

CITY OF BRANSON PLANNING & ZONING COMMISSION
REGULAR MEETING – MINUTES
October 5, 2004

CALL TO ORDER: Chairperson Davis called the regular meeting of the City of Branson Planning and Zoning Commission meeting to order at 7:30 P.M. in the Council Chambers, 110 West Maddux, Branson, Missouri.

SPECIAL ANNOUNCEMENTS

PUBLIC COMMENTS

CONSENT

1. Roll Call.

Commissioners Present: Commissioners Boyce, Butler, Edie, Hartley, Roeger, VanderNaald, Weisz, Williams, Vice-Chairperson Harris and Chairperson Davis.

Commissioners Absent: None

Staff Present: Don Stephens-Director of Planning and Development, Ruth Denham-Acting Assistant Director and Lesley Davis-Acting Administrative Assistant.

2. Approve Agenda.

Recommended Action: Approve the format of October 5, 2004 agenda.

MOTION:

Motion by Commissioner Harris seconded by Commissioner Roeger and unanimously carried to approve the format of the October 5, 2004 agenda.

3. Approve Minutes.

A. September 7, 2004.

Recommended Action: None.

MOTION:

Motion by Commissioner Roeger, seconded by Commissioner Hartley and unanimously carried to approve the minutes of the September 7, 2004 meeting.

OLD BUSINESS

PUBLIC HEARINGS

4. Request For Approval Of Planned Development Zoning, PD#2004-002 For Blue Mountain Estates, Located Off Of Hunter Avenue, Branson, Missouri. Resolution No. P-2004-032.

Applicant: Dr. Gerald Blue.

Don Stephens, Planning and Development Director, presented the staff report as filed with the Planning Division.

Don Stephens described the proposed development as a multi-use area with Multi-family Residential, Commercial, Recreational Common Area and Natural Open Space. The total number of units for the project is 119 along with a clubhouse and a convenience store located by the lake. All landscaping, sidewalk and off-street parking will meet the Branson Municipal Code. All setbacks will be as recorded on the plat with a minimum of seven and one-half (7 ½) feet between all structures with the exception of approved zero lot lines in specific buildings. The heights for multi-family structures will be twenty five (25) feet or two and a half (2 ½) stories. The heights for commercial structures will be thirty five (35)

feet or three stories. A trail is included for future development along the lake area to connect the existing trails.

SPEAKING IN FAVOR:

Larry Lacy and Mel Eakins from Great River Engineering, acting agents for Dr. Gerald Blue.

Larry Lacy presented the Blue Mountain Planned Development. Larry said that Dr. Blue has been working on the project that consists of 14 ½ acres between Hunter Avenue and Lake Taneycomo for many years. Mr. Lacy elaborated on the basic outline that Mr. Stephens covered in the staff report. The multi-family residential area will include primarily condominiums, but may also include time-share units or nightly rental units. The transition between the existing residential and the planned development will be aided by the topography as well as the height restrictions. The commercial area may include a gas station, convenience store, snack shop and deli, all of which will be open to the public. A bait shop, gift shop, self-service laundry and future docks on the lake may also be built. The recreational common area will include a nature center, clubhouse pool and potentially a restaurant for owners and their guests. The clustered layout of the area is to allow a large area of undisturbed woods. The green space ratio for the project will be at a much higher level than exists in similar developments that currently are in the area. This promotes hiking and provides a habitat for wildlife. It also contributes to a clean natural storm water run-off system by using the natural slope and woods to clean the water before it drains into the lake.

Chairperson Davis opened the floor for questions the commissioners might have for Mr. Lacy.

Commissioner Edie asked if the slope was a bluff. Mr. Lacy said that it was very steep. Commissioner Edie asked if there was a potential problem with the road down to the parking area by the lake and future dock area. Mr. Lacy responded that there is currently a road from Hunter Avenue to the lift station and the proposed road to the parking area would not be significantly more sloped than that existing road.

Commissioner Weisz asked where the restaurant would be located and Mr. Lacy responded that it would be by the clubhouse. Commissioner Weisz asked if negotiations were underway for a shared access road with the LMN Corporation property that adjoins the Blue Mountain Estates. Mr. Mel Eakins introduced himself at that time and answered the question. He said that Dr. Blue and been in communications with the LMN Corporation regarding this issue. Commissioner Weisz then asked if future improvements to Hunter Avenue were being considered. Mr. Eakins replied that the intent on Hunter Avenue was to evaluate the road and see if improvements were necessary.

Chairperson Davis then asked for Larry Lacy to address the term 'sea wall' as it was shown on the plan. Mr. Lacy said that it was proposed to prevent erosion and protect the embankment. Chairperson Davis asked for the height and Mr. Lacy said that would be determined on the final plans, but would not exceed the limit set by the Branson Municipal Code.

Commissioner Edie asked how far the city sewer system was from this development. Mr. Lacy said that the sewer lift station Dr. Blue had constructed would be used for the sewer service.

SPEAKING IN OPPOSITION:

None.

MOTION:

Motion by Commissioner Weisz, seconded by Commissioner Roeger to approve Resolution No. P-2004-032.

AYES: Commissioners Boyce, Butler, Edie, Harris, Hartley, Roeger, VanderNaald, Weisz, Williams, Vice-Chairperson Harris.
NOES: None.
ABSTAIN: Chairperson Davis.
ABSENT: None.

Motion to approve Resolution No. P-2004-032 carried 9-0.

5. Request For Approval To Amend Planned Development PD#2001-01, Westgate Resorts Ltd., R.E.D. Located At 2201 Roark Valley Road, Branson, Missouri. Resolution No. P-2004-033.

Applicant: Westgate Resorts Ltd. R.E.D. Agent: General Design.

Don Stephens, Planning & Development Director, presented the staff report as filed with the Planning Division. Mr. Stephens then elaborated on the request. The amendment is requesting that the height regulation for parcel nine be increased to one hundred (100) feet, as currently allowed on parcel thirteen of the project.

SPEAKING IN FAVOR:

The agent for Westgate Resorts, Allen Johnson, of General Design made his presentation to the commission. Mr. Johnson explained that this was the second time Westgate Resorts had applied for an amendment to the original planned development. The last application was for a 100-foot height limit for the entire project. That amendment application was denied due to lack of a second by the commission. Westgate Resorts has amended the application for amendment by limiting the request to parcel nine only.

Mr. Johnson provided transparencies and a power point presentation to show the commissioners the details of the request. The building that Westgate would like to construct would be used for a new check-in location for the resort. This building would be built next to the existing core amenities. Mr. Johnson said that the only portion of the building that would reach the one hundred (100) foot height would be the top of the flagpole.

Chairperson Davis then recognized Commissioner Butler. Commissioner Butler pointed out that the height of one hundred (100) feet would allow for several more stories that were not shown on the drawing of the building presented. He asked if the building shown on the presentation was the actual building to be constructed, and asked if eight-three (83) feet would be enough for that building. Mr. Johnson said that the building shown on the plans was the exact building being constructed. He said that the working drawings for the building are already complete so the odds of it changing would be nil. Westgate Resorts would be agreeable to the eighty-three (83) feet as long as the cupola and flagpole on top of the structure would be allowed. Mr. Johnson said that as they were seeking only the ability to construct the building shown on the diagram.

Commissioner Edie then asked if there were a lot of single-family cabins at the site of the original development. Mr. Johnson responded that indeed there were and proceeded to show them on the diagram. Commissioner Edie asked for Mr. Johnson's opinion regarding the location of such a large building on the smaller cabins. Mr. Johnson replied that it would be taller.

Commissioner Boyce and Mr. Johnson agreed that the terrain was steep and the parcel in question was at least twenty (20) to thirty (30) feet higher already, than the area with the cabins. Commissioner Boyce asked if provision was made for a buffer between the whole ownership cabins and the new multi-story building. Mr. Johnson said that the plan did provide for a buffer. Mr. Johnson said that Westgate was

designing the building in a rustic style rather than their usual Florida-type building in order to be more in keeping with the existing cabins. The building will be taller, however the trees and hill will provide a visual barrier between the proposed building and the cabins.

Vice-Chairperson Harris asked if the plans were to have any external lighting or signage on the southwest side of the new structure that would be a consideration for the cabin owners. Mr. Johnson said that Westgate did want to have lights installed for the Christmas season, as well as a porch light on the back entrance and that each one of the back decks would have its own sconce light. No spotlights would be used for any purpose other than the flagpole illumination.

Commissioner Hartley said that one concern that was voiced was the traffic increase. She stated that one report said that each time-share unit potentially would bring in three cars. She asked how many time-share units would be in the building. Mr. Johnson said the building would have thirty units and that each unit would have a lockout. He said that the parking would be sufficient according to the Branson Municipal Code. Mr. Johnson said that overall the resort was doing well in the area of density. He went on to say that 2000 units could be built in the future and still not exceed the density requirements for the project. The traffic would not increase any more with this building than had previously been allowable by the planned development.

Chairperson Davis asked about the elevation of the proposed building and the elevation of the existing buildings being used as a hotel. He asked at what elevation the rooflines of the existing buildings would compare to the new building. Mr. Johnson said that the elevation of the building would be approximately to the middle of the third floor.

SPEAKING IN OPPOSITION:

George Transue, one of the adjacent cabin owners, said that the eighty-three (83) foot height would still be six stories and would look down on the cabins. He felt that it would be the wrong type of building for that parcel. Parcel thirteen would be to the side and downhill from the cabins, which would not be the same impact as allowing the increase in height on parcel nine. The six stories would be constructed on top of a thirty (30) foot rise, which would cause further problems for the cabins. Mr. Transue then said that the traffic would be a hazard due to the children playing in the neighborhood. He said that he felt the other issues he wished to discuss had been addressed. He said the eighty-three (83) foot height, being discussed now, was better than the one hundred (100) foot proposal that he was not in favor of the Commission approving.

Commissioner Butler asked for Mr. Transue to show the Commission the exact location of his cabin in comparison with parcel nine. Mr. Transue said his cabins were on parcel five. He said that there were several owners, like him, that owned two or more cabins. He said that one cabin he owned was for his personal use and the other, he allowed Westgate Resorts to rent out for him on a nightly basis.

Commissioner Edie asked if Mr. Transue lived in his cabin on a full time basis. Mr. Transue said no. He is only in residence about one week out of the month.

Commissioner Weisz commented that the parking only required one and a half parking spaces per unit and that he was glad to see that they were adding 60 parking spaces. He felt that Westgate was doing well in the parking requirements.

Commissioner Boyce asked what was constructed on parcel seven and if the elevation for those buildings was above the cabins. Mr. Transue said the buildings were motel units and it was uphill from the cabins. Commissioner Boyce asked if the motel units were causing problems since they looked down onto the parcel where the cabins were built. Mr. Transue said the only problem at this time was the noise.

Chairperson Davis wanted the traffic situation to be explained more thoroughly. Mr. Transue then used the map to show traffic flow. Mr. Transue also pointed out that the current trail system was placed in

such a manner that public traffic currently used the parking for the cabins to walk down to the trail rather than using the parking lot at the main check-in building.

MOTION:

Motion by Commissioner Harris, seconded by Commissioner Weisz to approve Resolution No. P-2004-033.

Commissioner Butler proposed an amendment to the resolution to state as follows:

WHEREAS, the review of the application, conducted by the Planning and Zoning Commission for the City of Branson, Missouri, has resulted in the determination that approval of the application, as amended at the October 5, 2004 Planning and Zoning Commission Meeting, is reasonable and will cause no adverse effect on the City's Comprehensive Plan.

He went on to amend the request for the amendment to #PD-2000-01 as follows:

Page 6, 1.08 Regulations Generally Applicable To All Tracts Of Land

Height – The maximum height permitted within this development will be measured for the finish floor elevation of the floor that exists directly upon the uphill side of the lot. That height restriction shall be limited to 100' for parcel thirteen; 83' for parcel nine (referred to lot 3 in survey), and fifty-five feet (55') for all remaining parcels.

Chairperson Davis asked for a discussion of the amendment. Commissioner Butler said that the amendment would only change in that parcel nine would be eighty-three (83) feet rather than the one hundred (100) feet requested. Commissioner Hartley asked if this amendment would allow Westgate to build the proposed building. Commissioner Butler said that Westgate would be able to have the six stories without increasing it to eight stories, as the 100-foot would have allowed.

Commissioner Edie asked if this would be agreeable to Westgate Resorts and Mr. Johnson replied in the affirmative.

MOTION:

Motion by Commissioner Butler, seconded by Commissioner Weisz to vote on the amendment to Resolution No. P-2004-033.

AYES: Commissioners Boyce, Butler, Edie, Hartley, Roeger, VanderNaald, Weisz, Williams, and Vice-Chair Harris
NOES: None.
ABSTAIN: Chairperson Davis.
ABSENT: None.

Motion to approve the amendment to Resolution No. P-2004-033 carried 10-0, with Chairperson Davis' abstention county as an AYE.

MOTION:

Motion by Vice-Chairperson Harris, seconded by Commissioner Weisz to approve Resolution No. P-2004-033

as amended:

AYES: Commissioners Boyce, Butler, Edie, Harris, Hartley, Roeger, VanderNaald, Weisz, Williams and Vice-Chairperson Harris.
NOES: None.
ABSTAIN: Chairperson Davis

ABSENT: None.

Motion to approve Resolution No. P-2004-033 as amended carried 10-0, with Chairperson Davis' abstention counting as an AYE.

MOTION:

Motion by Commissioner Edie, seconded by Commissioner Harris to table Resolutions P-2004-034, P-2004-035 and P-2004-036, due to the fact that the applicant was not present.

AYES: Commissioners Boyce, Edie, Harris, Hartley, Roeger, VanderNaald, Weisz, Williams and Vice-Chairperson Harris.
NOES: Commissioner Butler.
ABSTAIN: Chairperson Davis
ABSENT: None.

Motion to table Resolutions No. P-2004-034, P-2004-035 and P-2004-036 carried 9-1, with Chairperson Davis' abstention counting as an AYE.

6. **Request For Approval To Amend PD #97-001, The Cabins At Maple Creek, Located At 3464 Green Mountain Drive, Branson, Missouri. Resolution No. P-2004-034**
Applicant: TRI-LLC. Agent – Mark Ruda.
7. **Request For Approval Of A Zoning Change From PD#97-001 To “C” Commercial For Lot 1 Of Professional Park, Green Mountain Drive, Branson, Missouri. Resolution No. P-2004-035**
Applicant: Professional Park, LLC. Agent – Mark Ruda.
8. **Request For A Special Use Permit To Construct And Operate Timeshare Units On Property Located On Lot 1, Professional Park, Green Mountain Drive, Branson, Missouri. Resolution No. P-2004-036**
Applicant: Professional Park, LLC. Agent – Mark Ruda.
9. **Request To Amend Section 405.020 Of The Branson Municipal Code By Adding Language Limiting The Use Of Temporary Structures In Required Front Yard Setbacks And Limiting Use Of Required Parking Spaces For Uses Other Than Parking Of Vehicles. Resolution No. P-2004-037**
Applicant: City of Branson.

Don Stephens, Planning & Development Director, presented the staff report as filed with the Planning Division and then asked that the item be moved to other business at this time.

OTHER BUSINESS

Don Stephens explained to the commission that the ordinance could be acted on at this time; however, his main goal is to get input on the ordinance. He further explained that there are businesses in the city limits displaying their wares out near the sidewalk and in the front parking area. The past discussions regarding this type of ordinance did allow for the displaying of wares within a certain distance of the business front doors. The problem now is the appearance of canopies and tents being placed in front of the business. These tents and canopies are becoming semi-permanent. The code enforcement officer has been out on many complaints regarding these structures. Another problem is the businesses are attaching signs to the tents for advertising purposes. Mr. Stephens said that the primary concern was the violation of the

parking ordinance that this has created. He stated that this ordinance does not refer to businesses or organizations that apply for Special Use permits allowing the placement of a tent.

Chairperson Davis elected to poll the members on their input regarding this item.

Commissioner Hartley asked if there were complaints from other businesses regarding the tents. Mr. Stephens said that the department received “quiet” complaints, as businesses do not like to go on record as having complained about another business. Commissioner Hartley then said that if it became a garish-looking display she would consider it worthy of the ordinance but at this time she had not seen many tents or canopies. She went on to say that Branson was a tourist town and she would like to know how the guests felt. She stated she thought many of them liked the tents. (Commissioner Hartley excused herself to a prior commitment at 8:46 p.m.).

Commissioner Williams said that he thought it was a good idea. He believed it would help discourage the tents and canopies from becoming permanent additions to the business.

Commissioner Weisz said that he thought the ordinance would be something to pass in the future. He stated that he thought Don Stephens had done a good job in allowing Special Event permits for this reason. Frankly, he is aware of some businesses using tents and canopies. In some cases the tenant is doing this without the permission of the landlord. Commissioner Weisz thought that the landlords might be relieved that the city had now given them “teeth” so that they could enforce the removal of the tents and canopies. He felt that this would be a good way to start this process and if for some reason this did not work; it could be done another way in the future.

Commissioner VanderNaald would like to see this approved. He feels these tents can look like traps and he does not like to see that happening.

Commissioner Roeger replied no comment.

Vice-Chairperson Harris said that he felt the Commission needed to act upon it. He has seen the tents left out overnight. He feels this is unsafe and looks trashy.

Commissioner Edie said that he must be a maverick here, but he did not feel we should be legislating bad taste in regards to merchants.

Commissioner Boyce brought up that the tents were causing people to walk around them, causing a hazardous and dangerous situation. The tents block the driveways to the businesses and inhibit vision. He is concerned that someone will get injured. He is in favor of the ordinance.

Commissioner Butler said that in the immortal words of John Kerry, he feels strongly both ways. Commissioner Butler wants to make sure that the ordinances that are already in place are being enforced. He also would like to have the Board of Alderman review the ordinance before the Planning and Zoning Commission take a vote.

Chairperson Davis said that he also feels this is a good idea. He feels that Commissioner Boyce’s point is very good regarding the hazard this creates for pedestrians.

The commissioners then discussed the item freely among themselves for a short time.

Chairperson Davis asked if anyone else had questions for Don Stephens regarding this item.

Commissioner Weisz reiterated that he felt it undermined the City of Branson parking ordinance to allow these tents and canopies to encroach on the existing parking spaces.


Don Stephens said that all the points were well taken. He said that we received comments on both sides of the issue from the public. Some people like to see the wares displayed in this manner, while others find it offensive. Mr. Stephens said that he felt these structures were causing a problem that needed to be addressed.

Chairperson Davis asked Don Stephens for any other comments and/or reports from the director. Mr. Stephens said he had none at this time.

ADVISORY RECOMMENDATIONS

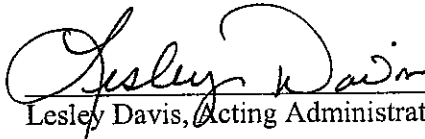
ADJOURNMENT

Motion by Chairperson Davis was unanimously carried to adjourn the meeting at 9:00 p.m.



Rick Davis, Chairperson

11-5-04
Date



Lesley Davis, Acting Administrative Assistant

11-5-04
Date