Keene, Walmart Store Manager, 100 THF Blvd., Chesterfield, MO.

Mr. Keene stated they have made a number of changes to make their proposal smaller and noted he was available for any questions.

DISCUSSION

Compliance

City Attorney Rob Heggie noted that both the Commission and Council have concerns about Walmart's ongoing compliance with the current ordinance relative to outdoor storage. He then asked Mr. Keene to explain what steps are being taken to comply with the current ordinance; and to provide assurance that compliance will be maintained if the proposed changes are approved.

Mr. Keene replied that all of the temporary storage in the Garden Center lane, the parking lot, and inside the patio has been removed. The only storage remaining is the year-round storage at the back of the store, which includes nine storage containers (a mixture of 20 and 40 foot containers). There is no room to add any additional storage to the year-round storage area. Prior to October, the year-round storage containers will be emptied so they can be used for seasonal storage starting in October. In addition, trailers would be added to the seasonal outdoor storage area starting in October.

City Attorney Heggie agreed that Mr. Keene's plans sound feasible but advised him that Council will most probably direct Staff to insure the site stays in compliance.

Screening

Commissioner Lueking asked for confirmation that Walmart is aware of the fact that the back side of the storage area in the Garden Center must be screened in addition to screening the storage area at the front of the store. Mr. Keene indicated his awareness of this requirement and noted that screening discussions with contractors has included both areas.

Temporary Trailers

Commissioner Lueking pointed out that any temporary trailers parked on the side of the building would constitute a violation. Mr. Keene stated that they will address the concern about drop trailers, which are usually parked at the site for approximately two weeks during the Christmas season.

Ms. Nassif confirmed that the outdoor storage area is confined to the back loading area and behind the screening in the Garden Center. Anything that is not an immediate drop-off and pick-up is considered storage and would put the site in violation of its ordinance.

Mr. Keene again indicated his willingness to address this concern and to keep the site in compliance.

VII. SITE PLANS, BUILDING ELEVATIONS AND PLATS

- A. **Resubdivision of Chesterfield Blue Valley Plat 1, Lot 5**: A Record Plat for a 29.897 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 Proctor, representing the Site Plan Committee, made a motion recommending approval of the Record Plat for the Resubdivision of Chesterfield Blue Valley Plat 1, Lot 5. The motion was seconded by Commissioner Lueking and **passed by a voice vote of 6 to 0.**

VIII. OLD BUSINESS

- A. **P.Z. 11-2014 THF Chesterfield Development LLC (The Commons)**: A request for an ordinance amendment to Ordinance 2081 to modify development criteria and use restrictions for a 160.195 acre tract of land zoned "C-8" Planned Commercial District located between US Highway 40/Interstate 64 and Edison Avenue and East of RHL Drive (17T140253, 17U340067, 17U330112, 17T130166, 17T110212, 17T140143, 17U320102, 17U340089, 17U340100, 17U340111, 17U340144, 17T140341, 17T130144, 17U340155, 17U330091, 17T130089, 17T140165, 17T130155, 17U340090, 17T130133, 17U330123, 17U330101, 17T140132, 17T130210, 17T140187, 17U340078, 17T130188, 17T140088, 17T140330, 17U330255, 17U330321, 17T120741, 17U330288, 17T140101).

Senior Planner Jonathan Raiche presented the following table outlining the existing regulations compared to the Petitioner's proposed regulations:

	Existing	Proposed	Revision
Normal Retail Hours (All retail users)	7 a.m. – 11 p.m.	6 a.m. – 11 p.m.	
Seasonal Retail Hours (All retail users)	None currently permitted	(Day after Thanksgiving through December 23) 6 a.m. – 12 midnight, Sunday – Thursday 6 a.m. – 1 a.m., Friday and Saturday	Omitted after Public Hearing
Promotional Retail Hours (All retail users)	None currently permitted	4 promotions per calendar year by permit only Seasonal Hours would apply, limit of 3 days per event	Omitted after Public Hearing
Outdoor Storage/Sales (Time) (Lowe's Only)	Restricted to 3/15 through 10/15	All year	
Outdoor Storage/Sales (Area) (Lowe's Only)	3,200 sq. ft. located according to existing Exhibit A	Limited to areas on Revised Exhibit A, approx. 9,000 5,000 square feet with a maximum height of 8 feet.	Revised after Public Hearing
Outdoor Storage (Seasonal) (Easternmost Tenant's Garden Center)	Not Currently Permitted	October 15 – January 31. Limited to areas on Exhibit B, approx. 3,750 3,000 square feet. All sides must be screened.	Added after Public Hearing. Revised after Issues Meeting.
Outdoor Storage (Permanent) (Behind Walmart Only)	Not Currently Permitted	All Year. Limited to areas on Exhibit B, approx. 2,500 sq. ft. with screening.	Added after Public Hearing. Revised after Issues Meeting.

Lowe's Site

Lowe's is requesting an outdoor storage area of approximately 5,000 square feet, which is capped at 8 feet in height.

Walmart Site

Walmart has removed one of its previously requested storage areas and is now requesting outdoor storage in only two areas. Proposed screening of the outdoor storage would entail a 12-foot fence which matches the existing Garden Center fence, along with a 95% opaque screening behind the fence. The height restriction for outdoor storage matches the height of the proposed screening at 12 feet. Anything above this height would constitute a violation.

DISCUSSION

Outdoor Storage/Home Depot

It was noted that Home Depot is allowed approximately 3,000 sq. ft. of outdoor storage.

Storage Pallets/Lowe's

Councilmember Hurt expressed safety concerns about 8-foot pallets being stored outside at Lowe's. He requested that Staff look into the OSHA requirements and industrial regulations for stacking pallets to insure they are being followed as he has concerns that stacking items on pallets as high as 8-feet could cause an accident by breaking and injuring someone. Mayor Nation indicated his agreement with having Staff research the information regarding OSHA regulations.

In response to Chair Watson's inquiry, Mr. Raiche confirmed that there is a height restriction of 8 feet for all outdoor storage proposed at the westernmost tenant space occupied by Lowe's.

Ordinance Violations/Walmart

If the requested outdoor storage is approved for the Walmart site, Commissioner Lueking felt a firm commitment should be given that no more ordinance violations would occur with respect to outdoor storage. She noted that the residents on the bluffs above the site are negatively affected when storage is not screened. She referred to past instances where Walmart chose to pay the fines imposed by the City rather than comply with the requirements of their ordinance.

Mr. Keene responded that since he has taken management of Walmart, he has become aware of what is permitted within the requirements of the governing ordinance. With respect to outdoor storage, they are taking the necessary steps to have the ordinance amended so that compliance is feasible. He stated there are a number of people within Walmart (*real estate and regional*), who are now cognizant of the matter and they are working together to address the citations against Walmart, along with going through the ordinance amendment process.

During further discussion, Commissioner Proctor noted his agreement with Commissioner Lueking's concern about compliance, but disagreed with making a guarantee of compliance a part of the Commission's approval. He stated that guarantee of compliance must be made through site inspections, the municipal courts, and the fines that are levied.

Signage/Lowe's

If requirements for signage are deemed necessary at the Lowe's site, Commissioner Hansen questioned whether it could be added to a motion to approve or if the Petitioner would have to address the issue and come back before the Commission. Ms. Nassif replied that Staff could work with the Petitioner on signage if that is directed and then there would be no need for them to return to the Commission.

City Attorney Heggie pointed out that Lowe's has the incentive to get the traffic flow right, otherwise it will negatively affect their business. Ms. Nassif added that Staff can monitor the situation as Staff will be inspecting the site to insure that Lowe's is adhering to the new requirements.

Since the burden is on Lowe's to control the traffic circulation, Commissioner Lueking did not see a need to open the sign ordinance at this time.

Commissioner Proctor then made a motion to approve P.Z. 11-2014 THF Chesterfield Development LLC (The Commons). The motion was seconded by Commissioner Wuennenberg.

DISCUSSION ON THE MOTION

Commissioner Wuennenberg asked for clarification as to whether racks are permitted for outdoor storage. If there are no racks, he pointed out that pallets will not be allowed to go over the maximum height permitted by OSHA. If OSHA has an issue with the height at which materials are being stacked, OSHA will impose fines at a rate much higher than those levied by the City.

Councilmember Hurt repeated his feeling that having the OSHA regulations would be desirable information to have.

Ms. Nassif pointed out that the existing ordinance restricts materials in any outdoor storage area to *plant materials, potting soil, and mulch*, and asked Mr. Raiche if this same language is included in the proposed Attachment A. Mr. Raiche replied that such a restriction is not in the draft Attachment A because the Petitioner had asked for more flexibility as to what could be stored and displayed.

Ms. Nassif then clarified for the Commission that **any** material can be stored in the extended area along the drive aisle. The only restriction would be that materials cannot be stored in a shipping container. Such a restriction does not prevent racks from being placed outside.

Discussion followed as to whether or not racks should be permitted in the outdoor storage area and then Ms. Heaps was asked to come back to the podium for clarification as to Lowe's intentions.

Ms. Heaps explained that there are two kinds of racking – permanent racking like the racking used inside the store, and rolling racks used for fresh plants. She indicated that only the plant racks would be utilized outside - no permanent racking will be attached to or built in the outdoor storage area. With respect to pallets, she stated that all of the block and brick pallets are at a height of 4-feet. A pallet of mulch or soil would not even reach 6-feet in height, which would prevent anything from falling over. She agreed that “they are very motivated by OSHA and could not withstand a fine from them”. She also pointed out that the Lowe's store has been accident-free for the past 265 days and they would not do anything to jeopardize their safety record.

Commissioner Wuennenberg moved to amend the original motion by amending Section I.B.6.b. of the Attachment A (page 2) pertaining to “Permitted Uses” for the westernmost anchor as follows: (changes shown in bold)

*Materials in the storage area shall not be stored in shipping containers **or on pallet racks.***

The motion was seconded by Commissioner Lueking and accepted by the maker and seconder of the original motion.

Commissioner Lueking still had concerns about possible future violations at the Walmart site and hoped a letter could be sent to Walmart at the regional level and above informing them that the City will no longer tolerate outdoor storage violations. City Attorney Heggie advised that language requiring such a letter could not be included in the Attachment A.

For the record, Councilmember Hurt asked Commissioner Lueking if she was interested in recommending to Council that the City significantly escalate any penalties on Walmart for any future violations regarding outdoor storage. Commissioner Lueking indicated her agreement with such a recommendation to Council.

Commissioner Lueking also asked for confirmation that Walmart's hours are not changing – only Lowe's hours are changing to open at 6:00 a.m. Chair Watson confirmed this.

Upon roll call, the vote to approve, as amended, was as follows:

**Aye: Commissioner Hansen, Commissioner Lueking,
Commissioner Midgley, Commissioner Proctor,
Commissioner Wuennenberg, Chair Watson**

Nay: None

The motion passed by a vote of 6 to 0.

IX. NEW BUSINESS - None

X. COMMITTEE REPORTS - None

XI. ADJOURNMENT

The meeting adjourned at 8:09 p.m.

Steve Wuennenberg, Secretary