

MINUTES OF THE PLANNING AND ZONING COMMISSION

DATE: July 12, 2012

TIME: 6:30 pm

The regular meeting and public hearing of the Planning and Zoning Commission was held on the above date and time in City Council Chambers, third floor of City Hall with the following members and staff in attendance: Shelby Lawhon, (Chair); Matt Edwards, (Vice-Chair); Jay McClelland, Jim Hansen, Phil Young, Tom Baird, Jason Ray, King Coltrin, Gloria Roling; Ralph Rognstad, Director of Planning; Michael MacPherson, Principal City Planner; Thomas Rykowski, City Attorney; Cody Marshall, Public Works, Dawn Gardner, Traffic Division; Sandy Goddard, Administrative Assistant.

ROLL CALL:

APPROVAL OF MINUTES:

The minutes of May 31, 2012 of the Planning and Zoning Commission were approved unanimously.

COMMUNICATIONS:

Mr. MacPherson commented that the first item on the agenda, Item #1, Relinquish Easement No. 782, we are requesting that case be tabled indefinitely.

Mr. Lawhon stated that they would review the consent item, then Z-10-2012 and Arvest Corners as these cases can be heard quickly and then take PD 340, as there appears to be a lot of interest in the case.

CONSENT ITEMS

1. Relinquish Easement 782
(2144 E Republic Road)

Republic Road, LLC

Mr. McClelland motioned to **table** Relinquish Easement 782 indefinitely. Ms. Roling **seconded** the motion. The motion **carried** as follows: Ayes: Lawhon, Edwards, McClelland, Hansen, Young, Baird, Ray, Coltrin and Roling. Nays: None. Abstain: None. Absent: None.

HEARINGS:

Zoning:

2. Z-10-2012 w/Conditional Overlay District No. 52
(1937 S South Street)

Campus Rentals, LLC

Mr. MacPherson stated the purpose of the request is to rezone approximately 0.21 acres, generally located at 1937 S. South Avenue from a R-SF, Single-Family Residential District to a HC, Highway Commercial District and establish Conditional Overlay District No. 52 to restrict uses, restrict access, require additional buffering, require a lot combination with the surrounding properties within the proposed rezoning and require all stormwater runoff to be directed into the existing north – south drainage system traversing the property or a new drainage facility. This rezoning will have the same relevant conditions as the previous rezoning of the surrounding properties owned by Bass Pro in 2009 and 2012.

Mr. MacPherson stated the findings are that the Comprehensive Plan designates this area as an Activities Center and appropriated for high intensity retail, office and residential uses. The proposed conditional overlay district will mitigate the potential impact between the commercial and residential uses by restricting access to local residential streets. The screening, fencing, bufferyard and lighting requirements of the Zoning Ordinance have been adopted to mitigate potential impacts between properties with differentiating uses. The proposed zoning is consistent with the approved rezoning of surrounding properties owned by Bass Pro in 2009 and 2010. Mr. MacPherson stated staff recommends approval of the request.

Mr. Lawhon opened the public hearing.

Ms. Sarah Wilson with Husch Blackwell, 901 St. Louis St. Ms. Wilson stated this is a continuation of the 2009 rezoning and the rezoning in February. The applicant recently acquired the property which is why it was not included in the recent applications. The rezoning mirrors the prior rezoning on both the district and the conditional overlay provisions.

Mr. Lawhon closed the public hearing.

Mr. Baird motioned to **approve** Z-10-2012 w/Conditional Overlay District No. 52. Mr. Young **seconded** the motion. The motion **carried** as follows: Ayes: Lawhon, Edwards, McClelland, Hansen, Young, Baird, Ray, Coltrin and Roling. Nays: None. Abstain: None. Absent: None.

OTHER PUBLIC HEARINGS:

Preliminary Plats:

4. **Arvest Corners**
(4140 S Fremont)

Rodney Shepard

Mr. MacPherson stated the purpose of the request is to approve a preliminary plat to subdivide 5.52 acres into a two (2) lot commercial subdivision, including one subdivision variance, located at 4140 South Fremont Avenue which is at the junction of Fremont and Republic Road. It is the location of a construction site for Arvest Bank and an out-lot. The recommendation for this request is that it be approved provided that Planning and Zoning Commission finds that the standards for subdivision variance approval have been met and, if approved, the required conditions shall govern and control the subdivision of the land shown on Exhibit A.

Mr. MacPherson added that if Planning and Zoning Commission finds that the standards for subdivision

variance approval have not been met, the plat needs to be revised. The subdivision includes a variance on the right-of-way triangles at street intersections based on the classification of the streets. The applicant is requesting to modify the required right-of-way as a Secondary Arterial and Republic Road is a Primary Arterial. Based on the street classifications, a one-hundred (100) foot by one-hundred (100) foot right-of-way triangle is required at the intersection. The applicant is providing a modified right-of-way triangle as shown on the Preliminary Plat. The road has already been approved and the site triangle has been developed. The modified site triangle has been reviewed by the Administrative Review Committee and they have found it is consistent with the requirements of the Subdivision Regulations and qualifies for a variance and recommend approval. Staff also recommends approval of the plat.

Mr. Lawhon opened the public hearing.

Mr. Derek Lee, Lee Engineering stated he and Mr. Shepard, President of the Bank, are available for any questions.

Mr. Ray motioned to **approve** Preliminary Plat Arvest Corners. Mr. Edwards **seconded** the motion. The motion **carried** as follows: Ayes: Lawhon, Edwards, McClelland, Hansen, Young, Baird, Ray, Coltrin and Roling. Nays: None. Abstain: None. Absent: None.

PLANNED DEVELOPMENTS:

3. **Planned Development 340**

Duane & Jeannette Hesterly

(6300 block S Farmers Branch Ave w/s)

Mr. Young recused himself from the hearing.

Mr. MacPherson stated the purpose of the request is to rezone approximately 2.54 acres of property generally located at 6300 block of South Farmers Branch Avenue from Planned Development District No. 201 to Planned Development District No. 340 to adjust the permitted floor area ratio, from .35 to .65, to reduce the buffer on the east side of the property from thirty (30) feet to fifteen (15) feet, and to move off-site detention on site. The existing Planned Development 201 was approved by City Council on January 22, 1996. The planned Development permits a mix of retail and office uses. The rezoning will allow for an expanded floor area ratio of .65 and provide for on-site detention. It will also reduce the eastern bufferyard from 30 feet to 15 feet to accommodate a requirement to dedicate 50 feet of right of way from the centerline of Farmers Branch Avenue. This is an increase of an additional 20 feet necessitated by the upgrade of the street classification of Farmers Branch Avenue to a primary arterial. The applicant proposes to build a motel on the site. Mr. MacPherson stated there are three (3) changes that are being requested; an adjustment in the FAR, Floor Area Ratio from .35 to .65; reduction of the bufferyard and to remove off-site detention to on-site detention. Mr. MacPherson reviewed the findings for staff recommendation from the staff report:

1. The subject site is located on a primary arterial on the east boundary and is bordered by a freeway (US Highway 65) on the western boundary.
2. The intersection of Highway 65 and Evans Road and surrounding properties has been identified as an activity center and is designated for commercial development in the Comprehensive Development Plan in July of 2002, and was reconfirmed as an *"emerging activity center"* in 2006.

3. The area will be the eastern entranceway to the east-west arterial which will eventually connect US Highway 65 to Kansas Expressway.
4. The proposed use on the site, a hotel, will serve Mercy's Orthopedic Hospital, Millwood Golf and Racquetball Club, Highland Springs Country Club, and Fremont Hills Country Club, as well as the general traveling public on US Highway 65.
5. The area is currently underserved by motels, with the closest motel approximately 3 miles from this site.
6. This application is consistent with the intent of the existing Planned Development and is not expected to have any adverse impacts.
7. The bufferyard on the east boundary of the property has been reduced from thirty (30) feet, as was required in PD 201, to a proposed fifteen (15) feet in this proposal to accommodate an additional twenty (20) feet of right-of-way dedication. The dedication is necessitated by a change in the road classification of Farmers Branch to a primary arterial. There are no plans or funding in place to develop the additional right-of-way so it should remain as green space for a considerable time into the future.
8. The applicant has proposed a bufferyard of fifteen (15) feet with intense plantings, and a berm of 42 inches in height to mitigate noise, lighting, and any other impacts of the development on the surrounding neighborhood.
9. The plantings and berm will be consistent with the existing landscaping in the Millwood Development and will be complimentary to the existing landscape.
10. The height of the proposed structure is in conformance with the bulk plane requirements of Exhibit 1 of the ordinance. That requirement is stated as,
"All structures shall remain below a thirty (30) degree bulk plane as measured from the boundary of any residential district and shall not otherwise exceed the height required for the construction of a five (5) story structure."

Mr. MacPherson stated what that means is for every foot the structure is to go up in height, it must be 1 ½ feet away from the residential district boundary line to meet the requirements of the ordinance. The finding for Commission to recommend denial is that the intensity of the proposed use is not appropriate for the site. There has been considerable input both pro and con to this issue and staff is pleased to say that because of technology, Commission has every bit of the information before them on the I-pad, and information has been forwarded as it has been submitted to staff. We have not received anything to date that Commission does not have in front of them today. There was the neighborhood meeting, as well as considerable energetic discussion on both sides, but based upon the findings, Staff is recommending approval of the request and is available for comments and questions.

Mr. Baird asked Mr. MacPherson about the discussion of the improvements along the road. The question is about there not being funding currently in place to do all the road work and would this section in front of the hotel be widened and then further north of that, would the road go back down before it gets to Evan's Road.

Mr. MacPherson commented that he could respond to what will happen; the following is addressed in the Planned Development language and that is fifty (50) foot of right-of-way as required from the center line of the road and there is thirty (30) feet from the existing center line so the new width of the road would be eighty (80) feet and as the project develops, a left-hand turn lane would be required to be constructed and sidewalks would be required along the property. There would only be one driveway access entry. Mr. MacPherson stated the development of the road is what he is referring to in relation to a surface area that

would be consistent with a primary arterial which will not happen for some time to come.

Mr. Edwards asked Mr. MacPherson if he had a list of the things that are already allowed, if Commission were to deny this tonight, that could be read within the existing PD for Commission that they would not have to come back before this group that they could build as is today.

Mr. MacPherson stated that in the staff report information, there is Exhibit 1 of PD 340 and PD 201; the permitted uses are the same. Mr. MacPherson read the permitted uses per Commission request; Under Planned Development District 201 permitted uses included Administrative and Professional Offices; Finance, Insurance and Real Estate Services; Medical and Medical Support Activities; Hospitals, Health Institutions and Clinics; Community Service Facilities; General Retail Services, Food and Beverage Sales, Convenience Sales and Personal Services, Eating and Drinking Establishments, Business Support Services; Hotels and Motels; and Motor Vehicle Sales.

Mr. Edwards stated, just to be clear, if we are to deny this, tomorrow an auto lot or a hotel with a smaller footprint could go in.

Mr. MacPherson stated that is correct.

Mr. Lawhon stated he wanted to make certain that everyone had a common understanding of some concepts, so he would like Mr. MacPherson to give a condensed version of FAR, Floor Area Ratio.

Mr. MacPherson said in this case the request is to increase the FAR to .65. The .65, or sixty-five (65) percent of the lot acreage could be used as a building footprint and that sixty-five (65) can occur on one level or be divided up on different levels and go up on different floors.

Mr. Lawhon asked about the bulk plane, the thirty (30) degree bulk plane, is measured from the residential district boundary line, asking to be shown on the display map where the boundary line is. Mr. Lawhon asked if that would be on the east side of Farmers Branch Road.

Mr. Rognstad turned the zoning display on and pointed out the single family zoning, and the zoning of Millwood is a plot assignment district which is similar to the PD, and we would consider this area (pointing the area out on the display) that is developed as single family and there would be a thirty (30) degree bulk plane from it as well.

Mr. Lawhon asked if someone from Traffic was present and if so was a traffic study done.

Ms. Dawne Gardner stated with the original PD a traffic study would have been required.

Mr. Lawhon stated that what he is hearing is there was not a traffic study done for this current PD340.

Ms. Gardner stated that is correct.

Mr. Lawhon asked why there was not a study done for PD 340, or what would trigger the necessity for a traffic study.

Ms. Gardner replied that if they were rezoning to a more intensive use than the current zoning, a traffic

study would be required. It is based on acreage, what they have now and the acreage they are going to rezone, and based on traffic generators on that zoning. Basically, they are going from a Planned Development to a Planned Development and they are changing the FAR, Floor Area Ratio, so that would not trigger a traffic study. Ms. Gardner stated there was a traffic study done for PD 201 which generated the need for the left turn lane.

Mr. Lawhon asked if there might be a trip count that might be anticipated with this or not.

Ms. Gardner stated the trip counts would have been anticipated in the original traffic study for the highest intensive use for what could be developed within the PD. A motel is not a high trip generator compared to a retail shopping center or a restaurant.

Mr. Lawhon inquired about an adjustment that had to be done for PD 340, the left turn lane and asked where the left turn lane would be located.

Ms. Gardner stated that was a requirement in the original PD, adding that it would be located along the property that is being developed currently. As each part of the PD develops that development would be required to extend the left turn lane across their frontage.

Mr. Hansen asked if an increase in the FAR would lead to more intensive use or trips.

Ms. Gardner commented that there would not be enough of an impact based on a motel to require an additional traffic study.

Mr. Hansen asked what was considered the most intensive use from the list of uses, or what the original traffic study was based on.

Ms. Gardner stated she did not have the traffic study with her from the original PD so she would not be able to answer that question, but they would have looked at everything Mr. MacPherson went over that is allowed in the PD.

Mr. Hansen said that the original study was done considering more intensive use than what is proposed tonight.

Ms. Gardner stated that is correct.

Mr. Rognstad said that what they typically look at as the most intensive use is a restaurant. They are usually the highest generator and it does allow for eating and drinking establishments. Mr. Rognstad then addressed Mr. Baird's earlier question about the road improvements, which was just discussed. That is what is required for this development, a left turn lane which is necessary to provide service to this tract. With the designation as a primary arterial this ultimately could be developed to a five (5) lane section, but the expansion to a five lane would occur through some public action. We would continue to have the left turn lane and there would be a three (3) lane section, but unless there was additional rezoning that would greatly increase the development that would not be a developer requirement.

Mr. McClelland asked Mr. MacPherson asked for clarification to the bulk plane issue. The beginning point on the bulk plane issue begins from the side yard of say, 3411 E Anne, or from the curb area.

Mr. MacPherson stated it would begin at the end of the right-of-way line of the road and that would be the location of the zoning district which would be residential single-family. It is right near the edge of the road.

Mr. McClelland commented that a five (5) story hotel is going to be somewhere between fifty-seven (57) feet and sixty-two (62) feet high asking if the thirty (30) degree bulk plane was going to fall under this degree of angle.

Mr. MacPherson said yes. In order to go up fifty-nine (59) feet, they would have to be a minimum of ninety (90) feet away from the residential district boundary line; one and one-half (1 ½) feet away from the boundary line for each foot that the structure goes up. In this particular case the right of way of the road will be eighty (80) feet before they get into the property line.

Mr. Lawhon opened the public hearing.

Mr. Rick Wilson with Wilson Surveying commented he is representing the owner and the co-applicant who would be the proposed developer. Mr. Wilson stated they started this process very simply and very innocently thinking they needed to increase the FAR to allow the business model for the hotel to work and have necessary room, so they want to build a five (5) story hotel with one-hundred six (106) keys or rental rooms. That was prior to them learning Farmers Branch had been re-classified from a secondary arterial to a primary arterial, which required additional adjustment. We believe we have been able to accommodate all of the requirements that staff made at the pre-design conference and that should be reflected in PD 340. It was originally zoned for a hotel in 1995 when in the county under PAD, Plot Assignment District 1092. Reading the notes for that action they restricted the FAR because at the time there was not sanitary sewer or public water available in the area. The property was annexed in 1995 and PD 201 came about in 1996. It still did not have public water or sewer available in the area so they followed the reduced FAR. The traffic study was discussed at pre-design because a hotel is the least intensive use for traffic because most of the residents will arrive late after rush hour, some seventy (70) to eighty (80) percent of them will be gone before 6:00 a.m. in the morning before rush hour, and the remainder will generally leave at approximately 9:00 a.m., after rush hour, so the impact on the rush hour is minimal with a hotel. An eating and drinking establishment is generally considered to be the most intensive use; this hotel will be a limited service hotel and will not have an eating or drinking establishment. You will hear from a number of residents who are concerned, and they have a reason to be concerned. With a change to a primary arterial, if you follow the OTO, or Ozarks Transportation Organization guidelines that would be a hundred foot wide right-of-way where today we will get up to eighty which means there would be more that would come off the east that encroach into their bufferyard and they have a beautiful bufferyard.

Mr. Wilson continued by stating that OTO profile shows the road to be a four-lane divided highway, the City profile shows it to be a five-lane highway. With the traffic increase, they have reason to be concerned, but that is not the fault of our proposed development. They have a concern about their privacy. Mr. Wilson showed a photograph looking east from the front of the proposed hotel from the fifth floor, so it could be determined how much they would intrude into the resident's privacy. They have done a wonderful job of buffering their property. The photo illustrates the fifth floor windows of the hotel looking at Millwood Park. It was a series of photos that were put together by Traders Printing to give a panoramic effect. Mr. Wilson commented that they do not believe there is going to be a huge impact on their privacy.

Mr. Lawhon asked when the photograph was taken.

Mr. Wilson said it was taken a month and a half ago.

The nearest house to the hotel in Millwood Park is two-hundred (200) feet, and the nearest house to Millwood Development is three-hundred (300) feet. Last September the Board approved Conditional Use Permit 395, which allowed the construction of five (5) story hotel with 105 keys to be built at National and Cherokee, with a Floor Area Ratio of 1.0. It also permits a zero setback from the right-of-way at National and allows the existing residential structures that are five (5) to fifteen (15) feet away from the property lines. Mr. Wilson stated he is out of time but would ask Commission to be consistent with their rulings.

Mr. Hansen asked that Mr. Wilson continue with his presentation.

Mr. Wilson continued by stating that the National and Cherokee project is related to Mercy. This is related to Mercy and in neither case is Mercy an owner of the property. It is a reaction to their needs. Every hospital needs a hotel, because of the family of patients who need temporary facilities. The tournaments that take place on the golf courses and the three that were listed need a place for their participants to stay. We feel like there is a neighborhood need, and we feel we can be a good neighbor. This hotel will be about fifty-five (55) feet tall. If you follow the bulk plane as calculated from Millwood Park property to our property that would allow about a one-hundred three (103) foot structure and we are going to be fifty-five (55) feet. Mr. Wilson said he would answer any questions.

Mr. Hansen stated that one of the variances that is being asked for is the bufferyard on the east side, and instead of thirty (30) feet you are requesting fifteen (15) feet so you can dedicate that other fifteen (15) feet to the right of way.

Mr. Wilson said yes.

Mr. Hansen asked what effect this would have if you simply moved the thirty (30) foot bufferyard in fifteen (15) feet from the plan.

Mr. Wilson said one of two things happens. They would have to take it out of the building in which case they are no longer 106 keys, or they take the structure higher, which would not meet with much public approval. It comes out of the building or the parking lot, and if it comes out of the parking lot, they would maintain the fire lanes as required, but that means they lose parking and would not meet parking requirements.

Mr. Hansen asked what would be the difference in the number of rooms between the forty-five (45) percent and the sixty-five (65) percent.

Mr. Wilson stated he could give an approximate of the .35 FAR, which would allow sixty-three (63) rooms and the .65 would allow approximately one-hundred twelve (112) or one-hundred fifteen (115) rooms. We are proposing one-hundred six.

Mr. Coltrin commented on Mr. Wilson's comparison of the National and Cherokee hotel to this proposed site stating it is like comparing apples and oranges. There is a highly urbanized area on National Street and pedestrian facilities across to the hospital and a major arterial sitting right on top of it already existing, so I don't feel bound by any decisions to compare those two. Mr. Coltrin asked to see the photograph Mr.

Wilson displayed earlier, asking if the existing trees are on the owner's property.

Mr. Wilson said yes.

Mr. Coltrin asked if the trees will stay.

Mr. Wilson said the trees will be in the right-of-way.

Mr. Coltrin asked if they would be marked and kept.

Mr. Wilson said they will be marked and kept till the right-of-way takes them out provided it doesn't interfere with their one point of access and he can't tell whether that one tree on the far left hand side does or not.

Mr. Coltrin stated to use the picture as a buffering example, that vegetation would have to stay there to be buffering, would it not.

Mr. Wilson stated they will utilize the existing trees to the extent they can then they will come back and put in a fifteen (15) foot buffer with a forty-two inch berm and a [Bufferyard] B level planting.

Mr. Coltrin asked if the site access is directly across from Anne Street.

Mr. Wilson stated access is nearly across from Hunter Street.

Mr. Lawhon opened the public hearing, giving some guidelines asking speakers to make certain they bring something new and different to what they have to say when they approach the podium. Don't reiterate what a previous speaker has said. Please, no clapping or laughing or booing; please stay civil during the proceedings.

Ms. Sarah Wilson, 901 East St Louis Street, commented she is representing approximately half of the home owners in Millwood Park Subdivision, which is located directly across from the proposed development. Since there are quite a few people in attendance tonight who oppose the rezoning but do not plan to speak, I would like to ask everyone who is against the rezoning to briefly stand so the Commission is aware of why they are here.

Mr. Lawhon said no thank you.....

Ms. Wilson stated the intensity of the proposed rezoning is not appropriate for the location. The two and one half (2 ½) acres that will be impacted by the rezoning is not an area not subject to a general zoning district that has been imposed decades ago. Instead it is subject to a planned development which was negotiated in the mid-nineties with a specific intent for the redevelopment of the area. In the Planning and Development Departments background report for the PD that is currently in place, it states that general Retail and office uses are proposed for the entire development. It also states the floor area ratio for the development of these sites is intended to be .35 and notes that this is more restrictive than the floor area ratio typically permitted under general retail and highway commercial districts. The PD also requires a thirty (30) foot bufferyard to the eastern side of the entire development to help shield nearby residential property from any commercial development. The FAR and the bufferyard requirements indicate the intent of the PD was to allow commercial property while protecting neighboring residential property. Since the current PD

was adopted several subdivisions have been developed adjacent to the PD and millions of dollars have been invested in single-family housing. This subdivision was developed and homes were constructed with the understanding that the neighboring PD allowed for certain commercial developments, but that such developments would be restricted to a height of approximately two, maybe three stories and there would be a thirty (30) foot bufferyard insulating the homes from any commercial property. When the findings for staff recommendation say that the application for the rezoning is consistent with the intent of the existing planned development and is not expected to have any adverse impact, this is not the case. The application is not consistent with the existing PD in that it strips away two of the requirements under the current planned development that protect adjoining residential property. First, as part of the rezoning the developers are required to dedicate additional right-of-way for Farmer Branch Avenue. To compensate for this additional right-of-way the rezoning reduces the required bufferyard from thirty (30) feet to fifteen (15) feet. This will cause the bufferyard to be further away from the residents which will result in a less effective blockage. Second, the rezoning allows for FAR to be more than doubled which will allow a significantly taller hotel to be built than permitted under the current PD. This increase in the FAR will negatively impact neighbors in many different ways. One way relates to privacy. The construction of a four (4) to five (5) story hotel directly across the street from Millwood Park will intrude on the homeowners privacy and in doing so, it will destroy the sense of privacy that so many of the residents currently enjoy with their homes. A taller hotel will also allow more guests to stay there who will cause somewhat of an increase in traffic and also an increase in the traffic noise resulting from it. Another way the rezoning will impact residents is that it will inhibit the views from the subdivision. Many of the residents enjoy spending evenings on their patios enjoying the sunset. Construction of a five (5) story building directly to the west of their subdivision will significantly impede this view. A four (4) to five (5) story building will also always be visible to the homeowners since there are no buffers that can be used to block it. Additionally, the height of the hotel coupled with the proximity to Millwood Park is going to increase light pollution at night which will further negatively impact the homeowners. The adverse impact from the rezoning will likely cause a decrease in property values and impede the marketability of resident's homes which for many people is one of their largest investments. These are just a few examples of how the rezoning will harm neighboring homeowners. The two and one half (2 ½) acres at issue has already been specifically rezoned at the request of the original property owner and allows for commercial development while protecting surrounding residents homes. Now with a proposal for a new construction, they want to un-due the protections that staff originally required and that were agreed upon. The current developer should not be allowed at the expense of the homeowners to un-due these protections that were put in place after they already invested in their homes with an understanding of what the development rules would be. Because of this, and for the other reasons discussed, the intensity of the proposed rezoning is not appropriate for the location. We ask that you vote to deny the request to rezone the property to Planned Development District 340 and instead maintain the current planned development.

Mr. Norbert Laengrich, 3411 East Anne Street, commented he is representing the Millwood Park Homeowners Association, adding he is the current President of the Association. He stated he wants to go on record to state that the Homeowners Association is opposing this rezoning. There are currently signed petitions from twenty-nine (29) of the thirty-four (34) homeowners in the property. In addition to that, there are other signed petitions from one hundred twenty-eight (128) people, non-binding petitions, in addition to the six (6) homes that have signed binding petitions. The support against this rezoning is quite wide. Mr. Laengrich commented that there were two homeowners who were unable to attend and asked him to speak for them, the first is Bob & Carol Hollaman who resides on Anne Street about four doors down and the second homeowner is Karl and Linda Quinn who also live on Anne Street. Both oppose the rezoning. Mr. Laengrich thanked the Commission for their time.

Mr. Coltrin asked Mr. Laengrich that when he purchased the house he was aware that the property was highway frontage and that it was zoned for commercial use of some kind.

Mr. Laengrich said they realized the property across the street was zoned for commercial, yes, but it was for a lower density commercial than what they are proposing at this point.

Mr. Coltrin asked Mr. Laengrich if he was opposed to commercial development on the properties across the street.

Mr. Laengrich said no of course not, adding that they are not asking that it be rezoned, but are simply asking that they stay with the current zoning. That is what they bought into and are happy to live within that context.

Ms. Roling asked how many signatures Mr. Laengrich had.

Mr. Laengrich stated on all of the non-binding petitions there are 128 signatures, and there might be some that came in late today. Those consist of people within Millwood Park and Millwood and the development at the end of Hunters Lane.

Ms. Roling said the information they received said there was eleven (11) property owners within the 185' feet.

Mr. Laengrich said he believes that is right, bearing in mind that the two parcels on either side of the property which are zoned commercial to the north and south would be part of that as well as the Millwood Golf Course itself. There are four homes within 185' feet and there has been binding petitions signed by each of those. As he understands it from reading, in order for those to have any effect it has to represent thirty (30) percent of the land mass, not thirty (30) percent of the owners. When you put those two plus Millwood Golf Course itself, there is no way everyone in the whole division could sign and it would not be thirty (30) percent of the total land mass. Because the golf course abuts the corner, the whole parcel gets included, which is basically more than half of the golf course itself.

Mr. David Harper, 6519 South Meadowview, stated he is the developer of Millwood Park and would like to speak to several items. Specifically, the explanation to Council Bill from Staff showing approximately ten (10) findings and the only one which he agrees with is the first, which is the location of the property. From there on down, he doesn't understand what they are talking about here. They spoke of serving the country clubs, and the hospital is only forty-eight (48) beds and he can't imagine that there would ever be one night when it would fill the hotel. It is 2.6 miles from the main gate of Highland Springs to the hotels on Highway M and Glenstone. It is 2.2 miles to the new proposed hotel, and he doesn't believe that staff finding to be reasonable or true. Item number eight (8) proposes a 42 inch berm to mitigate noise and light; that will not work. It doesn't fit their business model and we agree, it doesn't fit any business model and as someone said, it is a ten pound project that they are trying to put in a five pound bag. They said the FAR was put at .35 because there was no sewer, but you could not develop in Springfield without sewer since 1975, so that doesn't have anything to do with it. There was no water to the property, but as the developer, water was brought to the property when it was developed. I don't believe there is much here that is going to benefit us in our subdivision. It is a situation where they need to find a piece of ground that is appropriately zoned and there is some across the street at the new Mercy Hospital and Mercy would be glad to have the hotel on

their side and there is ground available there and we would like to see them go there and build.

Ms. Melody Elliott, 3429 East Ladue, thanked Commission for the opportunity to speak. Ms. Elliott commented that she has spent her whole life in the Springfield area and the one thing she loves about Springfield is that people here do the right thing and support what is right and good. She stated she speaking on behalf of herself and her family and her two sister's families, one of which lives in Millwood and the other in Millwood Park. There are three families who have bought into the area with the way that it was zoned previously. Ms. Elliott stated their homes are the biggest investment of their lives and that investment was based upon the surroundings at the time the home was built, and how the property was zoned. Ms. Elliott stated she does not dispute the current zoning, but would like it to stay as it is. She does not believe it is appropriate for one investor to come in and develop a hotel and change the entire zoning of the property, it is not right. There are other places in Springfield as was discussed previously, such as across the road, which are zoned specifically for hotels that are going to go up stories like that, not across from the neighborhood. Ms. Elliott commented that she is adamantly opposed to the planned development, as well as her family, and this will negatively affect the livelihood of her family based upon this being the biggest investment of their lives. It will negatively decrease the value of their home and the other residents of the neighborhood as well as Millwood; it is not right for her and the neighborhood and for the bigger scale with the City of Springfield to change zoning on something that has previously been done for something else. Ms. Elliott asked Commission to oppose the request and do the right thing in supporting the residents.

Mr. Doug Evans stated he and his wife live in Millwood on River Glen Road. Mr. Evans stated he wanted to point out some factors relating to the traffic in the area, which has increased substantially since moving to Millwood in 2004. It is not uncommon for the Highway 65 exit to have traffic backed up all the way to 65 on the south bound exit on Evans Road. The effect of the hospital and its several hundred employees and patients and their families on the traffic in that area has not been determined because the hospital is not completed and open. There is a quarry, a concrete mixing plant, and a pipe plant all located within approximately one third of a mile south on Farmers Branch Road. There are a lot of heavy trucks, dump trucks, concrete trucks, and sludge trucks that move up and down Farmers Branch Road and after living there for eight years, they are very aware of the truck traffic there. On Sunday and sometimes on Wednesday there is a lot of traffic from James River Assembly, in fact, there is so much traffic they have to station a police office at the corner of Evans Road and Farmers Branch to keep the traffic flowing there. It came out in the news paper today that the State is not going to have any money for road projects for at least five (5) years so there is not money available to improve the bridge at Evans Road over Highway 65, if the paper is correct. The noise from Highway 65 is incredible into Millwood, so more traffic, more noise. Mr. Evans stated he believes a hotel would increase the traffic load there. It is his understanding they are going to build a Holiday Inn on the west side of Highway 65 next to the hospital, and feels that would accommodate the hotel/motel needs of the patients at the hospital. Another issue is the height of the hotel, and if it is increased to five stories, what other projects are going to come in and increase their height to something more than reasonable for that area. Mr. Evans said that north of Evans Road on Farmers Branch Road the speed limit has been reduced to thirty (30) miles an hour, but feels it is because of the traffic pressure on the road and that is an issue that might be of concern.

Mr. Cameron Roy, 3459 East Anne commented that he appreciates the Commission's time. Mr. Roy stated he is a business owner, and owns Buckingham's in Nixa and on North Glenstone and Kearney and is very familiar with development, as he just completed a building in Nixa. He is aware that the City needs revenue and they want this project to happen based on the hotel/motel taxes and there is a lot of pressure to get

that done and he understands the need. Mr. Roy wanted to point out a couple of things, stating that he has been in talks with people for the west side of the highway to do a project for a restaurant of some type and understands there is a Double Tree Hotel going in there and that is almost fact. If there is a Double Tree and Holiday Inn going in there, he does not understand how there is an additional demand for a Hampton Inn over here. Secondly, from Mr. Wilson's picture, there are three or four yards in view there. Mr. Roy stated he has two sons, and the eight year old is constantly playing in the front yard of the Quinn' home, whose yard is completely exposed, regardless of whether the trees stay or not. There are a lot of unsavory people in the world, and they are going to end up in that hotel; they will end up in our neighborhood to walk or run or drive or they will end up in Millwood playing golf and they can be in out and a lot of bad things can happen. There are a lot of good people also. Mr. Roy said he feels it is very important that Commission understand the impact this will have on the families in the area, adding there are much better places for this project to happen, specifically west. Mr. Roy commented that he is aware that when the plan for Mercy was approved, there was knowledge that all four corners were going to be developed; completely understandable and expected. Retail would serve this community much better and in time would blend in when the road is developed and ready to handle the traffic that is there. The gentleman that just spoke made a good point with traffic; the traffic study that was done previously could not have been done since James River has been completed, but traffic that comes out on a Sunday is backed up for miles and that does not include what happens on the exit ramps. Mr. Roy asked that Commission keep in mind this is a very family oriented neighborhood and you cannot go into the neighborhood and not see children playing in a front yard especially the ones that will be exposed to this hotel.

Mr. Rick Hulett, 3430 East Hunter Lane, stated that even if a three (3) story hotel is developed in this area, and the bufferyard is being lowered; one of the things that people in the area enjoy is the four distinct seasons and the picture shown is during summer showing the trees leafed out, but in reality six (6) months of the year those leaves won't be there even if the trees are maintained.

Mr. Lawhon closed the public hearing.

Mr. Hansen commented that there is a lot to consider with an issue like this. The overriding consideration for him is that the vast majority of the people in the area are opposed the request. The present zoning seems to be appropriate to the location and to increase the intensity of that zoning in the face such opposition I think would be remiss, so I will be voting against the request.

Mr. McClelland commented that he has heard all of the comments from the public and has reviewed all the documentation sent in and it seems that one of the biggest issues is the depreciation in home values, regardless of what goes in the site. Mr. McClelland stated he checked with the Greene County Assessor who assured him that property values do not depreciate based upon new construction. It takes the residents to sell homes before property depreciates and it won't depreciate until it starts selling for less than what the value is. Mr. McClelland stated that he counted eighty-three (83) possible uses for this area tract, A, B, and C. The hotel would be the less intrusive for traffic, as someone mentioned people will stay at the hotel and then leave. If there is retail you will have people coming and going at all hours. The lighting is to be hooded so it does not bear upon the resident's property. Mr. McClelland commented that he was able to sit in on a meeting where a member of the City Council made the comment that between the year 2030 and 2040 the City of Springfield population will increase by forty (40) percent. Someone is going to develop the property there, whether it comes with the current PD or the new PD.

Mr. Edwards said his comments are based upon his experience with the Planning and Zoning Commission

over the past several years. Mr. Edwards stated they have dealt with issues just like this several times. The project across from Bass Pro Shops had residents come out the way residents have done tonight and they made the very same arguments and they were very valid and heartfelt. Ultimately this Commission decided to approve that PD based on what the zoning law says, what compels us as a Commission to decide if this is an appropriate zoning or not. Mr. Edwards said that when he looks back and sees what they did for those people there, then it must be applied evenly in this situation as well. Even though we might want to argue whether one is more urban than the other, this is an area that is on its way to being urbanized, so that is something that has to be considered, that this is a long term issue and it's not something that is going to end with this hotel. In fact when the next tracts of property eventually come up, we might be discussing similar issues. Mr. Edwards asked the residents to envision Reliable Imports parked at that spot and the light that is generated because that is another use that is already permitted and could go in this space. When you visualize some of the things that are already going to be possible in this space, you might come to the conclusion that this may not be as bad as you think. That is not for this Commission to judge nor is it for us to judge a developer on when it is the right time to spend his money or whether he is going to be successful if they put a hotel on the other side of the street. Mr. Edwards said that based upon what he has observed he will vote for it and very much appreciates all the concerns that were addressed because it matters to Commission. The law is the law and property rights work both ways and this developer bought the land and they own it. If someone else had purchased the land and wanted to donate it to a park, they could have done that, but no one has done that to this point, adding those are his thoughts and that is how he will vote.

Mr. Lawhon commented that to reiterate what Mr. Edwards said, as a Commission this case is nothing new to us as we have dealt with these issues time and time again. It is important to be consistent in the decisions made for the developer, the community, and for the citizens of Springfield. Mr. Lawhon stated that for him it comes down to a zoning issue; we deal with zoning issues and zoning cases. We do not deal with quality of life issues. That is for a different arena outside of the jurisdiction of this Commission. What is being presented with PD 340 is an appropriate zoning request and an appropriate use of that plot of land and with that in mind and from the perspective he brings as a Commissioner in dealing with zoning issues, his vote will be in favor of PD 340.

Mr. Edwards stated that the items that have been presented tonight by the residents need to be heard in front of City Council and City Council is your avenue to get the determination if this is right or wrong. When Commission votes tonight, it is not that we believe your concerns are not valid, but it is simply not in the purview of this body; however you will have that opportunity and we encourage each one of you to show up at City Council and let them know because that is a decision they have the ability to make.

Mr. Hansen reiterated that the law is the law and what we rule on here is the zoning ordinance. In this case the zoning ordinance is set, it is reasonable, and we are not compelled by any other obligation to intensify this zoning and wants that to be clear and to be clear to the Council when this goes on. Mr. Hansen stated that the present zoning is appropriate and is not difficult to the owner and he will be voting to keep the zoning the way it is now.

Mr. Ray commented that he tends to agree with Mr. Hansen and would argue that part of Commission's job is to consider quality of life issues, and looking at the current restrictions on this property that does take into consideration the quality of life for the residents in the area. I think that is very important for Commission to consider. Mr. Ray said that is primarily what his decision will be based on this evening.

Mr. Baird motioned to **approve Planned** Development No. 340. Mr. Coltrin **seconded** the motion. The motion **carried** as follows: Ayes: Lawhon, Edwards, McClelland, Baird, and Coltrin. Nays: Ray, Hansen and Roling. Abstain: Young. Absent: None.

Mr. Lawhon stated the next step is City Council and that will be on July 30, 2012 at 6:30 in Council Chambers. That will be the first hearing but will not be acted upon at that meeting.

Mr. MacPherson stated that if it moves on to a second reading that would occur on August 13, 2012.

Mr. Lawhon said that the first opportunity is July 30th, at 6:30 right here at City Council for a public hearing and the second meeting on August 13, there is no public hearing, they simply vote up or down.

Mr. Rykowski stated that is correct. The time line for any protest petitions will start today and that deadline is by voting, but the Council will hear public comments on July 30th, unless something were to change it would be tabled or out of the ordinary. Council will discuss and vote, but there will be no public hearing at the second reading of the bill on August 13.

Mr. Lawhon thanked the audience for being present at the meeting adding that Commission appreciated it very much.

ANY OTHER MATTERS UNDER COMMISSION JURISDICTION:

There being no further business, the meeting was adjourned at approximately 7:55 p.m.

Michael MacPherson
Principal Planner

