

MEMORANDUM

TO: Michael G. Herring, City Administrator

FROM: Teresa J. Price, Director of Planning

DATE: June 15, 2004

SUBJECT: Planning and Zoning Committee Meeting Summary from June 10, 2004

A meeting of the Planning and Zoning Committee of the Chesterfield City Council was held at 5:30 p.m., on Thursday, June 10, 2004, in Council Chambers. In attendance were: Chair Bruce Geiger (Ward II), Councilmember Jane Durrell (Ward I), Councilmember Dan Hurt (Ward III) and Councilmember Connie Fults (Ward IV). Also in attendance were Mayor John Nations; Councilmember Mary Brown (Ward IV); Planning Commission Vice-Chair David Banks; Director of Planning Teresa Price; Project Planner David Bookless; Project Planner Michael Hurlbert; Project Planner Aimee Nassif; and Mary Ann Madden, Planning Assistant.

Chair Geiger called the meeting to order at 5:35 p.m.

Chair Geiger recognized Mr. Mike Casey from Ward III, Mr. David Banks representing the Planning Commission, Mrs. Lu Perantoni, Planning Commission, and Mrs. Stephanie Macaluso, Planning Commission.

I. PUBLIC HEARING

P.Z. 34-2003 16713 Wild Horse Creek Road (Richard M. Demko): A request for a Commercial Service Procedure within an "NU" Non-Urban District for 1.194 acre tract of land located north of Wild Horse Creek Road, east of Appaloosa Way, and west of Wildhorse Elementary (Locator Number: 18T 51 0075).

Proposed Use: Medical Office

Chair Geiger stated that on March 8, 2004, the Planning Commission voted to recommend denial of the Petitioner's request for CSP. On March 18, 2004, the Planning & Zoning Committee recommended denial. On March 26, 2004, the Petitioner filed an appeal of the Planning Commission's denial. As a result, a Public Hearing was scheduled as part of the procedural requirements after an appeal is filed.

Councilmember Fults read the “Opening Comments” for **P.Z. 34-2003 16713 Wild Horse Creek Road (Richard M. Demko)**.

Project Planner Michael Hurlbert gave a power point presentation showing an aerial view of the subject site. Mr. Hurlbert also gave a history of the petition and outlined Amendments to the Revised Plan, Attachment A. At the end of his presentation, Mr. Hurlbert handed out copies of “Exhibit 10, Planning Commission Amendments”.

1. Mr. Tom O’Toole, Jr., 16666 Chesterfield Airport Road, Chesterfield, MO 63017, attorney representing the petitioner, Richard M. Demko and Dr. Jacqueline Demko, DBA as Demko Orthodontics, LLC. Mr. O’Toole stated that they were here on an appeal from the Planning Commission’s denial. He stated that certain Amendments were filed - an Amended Application, an Amended Site Plan, and an Amended Architectural Rendering. Mr. O’Toole outlined the items that were included in the Amended Application. A power point presentation was given showing the Amended Preliminary Site Plan, the Amended Architectural Rendering, and photos of the subject property. Mr. O’Toole reviewed specific language from Section 1003.182 of the Commercial Service Procedure Ordinance of the City of Chesterfield and outlined the modifications to the initial plan.
2. Dr. Jackie Demko, 671 Stonebrook Court, Chesterfield, MO 63005, petitioner, stated that she presently has three office locations for her orthodontic practice and is seeking to relocate one of them to the residence at 16713 Wild Horse Creek Road. She is requesting that the location at Wild Horse Creek Road be open two days per week for orthodontic patients and open three days per week for two staff members performing administrative work. The office would not be open during evening or weekend hours. Dr. Demko stated that currently 25% of her practice in Chesterfield is from the Wild Horse Creek area.

Mr. Geiger asked about the dimensions of the driveway entrance. Mr. O’Toole responded that the Amended Site Plan shows 24 ft. at the approach and then moves down to 20 ft. for the driveway going north.

SPEAKERS IN FAVOR:

1. Ms. Carla Lambrecht, 1119 Wildhorse Meadows Drive, Chesterfield, MO 63005 stated that this section of Wild Horse Creek Road is very busy and is traversed at a speed of 50-55 mph. For this reason, she does not feel that a front-facing, residential home with children belongs on Wild Horse Creek Road. She expressed concern that this residence may become vacant.
2. Mr. R.M. Demko, 16407 Wilson Creek Court, Chesterfield, MO 63005 stated that his hope on appeal is to correct misrepresentations to the residents in the area of what a CSP is. He stated that this residence would not become an abandoned home – it would become a very safe house.
3. Mr. Rick Brueggemann, 17269 Wild Horse Creek Road, Chesterfield, MO 63005 (Business Address at Reliance Bank). Mr. Brueggeman stated that he feels Dr.

Demko's business would be a welcome addition to the Chesterfield community and that the subject project would be a good fit in the area.

4. Ms. Linda Leslie, 1452 Chesterfield Estates Drive, Chesterfield, MO 63005 stated that because there are so many vacant homes on Wild Horse Creek Road, something needs to be done stop it. She felt that the some type of control is needed and starting off with an orthodontist's office would be good for the community.
5. Mr. Luke Knese, 33 Riverwood Estates, St. Louis, MO 63031 stated he is a Real Estate Broker and has appraised hundreds of properties in this area. He felt that the subject property would be difficult to sell considering its location on Wild Horse Creek Road as most people moving into Chesterfield want to be in a subdivision.

Mr. Knese was asked for his comments on the property values in this area. Mr. Knese responded that the property value in Chesterfield has increased. With respect to property along Wild Horse Creek Road, he stated that the ground value has appreciated but not nearly as much as the ground value for a 1+ acre lot within the subdivision immediately to the west. Properties within contiguous subdivisions of equal properties have appreciated at a rate of 6-12% per year for the last three years. But the properties along Wild Horse Creek Road have either been stable or have appreciated 2-3% in the last 4-5 years.

6. Mr. Jimmie W. New, 16371 Wilson Farm Drive, Chesterfield, MO 63005 stated he is President and Chief Operating Officer of Monterey Custom Homes and his specialty is finding lots, tearing them down and selling them with an increased value. It is his opinion that this site would be very difficult to sell and if it continues to stay in a residential state, it would continue to deteriorate.
7. Joe Demko stated he would pass on speaking.
8. Lauren Strutman, 16120 Walnut Hill Farm Drive, Chesterfield, MO 63005 stated she is a Residential Architect practicing for 21 years in the area. Ms. Strutman stated she does not feel the subject lot size is suitable for new home construction because of its narrow dimension, the 40 ft. minimum subdivision street dimension, and its location on Wild Horse Creek Road. She feels this property is suitable for CSP and that the limited use orthodontic practice is a very low-impact use of the property.
9. Mr. Craig Avenevoli (no address given) stated he would pass on speaking.
10. Mr. B. Koenemann (no address given) stated he would pass on speaking.
11. Ms. Joyce Ruiz, 2385 Broadmont Court, Chesterfield, MO 63017 stated she would pass on speaking.
12. Mr. Bryan Vonderahe, 12539 Chardin, St. Louis, MO 63128 stated he would pass on speaking.

13. Ms. Amy Sparks, 17172 Surrey View Drive, Chesterfield, MO 63005 stated that because this property is not part of a subdivision, she did not feel it would sell. She would prefer a business on this property as opposed to a home that is not properly maintained.

Councilmember Fults expressed concern that if this property is CSP, more homes along Wild Horse Creek Road would also become CSP.

SPEAKERS IN OPPOSITION:

1. Mr. Stephen L. Kling, Jr., 10 South Bemiston Blvd., St. Louis, MO 63141, attorney representing Appaloosa Way Homeowners Association. He stated that a formal response has been filed for the record and he submitted two document books for the record which include the CSP Ordinance and all the documents that have been referred to. He stated that his clients oppose the CSP Application and feel the proposed use in their residential area is inappropriate. Mr. Kling made a presentation relative to four conditions in the CSP Ordinance. He requested denial of the CSP and affirmation of the decision of the Planning Commission.
2. Ms. Jane Hopson, 5 Appaloosa Court, Chesterfield, MO 63005 stated that the property is zoned Non-Urban and she feels this is an acceptable use for this property.
3. Ms. Sheryl Deskin, 17903 White Robin Court, Chesterfield, MO 63005 stated she has been a realtor for fifteen years and has sold 50 homes in the Chesterfield area last year. She pointed out that the subject property was sold as a residential property and feels that changing the zoning of this property would adversely affect the property values surrounding it for years to come. She is concerned that if the property is changed to CSP, it would set a precedent for other properties along Wild Horse Creek Road.
4. Ms. Gretchen Bender, 216 Appaloosa Drive, Chesterfield, MO 63005 stated concern about the precedent that would be set if this property is rezoned to CSP. Ms. Bender stated she was a Property Manager for rental property for Gundaker Realtors for four years in the Chesterfield area. It was her opinion that a rental property on this site would not be a detriment to the neighborhood.
5. Mr. Douglas Littlefield, 361 Palomino Hill Court, Chesterfield, MO 63005, President and Trustee of the Baxter Pointe Homeowners Association representing 121 homes. He submitted documents for the record. He stated concern about traffic issues in the area. Concern was also expressed that there are 31 other properties in the area eligible for CSP. He requested that the Committee keep this area residential and deny this appeal.

REBUTTAL:

Mr. Tom O'Toole stated he has spoken to Mr. Greg Larson, Superintendent of Rockwood School District, who has made an application to Rockwood's Board to issue a letter in favor of the Demko Application. He stated he also has letters from Brinkman

Contractors, The Smokehouse Market and Annie Gunn's in support of the Demko Application. These letters were submitted for the record. He stated that he feels it would be in the best interest of the City to approve the Demko Application.

The Committee took a five-minute recess at 7:15 pm and re-convened at 7:20 pm.

Project Planner Michael Hurlbert gave a summary of the amendments to Attachment A that was approved by the Planning Commission. He also outlined additional modifications made to the plan through a power point presentation.

Commissioner David Banks clarified that the amendments were part of a motion made by the Planning Commission – they were conditions to Attachment A. The Planning Commission never voted on the amendments other than as a part of the vote. They were not added or approved separately.

Mr. Hurlbert stated that the appeal is of the Planning Commission's decision. The Planning Commission's decision included these amendments and this is what Planning Commission denied.

Discussion was held regarding the footage of the driveway and its approach. Mr. Hurlbert said the language could be amended to state "24' approach to 20' minimum drive".

Councilmember Durrell made a motion to incorporate all of the amendments as presented as part of Attachment A. The motion was seconded by Councilmember Geiger and **passes by a voice vote of 3-1.**

Councilmember Durrell made a motion to recommend to Council approval of **P.Z. 34-2003 16713 Wild Horse Creek Road (Richard M. Demko)** as amended. The motion was seconded by Councilmember Geiger and **has a voice vote of 2-2.** (Councilmember Fults and Councilmember Hurt voted nay.)

***Note: One bill, as recommended by the Planning Commission, will be needed for the June 21, 2004 City Council Meeting.
SEE Bill #**

II. Approval of the Planning and Zoning Committee Meeting Summary of May 6, 2004.

Councilmember Hurt made a motion to approve the Meeting Summary of May 6, 2004. The motion was seconded by Councilmember Fults and **passes by a voice vote of 4 to 0.**

III. SITE PLANS, BUILDING ELEVATIONS AND SIGNS

- A. Sheridan's Frozen Custard (Hilltown Village Center): Site Development Section Plan, Architectural Elevations, Landscape Plan, Lighting Plan and Sign Package for a 1.097 acre site located in a "C-8" Planned Commercial**

District located at the intersection of Olive Boulevard and Chesterfield Parkway West.

Project Planner Aimee Nassif stated that the Site Development Section Plan, Architectural Elevations, Landscape Plan, Lighting Plan and Sign Package have been approved by the Planning Commission. Ms. Nassif stated that Ron Hendrix, owner of Sheridan's Frozen Custard, Andy Sutton of Bowles Engineering, Jim Jacobi of Sachs, and the assigned architect were present for any questions.

General discussion followed concerning the lenses being covered on the signage, insuring that the neon was not exposed on the signage, the ice cream cone signage being reduced to two, the size of the cones being reduced, making use of existing curb cuts, the drive-thru being one direction only, the sit-down area providing for six tables, and landscaping done by Sachs.

Councilmember Hurt made a motion to approve **Sheridan's Frozen Custard (Hilltown Village Center)**. The motion was seconded by Councilmember Fults and **passes by a voice vote of 4 to 0.**

IV. OLD BUSINESS – None

V. NEW BUSINESS

- A. Lighting Ordinance (P.Z. 26-2003):** A request to amend the City of Chesterfield Zoning Ordinance for the establishment of a unified ordinance to establish lighting criteria.

Project Planner Aimee Nassif stated that the Light Ordinance was passed in March, 2004 by the City Council. Since that time, there have been questions regarding approval of lights for signage or building lighting and the use of LED lights, which is being used more by developers now than neon. This amendment is being presented to add the one sentence: *"All accent lighting, including Light-Emitting Diodes or LEDs, and lighting used for signage shall be subject to the approval of the City of Chesterfield."*

Councilmember Fults made a motion to approve **Lighting Ordinance (P.Z. 26-2003)**. The motion was seconded by Councilmember Hurt and **passes by a voice vote of 4 to 0.**

- *Note: One bill, as recommended by the Planning Commission, will be needed for the June 21, 2004 City Council Meeting.
SEE Bill #**

Mayor Nations and Councilmember Brown left the meeting at 7:55 pm.

- B. P.Z. 06-2004 Boone's Crossing Golf L.L.C.:** A request for a change in permitted uses in an approximately 29.07-acre "PC" Planned Commercial District located on North Outer Forty Road west of Long Road (Locator Nos. 17V-63-0059).

Project Planner David Bookless stated that **P.Z. 06-2004** is requesting the addition of batting cages. On May 24, 2004, the Planning Commission approved **P.Z. 06-2004** subject to conditions crafted by Staff. Attachment A has been reformatted to meet the current standards, as well as bringing up to current standards in terms of underground utilities, and the new standards relative to the Chesterfield Valley storm water ditch. The only issue coming from the Planning Commission dealt with light standards associated with the batting cages. The petitioner has agreed to limit their height to 20 ft.

Councilmember Hurt made a motion to approve **P.Z. 06-2004 Boone's Crossing Golf L.L.C.** The motion was seconded by Councilmember Fults and **passes by a voice vote of 4 to 0.**

***Note: One bill, as recommended by the Planning Commission, will be needed for the June 21, 2004 City Council Meeting.
SEE Bill #**

C. P.Z. 04-2004 City of Chesterfield (Residential Service Area): A request to amend Section 1003.182 of the Zoning Ordinance to establish new criteria for a Residential Service Area (currently known as Commercial Service Procedure.)

Project Planner Aimee Nassif stated that Attachment A has recommended changes from City Attorney Doug Beach. The recommended changes are indicated in red.

Mr. Stephen Kling addressed the Committee. He stated that he provided the original red-line to Mr. Beach. Mr. Beach reviewed Mr. Kling's recommendations and accepted every change with one exception – Mr. Beach did not accept the term “permit procedure” and Mr. Beach removed that reference throughout the draft. Every other change in red was suggested by Mr. Kling and accepted by Mr. Beach.

Mr. Kling made the following recommendations to the draft:

- Renumbering the Sections.
- Eliminating the first sentence in Section 13, or changing the wording from “authorize” to “recommended”.
- In the second line of Section 14.1: “*shall be addressed to the City of Chesterfield Planning and Commission*” – “and” should be removed.
- In Section 14, subsection V, additional language was suggested: After the word, “approve”, in the second line, add the words: “*or modify, in whole or in part,*”. Later in the same sentence, “*the residential business use permit by approving an Ordinance.*” – change the words “*permit*” to “*procedure*” and eliminate the word “*approving*”.

- In the second line of Section 15. II.: “*against the Planning conditions recommendation of approval*”, add the words after “*approval*”: “*or approval with conditions*”.

General discussion was held concerning an appeal of denial and a super majority vote overriding the Planning Commission.

Councilmember Hurt made a motion to recommend to Council to accept this RBU with all the red changes, and the changes suggested by Mr. Kling, all the way up to and including Section 23, in addition to changing the wording in Paragraph 13, to “recommended”, and using the word “procedures” instead of “permits”.

Mr. Hurt amended his motion that the Green Sheet used at Council Meeting be changed to reflect all of these changes that are in red, along with Mr. Kling’s comments up through and including Section 23. The motion was seconded by Councilmember Fults **and has a vote of 2 to 2**. It now goes to Council without a recommendation. Staff should consult with Mr. Beach to determine whether a Green Sheet, with the suggested recommendations, should be prepared.

***Note: One bill, as recommended by the Planning Commission, will be needed for the June 21, 2004 City Council Meeting.
SEE Bill #**

Councilmember Durrell made a motion to amend Mr. Hurt’s motion to require City Council approval of only a simple majority as it relates to the Appeal and Protest Procedure of Section 15, Attachment A. The motion was seconded by Councilmember Geiger **and has a vote of 2 to 2**. (Councilmember Fults and Councilmember Hurt voted nay.)

Councilmember Hurt made a motion to recommend approval by the Council that if Section 24 is included, the wording with respect to “limits” should state “not to be less than 5 years”. Motion was seconded by Councilmember Fults **and passes 4 to 0**.

VI. PENDING PROJECTS/DEPARTMENTAL UPDATE

VII. ADJOURNMENT

The meeting adjourned at 8:40 pm.