

**PLANNING COMMISSION
OF THE CITY OF CHESTERFIELD
AT CHESTERFIELD CITY HALL
Special Meeting - September 2, 1997**



The special meeting on moratorium issues was called to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE - All

INVOCATION - **Commissioner Layton**

PRESENT

Mr. Fred Broemmer
Mr. Michael Casey
Mr. Charles Eifler
Mr. Robert Grant
Mr. Dan Layton, Jr.
Ms. Linda McCarthy
Mr. Allen Yaffe
Chairman Rick Bly
Mr. Douglas R. Beach, City Attorney
Mayor Nancy Greenwood
Councilmember Mary Brown (Ward IV) - Council Liaison
Teresa J. Price, Director of Planning
Laura Griggs-McElhanon, AICP, Assistant Director of Planning
Ms. Patricia Detch, Planner I
Mr. Jeremy Lochirco, Planning Technician
Ms. Sandra Lohman, Executive Secretary

ABSENT

Mr. Dave Dalton

PUBLIC HEARINGS: **Commissioner Casey read the "Opening Comments."**

Commissioner Casey introduced Teresa J. Price, Director of Planning for the City of Chesterfield.

Director Price noted that, due to the uniqueness of the items scheduled for tonight's Planning Commission Meeting, the Planning Department is recommending the Planning Commission adopt the following four (4) step procedure for the meeting:

1. Representatives from each of the Panels' present their recommendations to the Commission;
2. City Attorney Douglas Beach and the Planning Department have been working together, and would like to be permitted to respond to the Commission as to how the recommendations presented are being incorporated into what the Commission has received previously. Laura Griggs-McElhanon is the Planning Staff person assigned to the moratorium items, has been working directly with City Attorney Beach. If the Commission has questions, they may *be* forwarded directly to Laura.

3. Citizen comments on items presented.
4. Rebuttal

Commissioner Casey made a motion to adopt the recommendation by Director Price for tonight's meeting. The motion was seconded by Commissioner Broemmer and **passes by a voice vote of 8 to 0.**

- I. **P.Z. 21-97 City of Chesterfield Planning Commission**; a proposal to amend Sections 1005.180 Street Standards and Street Specification Matrix; 1005.040 Definitions; and 1005.270 Sidewalks of the City of Chesterfield Subdivision Ordinance, in addition to other Sections of the Subdivision Ordinance as may be applicable to work being done by the Moratorium Panels of the City of Chesterfield (Character of Neighborhoods, Trees, Streets Issues, Conditional Permits, Traffic Issues, Commercial Items and Special Items).
- II. **P.Z. 22-97 City of Chesterfield Planning Commission**; a proposal to amend Sections 1003.020 Definitions; 1003.030 Establishment of Districts - Zoning Map; 1003.145 "C-8" Planned Commercial District Regulations; 1003.155 "M-3" Planned Industrial District Regulations; 1003.165 Off-Street Parking and Loading Regulations; 1003.107 "NU" Non-Urban District Regulations; 1003.111 "R-1" Residence District Regulations; 1003.112 "R-1A" Residence District Regulations; 1003.113 "R-2" Residence District Regulations; 1003.115 "R-3" Residence District Regulations; 1003.117 "R-4" Residence District Regulations; 1003.119 "R-5" Residence District Regulations; 1003.120 "R-6A" Residence District Regulations; 1003.120A "R-6AA" Residence District Regulations; 1003.121 "R-6" Residence District Regulations; 1003.123 "R-7" Residence District Regulations; 1003.125 "R-8" Residence District Regulations ; and a proposal to create the following new Sections: 1003.140 "PC" Planned Commercial District; 1003.150 "PM" Planned Industrial District; 1003.178 Development in Planned Commercial and Planned Industrial Districts; 1003.180 Architectural Review Committee; and a Section relative to Tree Protection Standards; and a proposal to delete the following Sections: "C-1" Neighborhood Business District Regulations; "C-4" Highway Service Commercial District Regulations; and "C-6" Office and Research Service District Regulations of the City of Chesterfield Zoning Ordinance, in addition to amendments/deletions and new Sections of the Zoning Ordinance as may be applicable to work being done by the Moratorium Panels of the City of Chesterfield (Character of Neighborhoods, Trees, Streets Issues, Conditional Permits, Traffic Issues, Commercial Items and Special Items)
- III. **P.Z. 23-97 City of Chesterfield Planning Commission** a proposal to establish a requirement for disclosure information relative to future land use and local noise impact.

Chairman Bly noted the order of the presentations would be: 1 Special Items; 2 Streets; 3 Traffic; 4 Conditional Use Permits; 5 Commercial; and 6 Trees.

SPECIAL ITEMS PANEL PRESENTATION - Panel Chairman John Langa (CCDC), 14371 Lake Tahoe, Chesterfield, MO 63017.

- Noted other members of Panel: Peggy Liggett; Joe Allison; John Nations; and Linda Tilley.
- The Panel looked at six items: 1) accessory apartments; 2) designation of a Historic District (referred to as Brick Town along Chesterfield Airport Road, just west of its intersection with Wild Horse Creek Road); 3) possible designation of a recreation district along the north side of I-64 and Chesterfield Valley; 4) establishment of new permit procedures for fences and walls; 5) posting of the City's Comprehensive Plan and Land Use designations within that Plan, as well as a similar posting requirement for noise impact from Spirit of St. Louis Airport; and 6) continued removal of dangerous buildings in Chesterfield, primarily in Chesterfield Valley.
- He summarized the report that was submitted to the City in late July, early August, with the Panel's recommendations for the six (6) areas mentioned earlier.

COMMENTS/DISCUSSION - Historic District Designation

- The Historic District designations are not design guidelines, not restrictions, but purely a resolution that enables the community to recognize the unique features of the geographic area described.
- The Historic District designation would not change the Zoning Ordinance, but would affect the Comprehensive Plan. It is for identification purposes only, and would not, at this time, affect the rights of the property.

COMMENTS/DISCUSSION - Recreational District Designation

- Future planning for a marina or other development along the river was not discussed by the panel.
- The possibility of working on a parks and recreation ordinance was discussed.

COMMENTS/DISCUSSION - Ordinance requiring posting of Signs regarding Comprehensive Plan Land Uses and Noise Impact Statements regarding Spirit of St. Louis Airport, and signatory statements by owners/renters of property in City - and punitive measure for non-compliance.

- Advisory notices regarding the Comprehensive Plan Land Uses and Noise Impact Statements would be posted in sales offices of developers Both the buyer and seller would be required to sign the 8 1/2" x 11" statement paper at the time of sale/resale of residential property.
- Any dwelling unit sale or rental would require signing of the disclosure statement.
- Disclosure statement could either be completed at the time of closing or time of contract offer.

- The HBA recommended the notice of disclosure be posted inside the sales office for new construction developments.

STREETS PANEL PRESENTATION - Panel Chairman Stan Dolecki, 16248 Windfall Ridge Drive, Chesterfield, MO 63005.

Mr. Dolecki noted the Panel dealt with four (4) issues: 1) street standards and specification matrix dealing with private and stub streets; 2) definitions; 3) provide flexibility in location of sidewalks - sidewalk variance procedure; and 4) comprehensive street plan recommendation.

- Summarized the proposed changes to Section 1005.180 of the Subdivision Regulations regarding stub and private streets.
- Summarized the proposed changes to Section 1005.040 of the Subdivision Regulations regarding stub street definition.
- Summarized the proposed change to Section 1005.270 of the Subdivision Regulations regarding sidewalks.

COMMENTS/DISCUSSION BY COMMISSION

- Private streets would be inspected by the City. The Panel suggested that the street standards for both public and private streets be the same, but residents should still be afforded the right of private ownership.
- The Panel did not discuss either the termination of the time period for posting of signs for stub streets, nor the length of the time period itself.
- The responsibility for maintenance/replacement of stub street signs was not discussed by the Panel.
- The panel discussed uniform signage, including specific language regarding the size and wording.
- Signage requirements for existing/older subdivisions regarding stub streets was discussed.

TRAFFIC PANEL PRESENTATION - Panel Chairman Josephine Emerick, 14051 Calcutta, Chesterfield, MO 63017.

Ms. Emerick noted the other panel members were Maurice Allen, Charlie Eifler, Anne Liberstein, and Don Sarno. The Panel set the goal to establish a process to evaluate and address the impact of future traffic generators on the existing roadway system. She gave a presentation to the Commission and summarized the recommendations of the Panel (also provided typed report to Commissioners and Department Staff). The recommendations were categorized as follows:

- A. Provide frequent updates of current and projected traffic volumes and the Transportation Section of the City's Comprehensive Plan.

- B. Identification of areas with existing and projected traffic concerns.
- C. Establishment of City Guidelines relative to acceptable traffic flows.
- D. Requirement for potential developers to complete traffic studies.
- E. Continued coordination with MoDOT and the County on matters affecting local and regional traffic policies, plans and status of approved projects.

COMMENTS/DISCUSSION BY COMMISSION

- The Panel was asked to provide guidelines for evaluating when traffic studies should be required.
- It was noted that the Panel indicated the need for traffic studies be considered in the event of "significant" traffic generations (peak hour traffic); consideration be given to areas with existing traffic problems; and consider indicate existing and future problem areas in the Comprehensive Plan.
- It was noted there is a lot of work to be done in order to implement the recommendations of the Traffic Panel. There may be the need to hire professionals to help us identify traffic problems and how to solve them.
- Adjacent properties have to be considered in evaluating the potential for traffic impact - the Comprehensive Plan would be valuable tool in this process, if updated regularly.
- The City has not done any traffic studies on its own.
- The staff has the capability, if they have the manpower available, to perform a traffic counting inventory, to be incorporated into the Comprehensive Plan.

City Attorney Beach noted the Panel has identified the problems, but is not capable of drafting an ordinance which resolves the issues. There is a lot of work ahead in this area in order to provide a draft of something which will address the recommendations. He requested copies of the backup material Ms. Emerick has in her possession.

- Councilmember concerns identified as categories in the Panel's recommendation, do not have anything to do with the level of service terminology. They were indications of the types of problems identified by Councilmembers.

CONDITIONAL USE PERMITS PRESENTATION - Ms. Rachel Nolan, 1739 Baxter Forest Valley Court, Chesterfield, MO 63005.

Ms. Nolan summarized the recommendations of the Panel, referring to her report (including a color coded chart) and noted the following:

- The CSP needs no changes.
- Cellular towers were not addressed.
- The Character of Neighborhoods Panel asked the CUP Panel to look at how the character of CUP's would be determined; however, the CUP Panel decided to wait on this and see what they came up with and piggy-back on what their Panel recommends.
- The colored chart depicts uses in specific residential districts.
- She presented the list of Deletions, Additions and Combinations to the Commission and gave a colored chart to Staff to reproduce for the Commission.

Assistant Director Griggs-McElhanon noted the draft document presented to the Commission this evening incorporated all recommendations of this panel.

COMMERCIAL ITEMS PRESENTATION - Councilmember Dan Hurt, 2035 Emerald Crest Court, Chesterfield, MO 63017.

Chairman Dan Hurt thanked the other members of the Panel, summarized the recommendations of the Panel noting the following:

- 80% of existing commercial in the City is "C-8" District.
- The Panel recommends two (2) zoning districts; 1) - P.C. (Planned Commercial); and 2) - P.M. (Planned Manufacturing). Eliminate the remaining districts.
- Uses would be as recommended by the Planning Commission, and would include requirement for Trust Contributions and Impact Fees.
- Setbacks would be modified to coordinate with the heights of buildings. This is a concept, and is to be reviewed by the Architectural Review Committee.
- Application requirements, currently more expensive for smaller projects, need to be amended (i.e., may use typical U.S. Geological Survey Maps instead of TOPO - 5' maps).

- The Panel requested the Planning Commission and Council develop a different framework for the Architectural Review Committee that would include architects, artists, etc., in order to obtain more cohesiveness in the architecture throughout the City. This could be a separate Committee, that would interface with the Commission, but wouldn't have to consist of members of the Planning Commission.

Mr. Richard Shearer, 193 Brighthurst Drive, Chesterfield, MO 63005, with the firm of Harland Bartholomew & Associates. He summarized the four (4) page report submitted tonight.

- St. Louis County Zoning Ordinance, adopted by the City in 1988, does not address the City's needs. Eight (8) commercial districts are too many.
- The Panel recommends an Architectural Review Committee be set-up by ordinance, and they then develop their own guidelines. Design professionals should be established as part of this Committee.
- Trust Fund contributions need to be required for the Valley when new development occurs; requirements for landscaping, tree protection need to be incorporated in the proposed amendment.

COMMENTS/DISCUSSION BY COMMISSION

- All zoning districts currently mapped would remain on the books. However, any new applications for commercial and industrial district would request either the P.C. or the P.M.
- Eventually, the intent is to consolidate all commercial districts into the P.C. or P.M. The logistics/timing details have yet to be worked-out.
- Floating zones are districts which do not appear on the map. There are two (2) zoning districts in the text of the Zoning Ordinance, but don't appear on the map (C-1 and C-6).
- Existing uses would not be non-conforming, but would be worked-out in the future, to be either P.C. or P.M. districts. The Committee does not want to create any non-conforming uses.
- Prior/existing zoning would not require the petitioner to come back to the Commission for approval for changes in uses, unless the uses were changed drastically.
- The City Planning Staff will have to work on the timeframe for getting down to the two (2) zoning districts.

City Attorney Beach noted 80% of commercial already have specific rights. The City has to initiate rezoning of existing zoning on a piece-by-piece basis.

Councilmember Hurt noted that the City has many tools to address the future, they just need to be modified so we can use them properly.

TREES AND GRADING PRESENTATION - Councilmember Mary Brown, 15966 Quiet Oak Road, Chesterfield, MO 63017.

Councilmember Brown thanked the other members of the Panel (Brian Alwell, Wendy Geckeler, Bob Dingwall, John Hammond and Mark Teitelbaum), noting the material presented tonight will give the City a tool to protect that which is irreplaceable, and provide a mechanism for working with the building industry to protect our resources. She turned the presentation over to Mr. Skip Kincaid, who served as the consultant to the Panel.

Mr. Skip Kincaid, 737 Kirkshire, Kirkwood, MO 63122, summarized the activities of the committee (copies were provided to the Commissioners) as follows:

- Much discussion centered around the technical benefits of trees (i.e., cooling effect, aesthetics, etc.).
- The Panel believes some type of permit for tree removal is needed. The ordinance would require a tree removal permit for all tree removal, excluding individual developed residential lots less than six (6) acres, and also excluding any application that proposes less than 5,000 square feet of tree canopy coverage loss (an area approximately 70' x 70').
- Tree removal permits would not be required for agricultural uses, farming, nurseries, forestry, etc.
- Tree planting and preservation required on construction sites is part of the proposed ordinance, and states that no more than seventy percent (70%) of any woodland may be cleared or developed, the remaining thirty percent (30%) shall be maintained as woodland, without disturbing the roots of trees in the protected woodland or protected area.
- Should an applicant apply for a tree removal permit, and they feel the tree preservation area they are laying out is adjacent to another area that has been protected as woodland, they can go up to seventy-five percent (75%) (i.e., they would only have to retain twenty-five percent (25%) of the existing woodland. The applicant would be asked to replant in order to get up to the thirty percent (30%) area that will be back into woodland. This allows flexibility for roadways, building footprints, etc.
- Easements, rights-of-way and building areas are generally not to be included in the preserved areas to accomplish the thirty percent (30%). Utility easements, other areas that may eventually get cleared may not be included in this thirty percent (30%) retention area.

- Most applications for a tree removal permit will require a **Tree Stand Delineation** and a **Tree Preservation Plan**. These are two (2) separate documents that will be required. He presented an example of a **Tree Stand Delineation** to the Commission, noting it is nothing more than a map of the property that shows the different types of tree masses that are currently on the property.
- The **Tree Preservation Plan** takes the base map (topography) depicting the roads, building footprint, etc., and maps out the existing trees on the property above a certain size and shows what means are going to be taken to protect those trees.
- The **Tree Preservation Plan** also delineates where the tree save areas will be, and where the areas are that will be cleared for construction.
- Penalties be set up for violations to the ordinance were divided into two (2) categories: 1) trees damaged prior to the issuance of occupancy permits - the developer will be required to pay a fine equal to the value of the tree; and 2) if the tree dies after the issuance of an occupancy permit, and it is determined the tree died or was damaged directly as the result of construction related activity, then the fine will be paid from either a surety or letter of credit, etc., to ensure funds are available to replace the lost trees. These would be trees that die within two (2) years of the issuance of the occupancy permit.

COMMENTS/DISCUSSION BY COMMISSION

City Attorney Doug Beach recommended the penalty could be enforced via an escrow rather than a surety. It would be a questions of how much to charge - how to determine value of the tree(s).

Mr. Kincaid noted the only trees affected by the surety or the escrow would be those within the perimeter of the Tree Protection Zone. An example would be an area of 100 feet wide, by the perimeter of the tree save area, and then we are asking for an escrow or surety of \$2,000.00 for each acre within that area, the amount could be fairly small, depending upon the area that is required to be retained.

- Certified *Arborists* can determine values of various trees.
- The proposed tree ordinance was drafted from pieces of several different ordinances, and is unique to the City of Chesterfield.
- The question was raised as to the cost to the City for manpower to enforce the proposed Tree Ordinance, and also the cost to the developer/applicant.
- The City would have to bear the cost to inspect and enforce the ordinance. Therefore, the City may need some type of Arborist on staff, as most municipalities have one on retainer and contract much of the inspection work - this varies depending upon the volume.
- The types of costs the developer would incur would be for Tree Stand Delineation.

Mr. Kincaid noted a recent Tree Stand Delineation on a forty (40) acre tract was billed at \$600.00. The larger the acreage - the per acre cost would probably go down. Depending upon the complexity of the site, the cost could get more expensive.

- The Tree Protection Plan costs would vary greatly with the level of development.

Mr. Kincaid noted a recent survey of eighty (80) acres was billed at approximately \$7,000.00 or \$8,000.00.

- Concern was expressed about keeping-up with all of these controls/surveys.

Mr. Kincaid noted the City probably doesn't have adequate staff and expertise, at this time, to carry-out the recommendations of the Tree Panel; some of it would have to be contracted out, or an additional staff member would be required to enforce and interpret some of the regulations.

Mr. Kincaid noted that the recommended surety or escrow figure per acre would be \$2,000.00, and only applies to a one-hundred foot (100') perimeter drawn around the tree preservation area (i.e., you may be attempting to retain thirty (30) acres of trees, but the \$2,000.00 per acre only applies to a portion of that acreage - very likely approximately five percent (5%) of the total).

- Clarification was requested regarding the requirement of a letter of credit.

Mr. Kincaid noted discussion has arisen regarding how to apply, or how to work with a letter of credit. This has yet to be worked-out.

Mr. Beach noted that a surety bond isn't very likely - it would be difficult for us; we could have an escrow or letter of credit, and the difference is a letter of credit doesn't require carrying the interest on the money out there versus an escrow. He noted the problem with letter's of credit is they are very finite, and if the City makes a mistake - the money is gone. State Statutes require the City to guarantee these things get done, while we also have to guarantee that we have the capability - two (2) years down the road - to make sure we keep track of everyone's letters of credit, which would probably require another Staff person. We have some difficulties with that.

- Mr. Kincaid was requested to define woodland.

Mr. Kincaid noted the area would be either 5,000 square feet containing lots of small trees, or 5,000 square feet, potentially one (1) large oak tree with a 70" or 72' crown spread which would cover 5,000 square feet. He noted there is also a definition for a Monarch Tree Stand - this is a grouping of eight (8) or more trees, that doesn't come under the definition of Woodland, but there are provisions in the Tree Manual that will ask that those types of areas be addressed in the Tree Preservation Plan.

- Clarification regarding the definition of grouping of trees was requested.

Mr. Kincaid noted an example of a ten (10) acre site, with ten (10) trees scattered over this site - obviously not there as a unit - but maybe one (1) tree per acre - each tree having a canopy size of about 1,000 square feet - added together that would be 10,000 square feet, but would not come under the definition of a Woodland.

- Clarification regarding the definition of what would call for the opinion of an expert to determine the death of a tree.

Mr. Kincaid noted, in some cases we may have to call in someone with a lot of expertise; but, in a lot of cases we would not. He noted there could be some disputes by the experts regarding the cause of death of tree(s).

Mr. Beach requested clarification regarding a typical resident's desire to take out trees on his lot (i.e., for the purpose of putting in a swimming pool).

Mr. Kincaid noted that as long as the area being cleared does not exceed 5,000 square feet (which could be one (1) good sized tree), would not require a Tree Stand Delineation. The property owner would need to show what trees are to be removed, what trees are to be retained, and what type of impact the trees to be retained are going to be subjected to during the construction activity.

Mr. Beach asked if he could do it without having to replace anything.

Mr. Kincaid replied he could, as long as he retains thirty percent (30%) of the canopy coverage on his lot.

Mr. Beach noted that the smaller homeowner is going to have a thirty percent (30%) canopy issues, if they have a Woodland on their property.

Mr. Kincaid noted this only applies if the property owner has a Woodland on their property.

Mr. Beach asked if a Tree Stand Delineation process would be required if he has three (3) large trees on his property that have grown all together, covering more than 5,000 square feet.

Mr. Kincaid noted it would be a matter of interpretation of whether those trees constitute a group and/or a Woodland.

Mr. Beach asked if it is possible for the City to be in a position to tell a homeowner they can't put in a pool because they can't take down to many trees.

Mr. Kincaid said he doesn't think so. He doesn't think the intent of the Panel was to get to that point - the intent was to avoid this as much as possible.

Mr. Beach asked how this would apply to the Public Works Department when they go out to put in stormwater detention areas.

Mr. Kincaid said it was the intent of the Panel to exclude public improvement projects as they relate to road maintenance, road widening improvements, sidewalk work, etc. The intent was to exclude the normal course of public works improvements throughout the City. He noted a big discussion came up about spreading salt, and the language was amended to allow this activity.

- Already developed lots in subdivisions less than six (6) acres in size, containing language prohibiting subdividing of lots, would be exempted from the Tree Stand Delineation process.

Councilmember Brown noted the Panel recommended that the Planning Commission consider including, what they already use as Landscape Guidelines, in this document to be forwarded on as an ordinance to City Council.

SPEAKERS IN FAVOR:

1. Mr. Dennis Hayden, 231 West Manor Drive, Chesterfield, MO 63017, spoke on behalf of the Home Builders Association, summarized changes listed in a letter to the Department of Planning, dated September 2, 1997, from the HBA. The conditions and changes to the proposed tree ordinance were as follows:

- Section 2: Definitions (title for Director of Public Works)
- Section 4: Permit requirements of Tree Removal
- Section 6.B.: Application Procedure
- Section 7: Preservation Requirements on Construction Site
- Section 9: Penalty for Violation
- Tree Manual #5 Tunneling

City Attorney Doug Beach requested a copy of this letter dated September 2, 1997, from the HBA be provided to Assistant Director of Planning Laura Griggs-McElhanon.

1. Mr. Bob Nation, 17669 Bridgeway Circle Drive, Chesterfield, MO 63005, noted the following:

- the City needs a strong tree ordinance prior to lifting the moratorium;
- the tree ordinance should have specific, strong consequences if the ordinances are violated;
- he presented five (5) photographs illustrating an area within Country Lake Estates, depicting recent occurrences/violations in the City;

- noted problems with Premier Homes (Mr. Teitelbaum) who verbally agreed to a minimum of a fifty (50) foot buffer along the most critical area of the western edge of Country Lake Estates - Mr. Teitelbaum said he would try to leave a wider area undisturbed, but did not want to be held to this in an ordinance - residents trusted him and agreed to this;
- as requested by Mr. Teitelbaum, Mr. Nations made a statement of Premier's cooperation and consideration; however, now they have violated the ordinance and moved a very large, beautiful, healthy tree for no apparent, common sense, good reason;
- there should be consequences to pay for these types of violations; and
- residents received no helpful response to phone calls to the Department's of Planning and Public Works;

Director Price noted a letter has been sent to the developer asking them how they plan on rectifying the situation, how they are going to rectify this, and how they will avoid this happening in the future. She noted the City is on top of this problem.

3. Resa Manson, 1325 Carriage Crossing, Chesterfield, MO 63005, spoke as a Trustee for Country Place Subdivision noting the following:

- supports ordinance for tree preservation;
- in the last few weeks fifteen (15) acres of trees have been clear-cut along the rear boundary of her subdivision - many of these trees were 100 years, or older;
- the property has three (3) creeks, with heavy erosion problems, and will need extensive fill dirt and grading to make it suitable for building;
- a tree preservation ordinance would not have allowed this to occur;
- residents of Chesterfield need more power to protect their interests - the Tree Preservation is only a good start.

4. Mr. Steve Koslovsky, Attorney for Sachs Properties, 231 S. Bemiston - 8th Floor, Clayton, MO 63105, noted the following concerns and issues of Sachs Properties:

- Sachs Properties is not opposed to a tree protection ordinance. However, it has several concerns relating to the ordinance, as recommended by the moratorium committee.
- The first concern is that the ordinance applies to all properties within the City regardless of location and intended use. While a tree protection ordinance may be appropriate in residential portions of the City to preserve the suburban character of these areas, it is inappropriate in areas intended for high density commercial, office or multi-family residential development. These areas are designated in the Comprehensive Plan as the Urban

Core, Town Center, and East Corridor area. The application of the proposed tree protection ordinance to areas designated for such higher density uses would severely limit the ability of Sachs and other owners to develop those properties in accordance with the Comprehensive Plan.

- There is concern about the lack of provision for mitigation or replacement of trees in the event an applicant is simply unable to meet the woodlands preservation requirements. Due to topography and other features, preserving the minimum of 25% to 30% woodlands may prove to be extremely difficult. In the absence of a provision allowing such an owner to mitigate or replace trees in such circumstances, development of the property would be impossible, thereby depriving the owner of valuable property rights. Tree protection ordinances in other communities provide for such mitigation or replacement alternatives.
- There is concern about the lack of recognition in the ordinance recognizing uses already in existence or for which plans have already been approved by the City, and to which these new provisions should not apply. As in the case of the Commercial Issues committee recommendations, it should be made clear that the proposed changes will apply prospectively to new developments and plans.
- Some of the standards set out in the ordinance by which the Director of Planning is to consider applications for permits are, in some instances, too vague to give the applicant reasonable notice of what is required. Terms such as "visual coherence," and the "affect from stormwater on downstream lots," are somewhat vague, and do not give the applicant or petitioner a fair opportunity to determine, in advance, exactly what is required and what is prohibited. They would suggest some more specific standards or definitions of those terms, not currently included in the ordinance, would be a great help to applicants.
- He asked the Planning Commission to consider these issues in its consideration and deliberations on this ordinance.

City Attorney Beach requested Mr. Koslovsky submit his presentation requests in writing to the City.

Mr. Koslovsky said he would provide this to the City.

5. William H. Kolath, 14526 Bantry Lane, Chesterfield, MO 63017, Chairman of the Chesterfield Beautification Committee, noting both short and long term benefits from the proposed tree protection ordinance.
6. Mr. Steve Spencer, 1317 Carriage Crossing, Chesterfield, MO 63005, noted the following:
 - he recently went through the process for tree removal whereby there is no grading plan in place, but yet the contractor can remove all trees in a drainage area (up to twelve (12) feet of dirt - to an engineer, this seems like grading;

- to allow contractors to remove trees and vegetation, increase the flow of water off of property being developed, will just affect more people downstream; and
- he suggests this be tied into the tree removal process.

City Attorney Beach noted there has been substantial work done on a new grading ordinance which does tie-in these two (2) aspects together. It wasn't presented tonight because its not a Planning issue. A full moratorium panel has worked on this, and there's one coming up.

Mr. Spencer noted that permits regarding right-of-ways be signed by adjacent land owners prior to approval trees and grading permits. He further noted that surveyors came in and felt free to cut trees on his property to be able to serve what was going to be developed on property located behind his property - this should be addressed in the tree ordinance.

7. Ms. Jade Gardner Bute, 1510 Walpole, Chesterfield, MO 63017, spoke as an individual noting the following:

- would like the City to extend the moratorium, as the panels have indicated they need more time to complete their work;
- is in favor of creation of an Architectural Review Committee, as recommended by the Commercial Zoning Panel;
- supports a strong tree ordinance;
- we shouldn't be concerned about the cost for consultants and/or additional staff;
- would like to know what the Street Panel offers regarding stub streets (i.e., the effect on neighborhoods or that they always be connected);
- be cautious regarding developers being required to complete traffic studies;
- give the Panels, Staff and City Attorney adequate time to perfect the recommendations made by these panels; and
- inquired about penalties regarding the Balloon Ordinance, and would like the Balloon Ordinance to be passed very soon.

SPEAKERS IN OPPOSITION: None

SPEAKERS - NEUTRAL: None

Commissioner Casey read the final portion of the "Opening Comments."

REBUTTAL:

Councilmember Mary Brown noted the following regarding the Tree Panel issues:

- The Tree Panel will meet next week and take under advisement many of the comments, as possible, before the next meeting of the Planning Commission. These changes will be provided to the Commission.
- She noted that, rather than the Board of Adjustment, another type of appeal board may be created for the tree issues.

Mr. Kincaid noted the following:

- The intent of the Tree Panel and the language in the proposed ordinance amendment was to be as least burdensome on the individual homeowner. The Panel will try to tighten-up the language.
- Regarding the impact of the ordinance in residential areas versus commercial areas - the Panel did try to come up with a figure that would be applicable City-wide. He noted the comments tonight will be taken under advisement.

City Attorney Beach asked what kind of penalty would be imposed in the ordinance, as written, on a developer who takes out a great big tree.

Mr. Kincaid noted that, if a tree was shown on the Tree Preservation Plan as one which needs to be preserved, and the tree comes down prior to the issuance of occupancy permits, the developer would be fined the value of that tree. An appraisal would have to be made by a professional (takes into account the size, species, condition and location of the tree).

- The question was raised about whether a provision has been made for the use of the fine. Would it be used to replace the tree?

Mr. Kincaid noted the Panel has discussed this, and they need to come up with a specific mechanism to resolve this issue.

City Attorney Beach noted that a fine, in general, would just go to the general coffers of the City, and would not be necessarily to replace trees. A special fund needs to be defined.

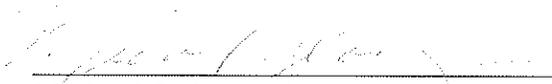
- The value of trees take into account location and may exceed value of homes.
- Violation of any of the City's ordinances may call for fines and/or imprisonment.

A motion to adjourn was made by Commissioner McCarthy, seconded by Commissioner Yaffe.

Director Price introduced Jeremy Lochirco, Planning Technician, to the Commissioners.

The motion passes by a voice vote of 8 to 0.

The meeting adjourned at 8:44 p.m.


Michael J. Casey, Secretary

[Amended pages 1 & 9]

[MIN9-2.097]