

PLANNING COMMISSION
OF THE CITY OF CHESTERFIELD
AT CHESTERFIELD CITY HALL
SEPTEMBER 27, 1993



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

PRESENT

Mr. Fred Broemmer
Ms. Mary Brown
Mr. Dave Dalton
Ms. Mary Domahidy
Ms. Pat O'Brien
Mr. Walter Scruggs
Ms. Victoria Sherman
Chairman Barbara McGuinness
Mr. Douglas R. Beach, City Attorney
Mr. Jerry Duepner, Director of Planning
Ms. Laura Griggs-McElhanon, Senior Planner
Mr. Joseph Hanke, Planner II
Ms. Toni Hunt, Planner I
Ms. Sandra Lohman, Executive Secretary

ABSENT

Commissioner Kirchoff

INVOCATION: - City Attorney Douglas R. Beach

PLEDGE OF ALLEGIANCE - All

PUBLIC HEARINGS - Opening Comments were read by Commissioner Brown.

P.Z. 22, 23 & 24-93 Miceli Development Corporation (Somerset West.

Senior Planner Laura Griggs-McElhanon presented slides of the proposed site and surrounding area.

Mr. Gregory R. Smith, Attorney, spoke on behalf of the petitioner noting the following:

- As depicted on the slides presented by Ms. McElhanon, the older farm structure and out-building is located on the subject site. These structures will be eliminated when the property is developed.

- He noted the attendance of Mr. Fred Bruning, C.E.O. of the Miceli organization, and Mr. Joe Miceli, Chairman.
- The proposed development will be engineered by Volz Engineering.
- The proposal is to develop an 18.74 acre site on Wild Horse Creek Road, immediately east of Somerset.
- To the rear, across the railroad tracks, is a 15.32 acre site to be purchased by the Miceli Development Corporation as part of this development. This site will not be subdivided because it is in the Flood Plain.
- The proposed site and surrounding land uses/zoning were identified on an aerial map (assisted by Mr. Dave Volz, Volz Engineering).
- The topography of the proposed site is essentially level, except for the back of the site where there is a dramatic drop down to the railroad tracks (effectively a bluff). This is the location of the tree mass primarily located on the subject site.
- The proposed development would be subdivided into forty-six (46) lots. The proposed zoning would actually allow development of fifty-six (56) lots.
- The average lot size proposed is 13,200 square feet. If you add the common ground, the effective lot density on the site would be 16,700 square feet per lot.
- Cul-de-sacs are incorporated into the plan in order to preserve and honor the spirit of the Comprehensive Plan and Zoning Codes.
- In response to Department of Planning comments, the developer has made some modifications:
 1. The addition of a spur road to allow an adjacent development to the west to have some kind of cross-access. However, the developer does not believe it appropriate to have too much cross-access between these developments. For public safety reasons (fire and safety vehicles) they have preserved the existing spur road. They do not think the spur shown on the Somerset Subdivision plat, located near Wild Horse Creek Road, would contribute to, or enhance, the aesthetics of the subdivision, nor would it serve any other particular public purpose.

- The proposed site will be developed in keeping with the spirit of the Comprehensive Plan and Zoning Regulations, by locating the greater density towards Long Road.
- The proposed lot layout is intended to preserve the existing tree mass along the bluff.
- All figures presented in this presentation tonight don't take into account the fifteen (15) acre tract at the bottom of the bluff, lying in the Flood Plain. The petitioner is willing to make this property available to the City for park uses, in whatever appropriate means the City determines. Should this not be possible, the developer would be willing to de-dedicate it, perhaps in favor of the Trustees, or whatever other suitable and appropriate means of achieving this greenscape in that location.
- The larger lots are located along Wild Horse Creek Road (Lots 46, 1 and 2). If you count the greenscape and common area required for dedication along that frontage, these lots would be 19,300 square feet, 20,500 square feet, and 19,400 square feet, respectively. This is repeated, again, at the rear of the site on the northern end (the lots on top of the bluff).
- Detention is shown in three (3) common areas along the perimeter of the site: 1) towards the front and southeastern corner; 2) on the western side of the property; and 3) at the far northeastern corner of the site. This is dry detention that is designed to meet all capacities required by City ordinances.
- The homes would range in size from approximately 2200 square feet to 2400 square feet, and would be priced from \$225,000 to \$300,000.

COMMENTS/DISCUSSION BY COMMISSION

Commissioner Sherman inquired about the reasoning for the location of the stub streets.

Mr. Smith noted the following:

- The petitioner would prefer cross-access located at the rear of the subject property. They believe this alternate cross-access would address the fire and safety issues.
- A stub road, located in approximately the middle of the subdivision, would allow future access to the adjoining western tract.

Commissioner Sherman stated that, for someone living near Wild Horse Creek Road, it might be easier for car transportation to go that way; but for children who may want to visit friends in the other subdivision, we would probably want to discourage them from walking along Wild Horse Creek Road.

Mr. Smith stated it would not be a very long walk, and the proposed layout will address this issue.

Commissioner Domahidy asked Mr. Smith to explain why the petitioner is requesting "R-3" Zoning, as she doesn't see any other "R-3" Zoning in the surrounding area.

Mr. Smith stated that they believe the Comprehensive Plan anticipates greater density of development as you move towards the concentration of "C-8" development. They believe that the progression of this is naturally served by allowing a small parcel (6.3 acres) of net area of development to be zoned "R-3" District. This does not afford much more density to the site, but lets them achieve a better lot layout.

Mr. Smith noted that one of the Staff's suggestions was that the lots adjacent to Somerset should have greater density. The developer has complied with this request by their current submittal (i.e., 11,000 and 12,000 square foot lots in this area).

Commissioner Domahidy stated a case could be made for "R-2" Zoning of the proposed site. The issue of greater density moving toward Long Road would be something that needs to be discussed, as she doesn't believe the Comprehensive Plan is so specific in its designation of the subject tract.

Mr. Smith stated he didn't intend to suggest that the Comprehensive Plan contains the cited designations. He does feel that it shows a gradual progression, and a break at approximately the location depicted on the proposed site, with greater density being allowed on the western side of that line.

Commissioner O'Brien inquired about the land located near the "FPM-3" area.

Mr. Smith noted this section cannot be developed for any residential use, as it is subject to periodic flooding from the creek. This area is shown to give a visual representation of what could be achieved.

Chairman McGuinness inquired about the use of the Flood Plain area, and maintenance of same.

Mr. Smith stated it could be dedicated to the Trustees, but it is not likely the builder would maintain it after development is completed. He noted it could be utilized for a trail, nature conservation area, wetlands preservation, bird sanctuaries, etc.

Commissioner Brown inquired about the stormwater detention.

Mr. Smith stated there will be some sort of shared detention with adjacent development. There is ongoing discussion with staff regarding this issue.

Commissioner Sherman inquired about the Flood Plain parcel.

Mr. Smith stated it would remain zoned "FPNU" District. The petitioner is merely offering this parcel to the City.

Mr. Broemmer inquired about the Missouri Highway and Transportation Department comments regarding a fifteen (15) foot right-of-way on the lots abutting Wild Horse Creek Road, and provision of a three (3) lane roadway.

Mr. Smith stated the dedication is shown on the plan. He doesn't know whether they are asking for pavement in that location, but they are dedicating the ground. All calculations given this evening are minus that dedicated roadway. He further stated that the developer will comply with all requirements of the Missouri Highway and Transportation Department.

Commissioner O'Brien inquired whether the streets would be standard width and sidewalks would be provided on both sides.

Mr. Smith stated he believes this is correct.

SPEAKERS IN FAVOR: None

SPEAKERS - NEUTRAL:

#1 Mr. Tom Krull, 14883 Conway Road, Chesterfield, MO 63017.

Mr. Krull spoke as an independent citizen, noting the following:

- The City has absolutely no park ground at this time.
- The first Parks Committee Meeting was just held, at which a \$50,000 contract was awarded for a Parks Study.
- A vehicle was established within the City whereby a parcel can be, in fact, set up under the trustees with a proviso that, if the City desires it, they may use it as a park.

- There are several other areas within the City where ground is being offered as a park.
- He suggested the City should take any ground donated to be utilized as active parks, passive parks, trails, etc.
- He believes the Commission should look long and hard before discouraging anyone from setting up some method of giving the City ground.

Chairman McGuinness stated the Commission is not here to encourage or discourage, but rather to inquire about the advantages and disadvantages.

Commissioner Brown stated she would be in favor of taking land, as much as possible, for parks; but she believes this is a decision for the City Council, not the Planning Commission.

Commissioner Domahidy inquired what has been decided with regard to Brookhill.

Mr. Krull stated that hasn't been decided, and the option is still there, if the City deems to utilize this area. He noted the study will determine whether or not a parcel can be utilized by the City.

Commissioner O'Brien inquired whether Mr. Krull believes there may be more property in the Flood Plain area, adjacent to the proposed site, that could be dedicated to the City.

Mr. Krull stated that, technically, there are three (3) parcels that extend into the Flood Plain: one to the east; one on the west; and the subject site.

REBUTTAL

Mr. Smith noted the following:

- Some of the homes would be 2800 square feet.
- To address the concern about cross-traffic - he noted there would be a sidewalk along Wild Horse Creek Road for pedestrian traffic.

Commissioner Brown read the remainder of the Closing Comments.

SHOW OF HANDS

IN FAVOR: 16 IN OPPOSITION: 0 NEUTRAL: 1

APPROVAL OF THE MINUTES

Commissioner Scruggs made a motion to approve the minutes from the meeting of September 13, 1993, with the addition of the correction to page 20. The motion was seconded by Commissioner Domahidy and passed by a voice vote of 8 to 0.

PUBLIC COMMENTS:

#1 Mr. Harry Morley, 14238 Forest Crest, Chesterfield, MO 63017.

Mr. Morley spoke regarding P.Z. 16 & 17-93 Taylor-Morley, Inc., noting the following:

Since the public hearing of August 23, 1993, the petitioner has met with members of the Planning Department and residents of Manors of Clarkson Valley. As the result of these meetings, the following changes were made to the original plans:

1. The lots abutting Wilson Farms, to the north of the site, have been increased in size from a minimum square footage of 16,800 square feet to 20,000 square feet. This has been accomplished by increasing the depth of proposed lots by approximately twenty-five (25) feet.
2. The minimum lot sizes along Wilson Road have been increased to 17,500 square feet from 14,000 square feet.
3. The thirty (30) foot landscape buffer is retained along Wilson Road and will be a part of common ground for the entire development. Homes abutting Wilson Road will appear to have an additional 3,000 square feet because of this buffer.
4. Through sizing adjustments, the lots on the west abutting the Manors of Clarkson Valley will be a minimum of 20,000 square feet.
5. He expressed the hope that the residents of Sea Beauty Farms would be afforded the same courtesies, if Clarkson Valley rezones the property directly to the north of Sea Beauty Farms.

6. The overall minimum lot size of the proposed development has increased from 14,000 square feet to 16,200 square feet.
7. The developer has provided sidewalks throughout the entire development, both on the interior of the development and along Wilson Road.
8. The re-adjustments of the site plan have caused a reduction of the total proposed development by two (2) lots, from forty-four (44) to forty-two (42).

He made an appeal to the Commission to approve the Staff report, as presented.

#2 Mr. Brian Stiarwalt, 16300 Wilson Creek Court, Chesterfield, MO 63005.

Mr. Stiarwalt spoke regarding P.Z. 16 & 17-93 Taylor-Morley, Inc., noting the following:

- Gave a slide presentation of various lots in the Manors of Clarkson Valley.
- He noted two key issues he wishes to address are transitional lots and the visual compatibility.
- The average lot size, including all those adjacent to the proposed site in the Manors of Clarkson Valley, is 47,000 square feet.
- He would like to see the lots considerably larger than what are proposed on the west side, and include a buffer.
- He would like the Commission to reduce the density in its recommendation tonight.

#3 Ms. Lynn O'Connor, 1183 Jonesborough Road, Chesterfield, MO 63017.

Ms. O'Connor spoke regarding P.Z. 18 & 19-93 Nooning Tree Partnership, noting the following:

- The residents feel the most important thing is that there be no connections between the proposed development and Shenandoah. No connecting streets and no emergency access roads.

- A common ground privacy tree buffer zone is desired. Shenandoah cannot plant such trees, as the major telephone trunk lines for all of Chesterfield and Creve Coeur run along the fence on the Shenandoah side. They occupy a space of between six (6) and eight (8) feet wide. Most of this border contains trees. The residents of Shenandoah are asking that trees be added and that this land be set aside as a common ground buffer zone, rather than being included in residential lot configurations.
- Density is a concern of all residents surrounding the proposed subdivision. She suggested a vegetation survey performed along the southeast corner of this property.

#4 Mr. Barry Streeter, 1177 Jonesborough Road, Chesterfield, MO 63017.

Mr. Streeter spoke regarding of P.Z. 18 & 19-93 Nooning Tree, noting the following:

- The Chesterfield Comprehensive Plan states the site proposed for this development should be a park.
- Would like the Commission to request a revised plan to address the concerns of the residents.
- Expressed concern that the conditions will expire before the eighteen (18) months required for a PEU.
- There has been no communication between Nooning Tree Partnership and the residents since the Public Hearing.

Chairman McGuinness suggested that the petitioner meet with residents of Shenandoah before the matter comes before the Commission for a recommendation and work out differences.

OLD BUSINESS - None

NEW BUSINESS

- A. P.Z. 16 & 17-93 Taylor-Morley, Inc. (Sea Beauty Farm); "NU" Non-Urban District to "R-1A" 22,000 square foot Residence District and Planned Environment Unit Procedure (PEU) in "R-1A" 22,000 square foot Residence District; west side of Wilson Road, south of Wilson Farm Drive.

Joe Hanke, Planner II, presented the Department report recommending approval, subject to conditions in Attachment A. He noted the following:

1. Fire District comments which the Department believed were going to be forwarded to the Commission prior to this meeting, were not provided; therefore, it would be appropriate for the Commission to address those comments on the site development plan that will come back to the Commission at a later date.
2. A copy of a Protest Petition filed with the City Clerk is included in the Commission packet for information purposes only. The Department has not had a chance to verify signatures on this petition, and a statement is required to accompany the petition, once the Planning Commission has made its recommendation.

Chairman McGuinness stated that this will require a super majority of the City Council to pass the zoning, once the Commission sends it on to them.

Mr. Hanke stated the residents filing the Protest Petition will need to file a statement, according to City Ordinance, which addresses where the Planning Commission did not follow the necessary requirements for evaluation of a PEU.

A motion to approve the Department's recommendation was made by Commissioner Scruggs and seconded by Commissioner Brown.

COMMENTS/DISCUSSION BY COMMISSION

- The minimum lot size on the west side of this development is 20,000 square feet.
- The location of the trees on the site was discussed.
- The Department is recommending that eight (8) foot side yard setbacks are appropriate, if they maintain twenty (20) feet between structures.

- Lots that abut Wilson Road will be a minimum of 30,000 square feet if, at site development plan stage, they do not go ahead with the thirty (30) foot buffer. In lieu of the 30,000 square foot lots, they may utilize the thirty (30) foot buffer at the backs of these lots.
- If the thirty (30) foot landscape buffer is not taken into consideration, the lots would average approximately 17,500 square feet.
- Trees to be retained are centered about the creek.
- There is no stub street proposed to the south of the development.
- The issue of visual compatibility was discussed.

Chairman McGuinness called to question the motion to approve P.Z. 16 & 17-93 Sea Beauty, subject to conditions in the Department's report.

Upon a roll call the vote was as follows: Commissioner Broemmer, passed; Commissioner Brown, yes; Commissioner Dalton, yes; Commissioner Domahidy, yes; Commissioner O'Brien, yes; Commissioner Scruggs, yes; Commissioner Scruggs, yes; Commissioner Sherman, yes; Chairman McGuinness, yes;

Chairman McGuinness requested the Secretary to call for Commissioner Broemmer's vote again. Commissioner Broemmer voted yes.

The motion passed by a vote of 8 to 0.

- B. P.Z. 18 & 19-93 Nooning Tree Partnership; "NU" Non-Urban District to "R-3" 10,000 square foot Residence District and Planned Environment Unit Procedure (PEU) in "R-3" 10,000 square foot Residence District; south side of Olive Boulevard, east of the intersection of Appalachian Trail and Olive Boulevard.

Senior Planner Laura Griggs-McElhanon summarized the issues being reviewed by the Department in evaluating this petition, and recommended this matter be held until the meeting of October 11, 1993.

COMMENTS/ADDITIONS BY COMMISSION

- The petitioner was advised by Department staff to attend tonight's meeting and listen to any other comments that may need to be addressed before submitting a revised plan.
- Special emphasis was requested on why we believe, or don't believe, the PEU should be utilized for this project.
- It was suggested that mixed densities be considered for this property.
- The design of the main roadway between Olive and White Road should be designed to discourage people outside of that area to cut through.
- A vegetation survey was requested, especially with regard to connecting of Village B to Village E. Would like to see commitment of twenty-five (25) acres of open space kept in the requirements.

Senior Planner Laura Griggs-McElhanon stated that a vegetation survey could be required as a condition, if a PEU governing ordinance would be approved. That is something the Commission can recommend as a condition either in conjunction with, or prior to, submittal of a site development plan.

Director Duepner stated that the following wording could be included in the conditions: "The Site Development Plan would be based on a vegetation survey that would be submitted to the Planning Commission in conjunction with the Site Development Plan, indicating the results of that survey, as the basis for retaining certain areas, and not retaining other areas."

- The additional thirty (30) acres are not part of the current proposal and would not be included in the survey.

Director Duepner stated he has requested the petitioner to respond back to the Commission, in writing, on this subject.

- The results of the vegetation survey might make it easier for the developer, as well as the Commission, by determining whether or not Village B should be connected to Village E.
- The Department was directed to clarify the issue of why the Shenandoah residents are opposed to the gated, paver block emergency access.

- The issue of a buffer along the utility lines is to be addressed in the Department's report.
- If the decision about connection of the streets can be handled on the site plan, the survey could wait.

Chairman McGuinness stated that what the Commission is seriously looking for is a revised plan addressing all issues discussed tonight.

Commissioner Domahidy stated that, given the tone of the public hearing, she doesn't believe the assumption should be made that the Planning Commission is not receptive to innovation or new ideas. In contrast, too often they are not given the opportunity to view same.

- The petitioner would have to come back to a public hearing only if the request was for a greater density.

Commissioner Brown stated she isn't opposed to the zoning requested for the area designated as the "senior section." She believes that a portion could be set aside for smaller lots, if the market demands are such.

A motion to hold P.Z. 18 & 19-93 was made by Commissioner O'Brien and seconded by Commissioner Sherman. The motion passed by a voice vote of 8 to 0.

- C. P.Z. 20-93 Carl R. Tisone; Conditional Use Permit in the "NU" Non-Urban District; north side of North Outer Forty east of the intersection of Boones Crossing and North Outer Forty.

Toni Hunt, Planner I, summarized the issues being reviewed by the Department in evaluating this petition, and recommended this matter be held until the meeting of October 11, 1993.

A motion to hold the petition was made by Commissioner Broemmer and seconded by Commissioner Brown.

No additional items were added to the list for review.

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

SITE PLANS, BUILDING ELEVATIONS, AND SIGNS

- A. P.Z. 21-93 Thomas & Jane Sehnert (Smokehouse); "C-8" Planned Commercial District Site Development Plan; east and west sides of Chesterfield Airport Road, north of the intersection of Chesterfield Airport Road and Olive Boulevard.

Commissioner Sherman, on behalf of the Site Plan Review Committee, made a motion to approve the Site Development Plan subject to the following conditions: the dimensions and sizes be added on site development plan; landscaping adjacent to Chesterfield Airport Road along both frontages of Chesterfield Airport Road be approved, as directed by the Department of Planning; verification of payment of the Water Trust Fund Contribution; and preliminary approval of the handling of stormwater. The motion was seconded by Commissioner Brown and passed by a voice vote of 8 to 0.

- B. St. Louis County Adult Correctional Facility; "M-3" Planned Industrial District Amended Site Development Plan; north side of Chesterfield Airport Road, east of Spirit of St. Louis Industrial Boulevard.

Commissioner Sherman, on behalf of the Site Plan Review Committee, made a motion to approve the Amended Site Development Plan and Building Elevations, subject to the Landscape Plan meeting the Department's approval, and the roof color of the building be changed to a contrasting matte color. The motion was seconded by Commissioner O'Brien and passed by a voice vote of 7 to 1, with Commissioner Broemmer voting no.

- C. Addition to Lot 15 of the Seasons of Schoettler Plat 3; Minor Subdivision Plat in the "NU" Non-Urban District and "R-3" 10,000 square foot Residence District; north side of Spring Breeze Lane at its eastern terminus.

Commissioner Sherman, on behalf of the Site Plan Review Committee, made a motion to approve the Addition to Lot 15 of the Seasons of Schoettler Plat 3. The motion was seconded by Commissioner Scruggs and passed by a voice vote of 8 to 0.

- D. Chesterfield Farms Plat One; Planned Environment Unit (PEU) in the "R-2" 15,000 square foot Residence District and "R-6" 4,500 square foot Residence District Subdivision Record Plat; north of Wild Horse Creek Road, west of Santa Maria Drive.

Commissioner Sherman, on behalf of the Site Plan Review Committee, made a motion to approve the Record Plat for Chesterfield Farms Plat One. The motion was seconded by Commissioner Brown and passed by a voice vote of 8 to 0.

- E. Countryside at Chesterfield Plat Two; Planned Environment Unit (PEU) in the "R-1" One Acre Residence District and "FPR-1" Flood Plain One Acre Residence District Subdivision Record Plat; west side of Kehrs Mill Road, south of Wild Horse Creek Road.

Commissioner Sherman, on behalf of the Site Plan Review Committee, made a motion to approve the Subdivision Record Plat for Countryside at Chesterfield Plat Two. The motion was seconded by Commissioner O'Brien and passed by a voice vote of 8 to 0.

- F. Brookhill Estates Addition Plat 1; Planned Environment Unit (PEU) in the "R-1A" 22,000 square foot Residence District Subdivision Record Plat; east side of Straub Road, north of Clayton Road.

Commissioner Sherman, on behalf of the Site Plan Review Committee, made a motion to approve the Subdivision Record Plat for Brookhill Estates Addition Plat 1. The motion was seconded by Commissioner Brown and passed by a voice vote of 8 to 0.

Chairman McGuinness recessed the meeting at 9:47 p.m.

Chairman McGuinness reconvened the meeting at 10:00 p.m., for a Site Plan Committee Meeting of the Whole of the Planning Commission.

PRESENT

Mr. Fred Broemmer
Ms. Mary Brown
Mr. Dave Dalton (arrived later)
Ms. Mary Domahidy
Ms. Pat O'Brien
Mr. Walter Scruggs
Ms. Victoria Sherman
Chairman Barbara McGuinness
Mr. Douglas R. Beach, City Attorney
Mr. Jerry Duepner, Director of Planning
Ms. Laura Griggs-McElhanon, Senior Planner
Ms. Sandra Lohman, Executive Secretary

- G. P.C. 38-78 Sachs Properties, Inc. (Elbridge Payne Office Park/Applebee's Restaurant); "C-8" Planned Commercial District Site Development Section Plan, Landscape Plan and Architectural Elevations; southeast quadrant of I-64/U.S. Highway 40-61 and Clarkson Road.

The meeting began where the Site Plan Committee Meeting left off, with a presentation by Mr. Green.

Chairman McGuinness noted that the Committee had a presentation by Mr. Grewe earlier, then Mr. Green began his presentation.

Mr. Green noted the following:

- He read excerpts from the St. Louis County Planning Commission report dated April 7, 1978. He quoted from page three: "Relative to the specific uses proposed for the site, the Commission is concerned regarding the possibility of two free-standing restaurants on the site fronting Clarkson Road. In the opinion of the Commission, a development in which two out of seven buildings are substantial restaurants, would challenge the presented image of an office park." He stated his opinion that, on that point, the request of Sachs for two stand-alone restaurants, the Commission stated its opinion that it did not think that two out of seven buildings should be for restaurants. He read further: "In addition, because of the intensity of traffic that would be caused by two restaurants on this site, the Commission would recommend only one

free-standing restaurant be approved in connection with this proposal. The Commission further recommends that if this one restaurant, "one," if it is constructed, would be located on the northern portion of the property away from the condominium development to the south in order to avoid its adverse impact of the restaurant activity on the residential development.

- It is his opinion that this information, in conjunction with Ordinance 8800, (he quoted from page two), clearly states that the intent is for either a maximum of 200,000 square feet of office space to be included in not more than seven buildings; or - A maximum of 170,000 gross square feet of office space to be included in not more than six buildings; and one free-standing restaurant not to exceed 15,000 square feet.
- In the communication provided from John Baggs, he stated that the decrease in the total square footage in this development recognized the impact of having a restaurant in an office park. That it increased the traffic, noise, and congestion. He stated the hours of operation of a restaurant are dramatically different than that of an office building, and that it was specifically referenced to be located in the northern part of the development.

Mr. Green read further from the Ordinance: "The stipulation that the proposed restaurant shall be an alternate use inside these office buildings."

- The site plan filed by Sachs with the County depicts an office building on the north portion of the site development and the word "alternate use restaurant" inside the office building. He believes this clearly states that, if Sachs elects to go with seven office buildings, and one restaurant is desired, it could be as an alternate use to the office use that is approved. However, if Sachs chooses 1.b. of the Ordinance, this allows 170,000 square feet, six buildings and a restaurant (stand alone building), and that building will be located in the northwest part of the property.
- It is his contention that this is clearly in an ordinance created by St. Louis County, and adopted, in total, by the City of Chesterfield when it was incorporated and accepted all applicable ordinances at that time.

DISCUSSION/COMMENTS BY COMMISSION

- There was discussion about having one building (15,000 square feet) with two restaurants, or of having one building (15,000 square feet) with one restaurant.

- There was discussion whether it would make a difference if there was just one building housing two restaurants, instead of two separate buildings (7500 square feet each).
- If one restaurant were allowed, where should it be located.

Mr. Green stated it should be on the northwest portion **only**.

Kathy Higgins stated there is currently 105,000 square feet of office space in three (3) buildings. There is currently a 30,000 square foot office building, 1400 Elbridge Payne, located on the northwest portion of the parcel.

Commissioner Scruggs noted he believed there was a discrepancy in what Mr. Green stated earlier, i.e., his wording of "within the building" in reference to Ordinance 8800, page 2, Section 2.a. The ordinance states: "The conceptual location, size and use of all proposal structures; including the stipulation the proposed restaurant shall be an alternate use or in the northwest part of the property."

Mr. Green stated that, in his opinion, he presented the correct interpretation of the ordinance.

Mr. Hampton spoke on behalf of Brandywine noting the following:

He noted that when he mentioned the agreement between Brandywine and Sachs at the earlier meeting, the Planning Commission ruled it was not applicable. He stated that page four of the St. Louis County report spells out that the agreement should be incorporated within the ordinance. He believes that, whether it was a legal agreement, or not, it was an agreement with the developer in 1978 and 1993. The Brandywine Association worked hard for this zoning in order to keep it away from the residences. The development was to consist of office buildings. The Brandywine people feel the ordinance is correct, in that they believe it states the restaurant should be in the northwest corner. They have signatures of 190 individuals in opposition to the current proposal. He noted a letter from Mr. Siler, presented earlier, in which he stated Mr. Sachs agreed there would be no restaurants near Brandywine. He believes the County was instructed to put the agreement into the ordinance, therefore it should be valid.

Mr. Normal Wolff, 15640 Hedgeford, Chesterfield, MO 63017, noted the following:

- The concept plans approved by the County show that Sachs chose to select 1.a. of Ordinance 8800, and build 200,000 square feet of office space; therefore, 1.b. is not an option.

- He believes the recent request warrants a public hearing.

Mr. Grewe, of Applebee's, and Members of the Planning Commission discussed the following:

- Applebee's prefers the plan which would have the building centered and screened as far away from the residents as possible.
- Moving the restaurant sixty-three (63) feet to the west moves twenty (20) parking spaces further away from the restaurant.
- Applebee's would like another restaurant to share the cost of development on the site, including additional landscaping. The Applebee's restaurant proposed is 5,499 square feet, and the future restaurant would be 6,000 square feet.
- Applebee's will be leasing the site from Sachs and purchasing the landscaping.
- The hours of operation would be the same as at other Applebee's locations. They are open until the latest legal limit, which is 1:30 a.m.
- Applebee's will not consider placing its restaurant within an office building.
- If Brandywine Association does not agree to allow additional landscaping on its side of the roadway, then Applebee's will have to deal with it on their side.

Ms. Kathy Higgins, Vice-President of Sachs Properties, noted the following:

- This is approximately the 30th plan they have come up with.
- Sachs people have been very concerned about the Brandywine residents, and want to shield them from the proposed development.
- They have had assurances from their engineering company that the first plan presented would provide the maximum privacy for the Brandywine people.
- Sachs has tried to meet with Brandywine, but they just don't want this project.
- Sachs is here tonight because the City has approved the basic concept of moving the restaurant site. They are looking for a plan to make everyone happy, and have a suitable location for the restaurants.

- The second plan proposed this evening moves the restaurant towards Clarkson. This would still allow adequate landscaping and heavy buffer.
- Sachs believes this is in keeping with the City Comprehensive Plan.
- Sachs has turned down numerous restaurants for this location.
- It has taken Sachs one and one-half years to reach this point, where they have found a restaurant they believe would be an asset to the City.
- Sachs has not come up with a restaurant proposal before now because they have not had restaurants, in the past ten (10) years, interested in coming to Chesterfield.
- Sachs now has requests from numerous restaurants, many of whom may not be desired by the City.
- An example of a 15,000 square foot restaurant that would love to come to Chesterfield, would be Denny's. Sachs is not interested in a twenty-four (24) hour restaurant on their site.
- She is currently talking with additional restaurants to be the second future restaurant. She hopes to come back within the next year with a site plan.
- The Elbridge Payne Office Park currently has a 45,000 square foot office building facing Clarkson, and two (2) twin buildings, each 30,000 square feet. There is only one other location in the Elbridge Payne Park where they can build a 30,000 square foot office building. They will do that at some point and time; but, in today's market you cannot build an office building unless you have a Triple A tenant who will sign a fifteen (15) year lease. There will be no new offices buildings on any of Sachs properties in the near future.

Discussion between the Commission and Ms. Higgins included the following:

- There will be one building containing two (2) restaurants. One (1) at each side of the building.
- Sachs never owned the parcel of land occupied by the First National Bank of St. Louis County.
- Sachs did not reserve a site on the northwest corner of this property for a restaurant. Sachs believed this was an option.

- Due to the emotional and integrity aspect of the project, it was suggested that Sachs come back and ask for a public hearing in order to clean everything up, and make it understood up front.
- Sachs does not feel that a public hearing is necessary.
- It was noted that Sachs has met with the Brandywine people, and they just do not want a restaurant. There is an impasse.

City Attorney Beach noted, for the record, that this has been a public airing of everyone's side. Therefore, before the Commission has made a decision regarding this specific site, he believes there has been a public hearing. However, under our ordinance with regard to a public hearing, under a concept plan, it would be an **amendment** to an ordinance. He stated that Sachs is only requesting one (1) restaurant, and there is a wide open issue as to whether or not they can get a second one if they come back at a later time. Right now they are asking for one restaurant within the parameters of 15,000 square feet. In his opinion, the airing of people's thoughts has been clearly more than we normally have. Therefore, what we are suggesting is an amendment to the Zoning Ordinance.

Mr. Green stated the residents of Brandywine do not want a restaurant building other than in the northwest corner of the property. Since a free-standing restaurant cannot be located on the northwest portion, because an office building stands there, then an office building with a restaurant located inside of it, be constructed on that site. He stated the ordinance should be followed.

- Mr. Green stated that he believes that if a restaurant of 6,000 square feet were contained inside of an office building located on this site, there would be less damage to the condominiums and be in accordance with the ordinance. He believes that having the office building represent the majority of square footage of the structure built, would provide a lower density use than an 11,000 square foot restaurant.
- It was stated that the afore-mentioned proposal would promote more intense use than that proposed at this time.
- The issue of limiting the hours of operation for the restaurant was discussed.

Ms. Roberta Hayman, 15631 Hedgeford Court, Chesterfield, MO 63017, noted the following:

She has attended every meeting that this Committee has had on this situation. She does not understand why we are repeating everything tonight that was said at the last

meeting when it was voted to put this restaurant down. Brandywine does not object to Applebee's, only to where it's located. The road took away privacy and beauty from Brandywine. She reiterated that Brandywine does not want a restaurant in their back yard.

Ms. Higgins stated the following with regard to the road going through by Brandywine:

- Liebermann originally developed that property. Sachs is being penalized because he did not give them enough land to give them a larger buffer. When that road went in Sachs specifically gave part of their land to the Highway Department so there would be more of a buffer for the Brandywine people.

City Attorney Beach made a comment with regard to why we are here tonight. Sachs has a right to keep coming back with a different development plan, and Brandywine people have a right to be heard. The reason for hearing this matter over again is because they have come back with a design which has moved the restaurant sixty-three (63) feet, which may not be a lot; but, legally, we have an obligation to give them an opportunity. The Chairman has given everyone as much of an opportunity to be heard, and that is why the same things are being said over and over again. The effort on being heard is to give everyone an opportunity to be heard.

Mr. Green suggested we have one (1) restaurant, as was suggested before, as close to the building located in the northwest corner of the site.

- Different buildings were identified on the plan. There was discussion back and forth regarding moving property lines, grading, etc.

Mr. Green inquired how far to the west and north can Sachs move one (1) restaurant on the site and not interfere with the utilities that are what Mr. Grewe is saying are the objection to moving it into that area. He asked the Commission pose this question to Sachs and ask them to come back with that answer. One (1) restaurant, as close to the building on the north, as possible, and come back with reasons why it couldn't be any further north, and after making another selection, give the reasons for the recommendation.

Mr. Doug Bird, Pickett-Ray and Silver, engineers on the project. He noted they have explored every option possible for location of the restaurant. He further stated the restaurant is moved about as far north as they could possibly build a building. If they go any further north, the entire parking lot for the office building would have to be re-graded, there is a water line along Clarkson Road that would have to be relocated, numerous other utilities would be affected.

A motion to approve the Department's report, as submitted, was made by Commissioner Sherman. The motion was seconded by Commissioner Dalton.

Chairman McGuinness stated the recommendation as follows: This is moving Applebee's sixty-three (63) feet closer to Clarkson from last time; adding more landscaping on Brandywine, with their approval; and the two (2) restaurants in one (1) building.

Commissioner Domahidy made a motion to amend the original motion to allow for one (1) restaurant (maximum 6,000 square feet), and any addition to floor area would require the owner to come back to Planning Commission for public hearing for any amendment to this site development plan. The motion was seconded by Commissioner Broemmer.

Mr. John Young, Attorney with Blumenfeld Kaplin Sandweiss Marx Ponfil & Kaskowitz PC, representing Sachs Properties spoke to the amendment that has been proposed as follows: Sachs does not find that acceptable. Before the Commission is a section plan that includes one (1) free-standing restaurant building with two (2) restaurants. He wants the Commission to understand, respectfully, that that is something that Sachs is going to find acceptable. As he understands, as well, the amendment calling for the possibility of a public hearing for the next presentation is outside of the City's current ordinances. He believes the City Attorney can comment that that is not something that is particularly appropriate under the current ordinances. He thinks that, before the Commission votes, they should understand Sachs' position.

COMMENTS/DISCUSSION BY COMMISSION

- Should the original motion and amendment pass, and Sachs Properties wanted to add more restaurant space, they would be able to come back and ask for it as a separate building. It would be a public hearing.

City Attorney Beach stated they could ask for anything they wished. It could be attached to this particular building up to the 15,000 square feet, and the interpretation as to what is meant by one (1) restaurant. The public hearing will not resolve the legal issue of what the interpretation is going to mean from the original ordinance.

- It was suggested that Sachs request a public hearing and have the ordinance amended to approve two (2) restaurants at this specific location. Address this issue straight, with un-ambiguous language. This would make the wording of the ordinance clear. Clarification would be best for all parties.

- It was suggested that based on the drawing submitted tonight, it appears that the proposal is for two (2) buildings, instead of one (1), as referred to earlier by the attorney for Sachs.

Commissioner Domahidy restated the amendment.

Director Duepner stated that the whole purpose of coming back to the Commission with the amendment was that it was a change. It was the interpretation of the Department that the concept change was in keeping with the original ordinance, but that it was a significant enough change to bring it back to the Planning Commission for consideration. He noted there are different interpretations of the wording of the original ordinance. If it hadn't been considered a significant enough change, this could have been approved by the Department.

City Attorney Beach stated that what he is hearing is that the Commission understands the interpretation made by the Department in this instance, but subsequent to this, the Planning Commission is indicating they want to have a public hearing on anything beyond what this particular motion says.

- It was noted that if the Commission decides any future changes warrant a public hearing, the amendment would allow for this to occur.

Upon a roll call the vote on the amendment was as follows: Commissioner Broemmer, yes; Commissioner Brown, yes; Commissioner Dalton, no; Commissioner Domahidy, yes; Commissioner O'Brien, yes; Commissioner Scruggs, yes; Commissioner Sherman, no; Chairman McGuinness, no.

The amendment to the main motion passed by a vote of 5 to 3.

Commissioner O'Brien made a motion to amend the original motion, as amended, to have the single restaurant of 6,000 square feet would be oriented as far west, and close to Clarkson Road as possible.

Director Duepner stated that we will be talking about a different plan, even if the motion is approved.

The motion was seconded by Commissioner Broemmer.

It was noted that, even with Commissioner Domahidy's amendment, there would need to be a revised plan, because, at this point, all that would be decided is chopping off a portion of that building proposed.

Commissioner O'Brien withdrew her amendment.

It was noted that, if the motion passes tonight, then the petitioner has to come back with another site plan.

Director Duepner stated that the Commission is at a point where they have given conceptual approval to a site plan that addresses the following points: 1) a 6,000 square foot building, at least sixty (60) feet closer to Clarkson Road; with the additional landscaping on Brandywine, if allowed. This means parking and on-site landscaping would be revised and re-submitted.

It was noted that if one votes no on the motion as it stands, it could mean that one is against this whole thing, or it could mean that one is just against trying to deal with a new site plan and the 6,000 square feet. It is not a rejection of the concept, just the site plan.

Commissioner Brown stated her reason for voting no on this proposal is because she has never seen the plan adequately presented closer to Clarkson Road.

Chairman McGuinness called to question.

The vote on the original motion, as amended, was as follows: Commissioner Broemmer, no; Commissioner Brown, no; Commissioner Dalton, passed; Commissioner Domahidy, yes; Commissioner O'Brien, no; Commissioner Scruggs, yes; Commissioner Sherman, no; Chairman McGuinness, no.

Chairman McGuinness requested the Secretary to call for Commissioner Dalton's vote again. Commissioner Dalton voted yes.

The original motion, as amended, failed by a vote of 5 to 3.

Commissioner Sherman made a motion to approve the original plan, as submitted tonight by the Department. The motion was seconded by Commissioner Dalton.

The vote on motion was as follows: Commissioner Broemmer, no; Commissioner Brown, no; Commissioner Dalton, yes; Commissioner Domahidy, no; Commissioner O'Brien, no; Commissioner Scruggs, no; Commissioner Sherman, yes; Chairman McGuinness, yes.

The original motion, as amended, failed by a vote of 5 to 3.

Commissioner Broemmer suggested that Sachs present a plan to the Commission that would have one restaurant located in the northwest-most corner of this location for the Commission to have an opportunity to vote on.

Commissioner O'Brien stated she concurs with Commissioner Broemmer.

COMMITTEE REPORTS

A. **Ordinance Review Committee** - No report.

A meeting of the Committee of the Whole to review and provide input to the sign regulations was set for Tuesday, October 19, at 6:00 p.m., in Conference Room A.

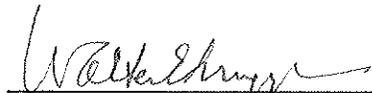
B. **Architectural Review Committee** - No report.

C. **Site Plan/Landscape Committee** - No report.

D. **Comprehensive Plan Committee** - No report.

E. **Procedures & Planning Committee** - No report.

The meeting adjourned at 10:40 p.m.



Walter Scruggs, Secretary

[MIN9-27.093]