

# MEMORANDUM



TO: Michael G. Herring, City Administrator

FROM: Mike Geisel, Director of Public Services

SUBJECT: Planning & Public Works Committee Meeting Summary  
Thursday, July 19, 2012

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A meeting of the Planning and Public Works Committee of the Chesterfield City Council was held on Thursday, July 19, 2012 in Conference Room 101

In attendance were: **Acting Chair G. Elliott Grissom** (Ward II); **Councilmember Matt Segal** (Ward I); and **Councilmember Connie Fults** (Ward IV).

Also in attendance were: Mayor Bruce Geiger; Councilmember Mike Casey (Ward III); Councilmember Bob Nation (Ward IV); Planning Commission Chair Mike Watson; Michael Herring, City Administrator; Mike Geisel, Director of Public Services; Aimee Nassif, Planning & Development Services Director; Shawn Seymour, Senior Planner; and Kristine Kelley, Recording Secretary.

The meeting was called to order at 5:32 pm

## I. APPROVAL OF MEETING SUMMARY

### A. Approval of the June 21, 2012 Committee Meeting Summary.

**Councilmember Segal** made a motion to approve the Meeting Summary of June 21, 2012. The motion was seconded by Councilmember Fults and **passed by a voice vote of 3 - 0**.

**Councilmember Segal** then made a motion to move agenda items III.A and III.B under New Business first on the agenda. The motion was seconded by Councilmember Fults and **passed by a voice vote of 3 - 0**.

## III. NEW BUSINESS

- A. **P.Z. 05-2012 CVPBA III (17298 & 17280 North Outer 40 Road)**: A request for an ordinance amendment in a "PC" Planned Commercial District of 6.172 acres in size and located north of US Highway 40/Interstate 64 and immediately east of its intersection with Boone's Crossing (17U620172 & 17U620183).

## **STAFF REPORT**

Shawn Seymour, Senior Planner gave a PowerPoint presentation of the site and the surrounding area. Mr. Seymour stated the following:

The Petitioner is requesting an Ordinance Amendment for the purpose of modifying the list of permitted land uses and to modify one (1) building setback line on a property zoned "PC" Planned Commercial District of 6.172 acres in size.

- First, the Petitioner is requesting to seek a modification to the building setback line along the northern boundary of Lot 2, from 160 feet to 140 feet. This request would permit a canopy to be constructed to provide shelter for those entering and exiting the building.
- Secondly, the Petitioner is requesting a modification to the list of permitted land uses that modify the language to specify and permit an accessory activity to a current permitted land use. Currently, the site permits general office, medical office and financial office use. The Petitioner is requesting an overnight stay activity be added to the medical office land use.

By definition, Medical Office land use is for outpatient services only, which does not allow overnight stays at the facility.

After working with the Petitioner, Staff has included the following language in the Governing Ordinance to ensure that the overnight stay activity operates subordinate to the Medical Office land use.

- ***Medical office, with overnight stays for observational purposes, not to exceed 72 hours in duration. Overnight stays shall be restricted to not more than five percent (5%) of the floor area utilized for medical offices.***

Staff has also included language that would prohibit signage for any accessory land uses on the exterior of building. Staff did discuss with the Petitioner the possibility of including a *hospital land use*, but it would permit a number of activities that may cause detriment to the surrounding property owners.

### **Site history**

This development is composed of two (2) sites, with zoning entitlements being granted by the City in 2006. In 2007, the first site of this development was approved for the construction of a financial/general office building. In 2008, there was a text amendment with a modified setback. Staff believes that the Petitioner may be required to further modify the setback to include the covered canopy. A Public Hearing was held on May 30, 2012, and at that time the only outstanding issue was the absence of outside agency comment memos, which Staff has received.

On June 11, 2012, the City of Chesterfield received a letter from the Petitioner requesting to be removed from that evening's Planning Commission agenda and to be rescheduled for the June 25, 2012 Planning Commission meeting.

The Planning Commission by a vote of 7 – 0, passed a motion to hold the petition until the June 25, 2012 meeting.

Further, on June 22, 2012, the City of Chesterfield received a revised comment letter from St. Louis County Department of Highways & Traffic indicating that modifications to the Traffic Generation Assessment (TGA) contributions had been made and as such, requested to be included in the governing ordinance. Prior to 2008, TGA was calculated on a square footage basis per land use of structure. In 2008, St. Louis County changed its calculation method for TGA's. The assessment was changed to be based on number of required parking stalls.

When the Petitioner reviewed the initial comment memo from St. Louis County it increased their TGA contribution and they requested that the calculations for their particular development remain at a square footage type calculation. Since that time, the Petitioner has worked out an agreement with St. Louis County that all land uses that were approved prior to 2008 (medial office, general office, and all financial office land uses) will be based upon square footage, but the accessory land use for overnight stay will be calculated by new TGA standards – based upon per parking stalls.

As Planning Commission packets had already been distributed, this modified language was not included in the June 25, 2012 Planning Commission Staff Report. The Planning Commission voted to recommend approval of the ordinance text amendment by a vote of 7 – 0.

Staff then provided the following detailed draft Green Sheet Amendment to the Committee for review.

#### **AMENDMENT 1**

Section V. TRUST FUND CONTRIBUTION, A. ROADS, page 10. The following language was added:

1. The developer shall be required to contribute to the Chesterfield Valley Trust Fund (Ord. 556). Traffic generation assessment contributions shall be deposited with St. Louis County prior to the issuance of building permits. If development phasing is anticipated, the developer shall provide the traffic generation assessment contribution prior to issuance of building permits for each phase of development. ***The roadway improvement contribution shall be based on 95% of the building square footage being assessed at the rates below.*** The amount of the developer's contribution to this fund shall be computed based on the following:

<b><i>Type of Development</i></b>	<b><i>Required Contribution</i></b>
<b><i>Commercial</i></b>	<b><i>\$2.33/sq. ft. of building space</i></b>
<b><i>Office</i></b>	<b><i>\$1.62/sq. ft. of building space</i></b>
<b><i>Industrial</i></b>	<b><i>\$5,624.00/acre</i></b>

2. ***The balance of the roadway improvement contribution shall be based on 5% of the building square footage for the accessory use of limited overnight stays being assessed against required parking spaces at the rates below.*** This contribution shall not exceed an amount established by multiplying the required parking spaces by the following rate schedule:

<b>Type of Development</b>	<b>Required Contribution</b>
Medical Office	\$1,835.75/required parking stall
General Office	\$611.88/required parking stall
Loading Space	\$3,003.97/required parking stall

## **PLANNING COMMISSION REPORT**

Planning Chair Watson stated that the only concerns raised at Planning Commission were related to the overnight stay and the 72 hours allowed for overnight stays.

## **DISCUSSION**

Councilmember Fults referred to language in the Attachment A, which states *“hours of operation for this “PC” District shall not be restricted”*. She then questioned as to whether the entire office would be open 24 hours. Mr. Seymour responded that per the zoning and as written in the Attachment A, they would be allowed to be a 24 hour a day operation. He added that this language was in the previous ordinance and was not requested to be changed by Planning Commission or the Petitioner.

### Petitioner response

Mike Doster, representing the Petitioner concurred with Mr. Seymour that the original ordinance allowed for 24 hour a day operations. He added that the first building that was developed allowed around the clock operations and felt that it would be appropriate and fair to maintain that allowance for the two-lot development. In his opinion, he did not feel that there would be around the clock medical activity in the building.

### Speakers

David Durbin of SSM Healthcare and Greg Bratcher of BJC Healthcare were present, on behalf of the Missouri Hospital Association. Mr. Durbin referenced a letter that was supposedly delivered to the Committee prior to the meeting from the Missouri Hospital Association. Mr. Durbin went on to say that they had concerns as to whether the type of facility envisioned would allow hospital use, which would then require state licensure.

He went on to reference the implications of facilities that have overnight stays, and felt the subject facility would need a state license. He requested that the developer be required to show that has obtained State licensing or evidence that no license is required before occupancy is authorized.

Mr. Bratcher indicated his agreement with Mr. Durbin’s concern about overnight stays and required licensing.

Mr. Herring questioned the role the City would play in the licensing process as this is a parallel and independent process. He pointed out that the City’s charge relates to zoning and zoning issues.

Mr. Herring recommended that the representatives speak with the Petitioner regarding their concerns before the petition goes to City Council. Mr. Geisel stated that there are a variety of facilities that require licensure by the State of Missouri, but the City is strictly granting a land use.

The City does not verify that the required licenses have been obtained. He noted that if a facility cannot get licensed by the State, it cannot make use of the land use.

Ms. Nassif stated that during the Planning Commission meeting there were questions raised regarding regulating this by number of beds or by square footage. The City chose to regulate it by square footage. Mr. Geisel noted that the City does not have police authority to count the number of beds in each facility, but the City is able to monitor this through building permits. When a building permit comes in for an interior finish, it is compared to the square footage of the building.

Planning Chair Watson stated that the Petitioner clarified during Planning Commission that the overnight stays are for pain management only.

Councilmember Casey recommended limiting the overnight stays to 24 hours rather than 72 hours. He felt that the 72 hours were considered more of a hospital stay rather than outpatient surgery center. Mr. Doster responded that the 72 hours of operation is necessary to allow patient monitoring. He noted that this will be done on a small percentage of the patients.

**Councilmember Segal made a motion to approve P.Z. 05-2012 CVPBA III (17298 & 17280 North Outer 40 Road) with a Green Sheet Amendment to include both provisions to allow for 72 hours of overnight stays and setback recommendations and to forward a recommendation for approval to the full City Council. The motion was seconded by Councilmember Fults and **passed by a voice vote of 3 - 0.****

**Note: One Bill, as recommended by the Planning Commission, will be needed for the August 6, 2012 City Council Meeting. See Bill #**

**[Please see the attached report prepared by Aimee Nassif, Planning and Development Services Director, for additional information on P.Z. 05-2012 CVPBA III (17298 & 17280 North Outer 40 Road)].**

- B. P.Z. 06-2012 143 Long Road (Long Road Dental):** A request to amend City of Chesterfield Ordinance 2510 to modify the list of permitted land uses on a 0.5 acre tract of land zoned "PI" Planned Industrial District located on the west side of Long Road, south of the intersection of Chesterfield Airport Road and Long Road (17U120221).

## **STAFF REPORT**

Shawn Seymour, Senior Planner gave a PowerPoint presentation of the site and the surrounding area. Mr. Seymour stated the following:

The Petitioner is requesting a modification to the list of permitted land uses. At the time of zoning the permitted uses granted were – office, office/general, office/dental, office/medical. The additional land uses are being requested in hopes of finding a tenant for a vacant unit in the existing office structure. The property was originally site planned at a low parking value – 3.5 per thousand square feet.

Staff worked with the Petitioner to develop a list of land uses that would not only be consistent with the surrounding zoning but would meet the parking threshold.

*The additional land uses being requested are; professional and technical service facility with accessory retail, financial institution, laboratories, professional scientific and dry cleaning establishment.*

A Public Hearing was held on June 11, 2012, and at that time the only outstanding issue was the absence of outside agency comment memos. On June 25, 2012, the Planning Commission voted to recommend approval by a vote of 7 – 0 for the ordinance text amendment.

Mr. Seymour noted that the dry cleaning establishment is for drop off and pick up only.

### **PLANNING COMMISSION REPORT**

Planning Chair Watson stated that the only comments by the Planning Commission related to pick up and drop off of the dry cleaning establishment.

**Councilmember Segal made a motion to forward P.Z. 06-2012 143 Long Road (Long Road Dental) to City Council with a recommendation to approve. The motion was seconded by Councilmember Fults and **passed by a voice vote of 3 - 0.****

**Note: One Bill, as recommended by the Planning Commission, will be needed for the August 6, 2012 City Council Meeting. See Bill #**

**[Please see the attached report prepared by Aimee Nassif, Planning and Development Services Director, for additional information on P.Z. 06-2012 143 Long Road (Long Road Dental)].**

## **II. OLD BUSINESS**

### **A. Hours of Operation for retail establishments**

#### **STAFF REPORT**

Aimee Nassif, Planning & Development Services Director stated that at the June 21<sup>st</sup> Committee meeting, Staff was asked to draft legislation to amend each of the existing planned district ordinances which currently restrict hours of operation. After much research, Staff has determined that costs associated with advertising and site postings necessary to conduct a public hearing with ***the City acting as the Petitioner is estimated to be \$17,500.***

The Planning & Public Works Committee also requested to see the language which would be included in the legislation to extend the hours of operation. That draft language is as follows:

*“The permitted hours of operation for retail establishments only may be expanded for Thanksgiving Day and the day after Thanksgiving, upon review and approval of a Special Activities Permit, signed by the property owner and*

*submitted to the Planning and Development Services Division at least seven (7) business days in advance of said holiday.”*

**To date, due to time constraints, high project load, and current staffing issues, Staff has only been able to make contact with THF Realty.** Ms. Nassif noted that tickets were only issued to THF during the 2011 Thanksgiving holiday because they were the only establishments in violation.

Ms. Nassif asked if there is any more direction before Staff begins work on the public hearing process, which will involve an enormous amount of work and time. Mr. Geisel added that the next step is to schedule the public hearing, which requires advertisement and posting numerous signs on approximately 60 sites affected by the restriction. He noted that the \$17,500 pertains primarily to advertising costs, which involves 22 different legal descriptions.

Councilmember Fults asked if there were any alternatives at this time. Ms. Nassif suggested amending the Chesterfield Commons ordinance first and sending letters to the other retail establishments asking if they want to engage in this also.

Since the Committee meeting, the Mayor asked Ms. Nassif to prepare additional language to be added to the ordinance which would avoid the continued public hearing process. The draft language in item b. below is the new language:

1. The permitted hours of operation for retail establishments only may be expanded as follows:
  - a. for Thanksgiving Day and the day after Thanksgiving, upon review and approval of a Special Activity Permit, which is signed by the property owner and submitted to the City at least seven (7) business days in advance of said holiday and
  - b. for all other holidays, upon a written request made by the property owner and submitted to the City. Said request will be reviewed and approved by City Council.

## **DISCUSSION**

Acting Chair Grissom clarified that if the developments chose to be open during additional holidays they would require approval by City Council. Ms. Nassif responded that the property owner would be required to obtain the Special Activities Permit to be open during the “Black Friday” holiday shopping event. However, anything above and beyond the Thanksgiving Holiday season would require review by the Planning and Development Services Division and subsequent approval by City Council. She added that the requests would require advance notice.

Planning Chair Watson suggested allowing additional extended hours of operation for special events. The Committee had serious concerns with allowing extended hours for special events. Acting Chair Grissom stated that he is in opposition to such a request and felt that this could set a precedent.

**Councilmember Segal made a motion to approve a fund transfer request of \$17,500 from General Fund, Fund Reserve for the direct costs associated with the City acting as petitioner; and to approve the hours of operation as outlined in Staff's memo of July 19, 2012 and to forward a recommendation to approve to the full City Council. The motion was seconded by Councilmember Fults and **passed** by a voice vote of 3 - 0.**

**Councilmember Segal then made a motion to amend the legislation to include the following draft language;**

1. The permitted hours of operation for retail establishments only may be expanded as follows:
  - a. for Thanksgiving Day and the day after Thanksgiving, *or special promotion* upon review and approval of a Special Activity Permit, which is signed by the property owner and submitted to the City at least seven (7) business days in advance of said holiday and
  - b. for all other holidays, upon a written request made by the property owner and submitted to the City. Said request will be reviewed and approved by City Council.

***The motion then died due to the lack of a second.***

**Note: A voice vote will be required at the August 6, 2012 City Council Meeting.**

**[Please see the attached report prepared by Aimee Nassif, Planning and Development Services Director, for additional information on Hours of Operation for retail establishments].**

### **III. NEW BUSINESS**

- C. Solar panels:** Discussion re: possible restrictions regarding size and placement – Councilmember Fults

Councilmember Fults stated she would like the Committee to ask Staff to talk with City Attorney Heggie to get clarification as to regulating placement of solar panels. She then had questions relative to the following:

1. Limiting the solar panels to roofs.
2. Limiting the solar panels by square footage.
3. Allowing the trustees to include the limitations in their subdivision indentures.
4. Enforcing the tree canopy ordinance as it relates to solar panels.
5. Setback limitations

6. In case of property damage, are solar panels covered under home owners insurance?

Mr. Geisel clarified that Councilmember Fults is requesting that Staff provide research on the items listed above and then consult with City Attorney Heggie on all regulations associated with solar panels. Mr. Herring responded that currently the City allows solar panels, but does not regulate them. Ms. Nassif replied that St. Louis County requires a building permit for solar panels.

**Councilmember Fults made a motion requesting that staff conduct research on the use of solar panels, how other cities regulate, etc., and provide follow-up to City Attorney Rob Heggie.** The motion was seconded by Acting Chair Grissom and **passed by a voice vote of 2 – 1** with Councilmember Segal voting no.

**D. MoDOT – Route 141 Supplemental Agreement, Landscaping & Maintenance.**

**STAFF REPORT**

Mike Geisel, Director of Public Services stated that in January of 2010, the City entered into an enhancement agreement with the Missouri Department of Transportation (MoDOT) related to aesthetic improvements that would ultimately be integrated into the construction of New Route 141. Subsequently, at the direction of City Council, Staff also began design of landscape enhancements for the corridor.

On March 5, 2012, City Council approved funding for the landscape plans at Route 141 and Ladue Road as well as at Route 141 and Olive Boulevard. Since that time, the City has finalized plans and estimates with the MoDOT contractors and MoDOT has prepared a supplemental agreement which incorporates the construction and maintenance of the proposed landscaping improvements along the Route 141 Corridor. Counsel has reviewed the supplemental agreement and finds it acceptable. As such, it is recommended and requested that the supplemental agreement and enabling ordinance be forwarded to City Council for review and approval.

Mr. Geisel pointed out that no additional funding or appropriation is associated with this supplemental agreement. Funding for the landscaping improvements was identified and authorized in May of this year. This agreement merely allows MoDOT to move forward with the construction of the improvements, commits the City to maintain said improvements, and confirms to MoDOT the prior funding commitment.

**Councilmember Segal made a motion to give the City Administrator the authority to enter into the Route 141 Supplemental Enhancement Agreement, and to forward a recommendation for approval to the full City Council.** The motion was seconded by Councilmember Fults and **passed by a voice vote of 3 – 0.**

**Note: A voice vote is required at the August 6, 2012 City Council meeting.**

[Please see the attached report prepared by Mike Geisel, Director of Public Services for additional information on MoDOT – Route 141 Supplemental Enhancement Agreement].

### III. PROJECT UPDATES

Aimee Nassif provided a brief project update.

#### Ward 1 – Project Update:

- Friendship Village of West County. Approved at ARB and PC for phase one. Improvement plans are currently under review. Ms. Nassif added that plans for phase two (2) for the additional villas have not been submitted.
- Chesterfield Village NW Quadrant – Mercy Medical will be on the agenda for vote at Planning Commission in August. RGA petition public hearing held and awaiting their traffic study.

#### Ward 2 – Pre-application Meetings:

- Sansone Properties plan to propose a new, 2-phase senior residential care facility off West Drive. They are currently seeking their Certificate of Need. Applications have been submitted. Mr. Geisel pointed out that this would require a two-step process – rezone to “E-2” Estate District and it will require a Conditional Use Permit.

#### Ward 4 – Project Update:

- Chesterfield Senior Living Center. Review underway. ARB recommended approval with minor changes to the trash enclosure.

#### Board of Adjustment Update:

- The property owners at 1483 Country Lake Estates are seeking to construct a structure (batting cage) in a required landscape area (undisturbed zone). Variance denied, will be filing an appeal at the St Louis County Court.

#### Inquiries:

- Tuscany Reserve: Staff has received inquiries with respect to this property being purchased and the density being increased. If the property is purchased, Councilmember Fults asked whether the current zoning will remain. Ms. Nassif pointed out that the current zoning stays with the land use. If an increase in units is desired, Ms. Nassif suggested that they get in touch with the appropriate Councilmembers.
- Possible new U Gas service station/convenience store located along Long Road on Chesterfield Airport Road.
- Possible new service station directly across from St. Louis Family Church. An ordinance amendment will be required to change any of the setbacks.

### IV. OTHER

### V. ADJOURNMENT

The meeting adjourned at 6:25 p.m.