

CITY OF CRESTWOOD
PLANNING AND ZONING COMMISSION MEETING
August 5, 2015 at 7:00 p.m.

CALL TO ORDER

The regularly scheduled meeting of the Planning and Zoning Commission was called to order by Chairman Sweeney at 7:00 p.m. on Wednesday August 5, 2015.

PLEDGE OF ALLEGIANCE

ROLL CALL

Chairman Sweeney	Greg Zipfel
Ken Lange	Scott Whitcraft
Bo Proffitt	Alderman Anderson
Steve Nieder	Mirela Celaj
	Adam Jones

Chairman Sweeney entertained a motion to amend the Agenda to allow for public discussion prior to the Commission's discussion and vote on the 2015 Amendment. A motion was made by Mr. Nieder to amend the Agenda to allow for public discussion prior to the Commission's Discussion and seconded by Mr. Proffitt. Upon voice vote, motion passed (6 ayes, 0 nays).

Mr. Mark Grimm of Gilmore and Bell, Special Counsel for the City, in connection with the redevelopment of Crestwood Plaza, came forward. It was his opinion that the Watson Road Commercial District Plan and the proposed 2015 Amendment for the same was a "comprehensive plan" within the meaning of Section 99.810 of the TIF Act. A copy of a legal analysis that had been done by Gilmore and Bell was provided to the Commission members. Due to threatened litigation over this issue, the analysis was provided in confidentially to the City and it is requested that the members keep its context confidential. Neither the TIF Act nor the statutes define a comprehensive plan anywhere. The term "comprehensive plan" is commonly used and there is a significant amount of detail regarding comprehensive plans. Specifically with respect to TIF, the Missouri Court of Appeals Eastern District, state that where there is no formal comprehensive plan by a city, the court would look to the entire body of evidence before them to determine what constitutes a comprehensive plan. In other words, it is possible for a city to approve a TIF redevelopment plan even if a city has not approved a formal comprehensive plan.

The court would determine on a case by case basis, should there be no formal comprehensive plan, what is in effect the comprehensive plan for the development of the municipality as a whole. Based on Gilmore & Bell's review on the Watson Road Commercial District Plan, prior amendments, and the actions taken with respect to the plan, it is their findings that a court would hold that this plan, as amended, is the "Comprehensive Plan" that applies to the old Crestwood Plaza area. There was a period of questions and answers between the Commission and Mr. Grimm.

The court states that what constitutes a comprehensive plan for the development of any portion of a municipality does not have to be embodied into a single document entitled "comprehensive plan" but can be portions of zoning laws, or whatever planning documents exists. In the absence of a formal comprehensive plan for development of an entire municipality, the court would look to the entire body of work, including zoning laws and other planning documents that exist, to determine what a de facto comprehensive plan is. Mr. Jones emphasized that the resolution before the Commission was not a zoning change but a change in future land use designation for the old Crestwood Plaza area, Site B. The property owner would be the one who would request a zoning change and no request to date has been made. If a zoning request were made in the future, it would come before this Commission and then the Board of Aldermen (BOA) for final approval. Mr. Jones provided Mr. Lange with City Code in regards to future land use designation and stated it clarifies very nicely this issue of land use and suggested the other members get the same.

Chairman Sweeney called "point of order" after a discussion continued between Mr. Jones and Mr. Nieder on why now, what's the rush, and why designate mixed use for Site B. Chairman Sweeney stated quite simplistically, if Commission Members oppose the action of the Resolution, vote No, if the Commission Members agree with the action of the Resolution NO. 15-17 based on City's hired professional City Planner Mr. Jones, vote in favor of the action.

Mr. Charles Triplett, Assistant Superintendent of Lindbergh School, strongly urged the Commission to vote No on Resolution NO. 15-07.

Ms. Martha Duchild, 9158 General Grant Lane, Crestwood, MO 63123, appreciated the City hiring a comprehensive planner, Houseal Lavigne. She expressed the importance of resident input into a comprehensive plan for the whole city and not just for one property owner. She strongly urged the Commission to remove the words, "as the comprehensive plan for the area" in the last paragraph of the resolution and allow the land use designation.

Mr. Jones stated that the language of "as the comprehensive plan for the area" has been used in all previous resolutions passed in 1998, 2005, and 2006 amendments. Chairman Sweeney added that this resolution was drafted by legal counsel and would not be inclined to make that modification.

Robert Deutschmann, 9721 Twincrest, Crestwood, Missouri 63126, stressed “cooperation is not capitulation” and to have patience as it would be a long process bringing Crestwood back.

Jerry Miguel, 7942 Camelot Lane, Crestwood, Missouri, 63123, concurred with removing the language of “as the comprehensive plan for the area” in the resolution as well as in the 2015 Amendment. He discussed a letter dated October 8, 2014 written by City Administrator Mark Sime to the Mayor and BOA which highlights a comprehensive plan and suggested that the Commission get a copy of the letter if they have not seen it. He also suggested that the Commission get a copy of the Ordinance and its attached documents, which were passed at the last BOA meeting approving Houseal Lavigne as the comprehensive planner. He claimed that the response that was approved at the BOA was not entirely the original submittal by Houseal Lavigne but that it was modified in Step 5 relating to the Crestwood Plaza redevelopment to permit the inclusion of what the Commission is being asked to vote on this evening. He asked the Commission to do their job to the best of their ability as they represent the entire community. Should the Commission desire to modify the resolution before them this evening, precedence is a weak argument, attend a BOA meeting where precedence is set all the time.

Mr. Hahn, 8740 Del Vista Drive, Crestwood, Missouri 63126, brought up the issue of the comprehensive plan for the City and asked questions, gave scenarios, and made comment about the rush to get a comprehensive plan passed. Mr. Grimm and Chairman Sweeney clarified that since 1984, the Watson Road Corridor District Plan has been considered a comprehensive plan. Mr. Hahn stated development can happen without TIF, however, TIF was not on the table to discuss, only future land use designation for the old Crestwood Plaza area, Site B. His opinion was that it was nonsense that it has to be rezoned and that is, therefore, being tied to TIF because of this one plan on the table this evening and the future of Crestwood and major stakeholders are being short changed. He was against passing this resolution as presented.

Mr. Zipfel inquired of Mr. Jones the timeline for the comprehensive plan from Houseal Lavigne. Mr. Jones responded that Drew Ausumb of Houseal Lavigne is looking at approximately a one year completion date. Mr. Zipfel asked if Houseal Lavigne’s comprehensive plan would be considered potentially as an amendment to what already is considered, or what could be considered, a future comprehensive plan. Mr. Jones stated that once the comprehensive plan is completed by Houseal Lavigne and adopted, it would include the WRCD Plan and would become the legal document for zoning decisions in the future in terms of providing guidelines for this Commission. Chairman Sweeney asked Mr. Jones if Houseal Lavigne had asked him not to move forward with the action before the Commission this evening and Mr. Jones replied in the negative.

Bill Schelinski, 600 Sessions Avenue, Crestwood, Missouri 63126, referenced the Melaniphy Report in 2005 in regards to Site B and residential housing. In that report, it stated that it was their opinion that residential housing would be positive for the site, however, they did not do a housing market analysis. For that reason, Mr. Schelinski did not see positive support for housing

on that site. The assumptions in the executive summary part of the report is of no value today because everything they predicted that would not happen did happen. Not only was there a financial crisis in 2008 but a “great recession”, as it is being called, which puts into question a lot of the data and conclusions in their report. Mr. Schelinski feels the report from 2005 would be useful mostly for comparison purposes to bounce against Houseal Lavigne and PGAV to see if the numbers are in line or out of line for today’s market. He stated that the document before the Commission this evening would not, on its own, support housing on Site B in particular.

Don Massey, 9620 Greenview Drive, Crestwood, Missouri 63126, stated he does feel the majority of people are against the mixed use but the prudent use of mixed use. If the resolution is passed, the residents are afraid of apartments being built on the site; he then asked if the resolution is approved, wouldn’t this be one step closer to allowing apartments to be built. Chairman Sweeney stated the simply answer would be yes. The change in designation does allow more flexibility; could that possibly include apartments, yes. The goal of residents and the Commission is not to have bad consequences for bad decisions made at an earlier stage when they could have been prevented. If this resolution is passed, Mr. Massey feels it would be a step closer to allowing apartments to be built on the site.

Robert Miller, 8915 Westhaven Court, Crestwood, Missouri 63126, complained that there has been no public input and no communication with the public. He also stated that for 23 years revenue has been pushed away from the City and said that the Lindbergh School District would be deprived of taxes if apartments are allowed. He was against housing being allowed in the mixed use and wants more input into decisions made for the City of Crestwood.

John O’Fallon Bell, 8773 Del Vista Drive, Crestwood, Missouri 63126, urged the Commission to vote against Resolution NO. 15-07 and the 2015 Amendment. He found it discerning that the City sought legal counsel after the last P&Z Commission meeting which had a veil of confidentiality on the input and response to that legal counsel. It was his opinion that it was a break of communication. He suggested that the City look for the manual entitled, “Planning and Zoning Procedures for Missouri Municipalities”, produced by Missouri Municipal League which identifies broad outlines on the distinction between how a Planning and Zoning Commission operates in contrast to a Board of Aldermen. It speaks to the issue of statutory authority of a P&Z Commission; the P&Z Commission thinks strategically, long term; and the BOA thinks tactfully, more short term. He expressed concern about the WRCD Plan being construed as a comprehensive plan. His opinion was if the issue is passed this evening, the Commission would be selecting against a citizen centered comprehensive plan process. He asked the Commission to ask themselves if the citizens of Crestwood would be well served by the adoption of this resolution and its amendment; he would underscore emphatically no.

MINUTES

Chairman Sweeney asked for a motion to approve the minutes of the 7-1-15 meeting with one typo correction on page 2, paragraph 4, line 2; should read Proposed Landu (not Lane) Use. Mr. Proffitt made a motion to approve the minutes as corrected and Mr. Wall seconded the motion. Upon voice vote, motion was approved.

HEARING

City Planner Adam Jones

RE: Request for 2015 Amendment to the
Watson Road Commercial District Plan

Mr. Jones stated that he and the Commission are tasked with creating opportunities for development for this community that address the needs of its residence and it does not include bringing initiatives to inhibit development and does not mean supporting projects that do not serve the communities best interest. He reminded the Commission that if the amendment is approved as future mixed land use, it does not necessarily mean that residential must be included on that site; it simply allows the fullest and best use of that property.

Mr. Lange stated that the City has a window of opportunity with a developer who says his company is interested in redeveloping the old Crestwood Plaza but before the developer goes to the next step, they would like to have some insurance that the City is going to help facilitate the plans that they would bring forward in the very near future. If the City does not collaborate with the developer and be willing to look at mixed use on this site, the City would be potentially closing a window of opportunity for a developer. This site has been vacant for years, no other developer has come forward. If the developer walks, this site could sit vacant for many more years to come.

Mr. Proffitt stated that there are three areas being considered, not just Site B, as mixed use in the resolution. Chairman Sweeney stated that he was not inclined to change the resolution, the resolution was drafted and approved by the City Attorney and Special Counsel and does not believe there would be any benefit in changing it but to muddy the waters.

Chairman Sweeney asked for motion to approve Resolution NO. 15-07 as written. Mr. Whitcraft made a motion to approve Resolution NO. 15-07 as written and Mr. Proffitt seconded the motion.

A roll call was taken as follows:

AYES: Sweeney; Lange; Proffitt; Wall; Whitcraft

NAYS: Nieder; Zipfel

ALDERMANIC REPORT

Alderman Anderson stated that at the last BOA meeting,

- An ordinance was passed appointing Houseal Lavigne as the comprehensive planner for the City to develop a comprehensive plan. He stated he would like to get this Commission actively involved with the process of the comprehensive plan.

ADJOURNMENT

There being no further discussion, Chairman Sweeney asked for a motion to adjourn. Mr. Proffitt made a motion to adjourn and Mr. Lange seconded the motion.

The meeting was adjourned at 9:03 p. m.

Respectfully submitted,

Shirley A. Brown

Public Works Administrative Secretary