

PLANNING AND ZONING COMMISSION

August 4, 2009
7:30 p.m.
Council Chambers

STUDY SESSION

7:00 p.m.

Planning and Development Conference Room

For its agenda, the Study Session will provide an overview of all matters to be taken up in today's 7:30 p.m. meeting of the Planning and Zoning Commission.

SPECIAL ANNOUNCEMENTS

PUBLIC COMMENTS

CONSENT

1. **Roll Call.**

Commissioners Present: Best, Boyce, Davis Hartley, Westcott, Woolery,
Vice-Chairperson Romine and Chairperson Harris.
Commissioners Absent: Commissioners Butler and Loyd.
Staff Present: Jim Lawson Director of Planning and Development
Timothy Davis City Attorney
Tara Norback City Forester
David Miller City Engineer
Kendall Powell Public Works Plans Reviewer
Sonja Paden Office Assistant II

2. **Approve Agenda.**

Recommended Action: Approval of the agenda for the July 7, 2009 Planning and Zoning Commission meeting.

MOTION:

Motion by Commissioner Hartley and seconded by Vice-Chairperson Romine, and unanimously carried to approve the format of the August 4, 2009 agenda.

3. **Approve Minutes.**

A. July 7, 2009.

Recommended Action: Approve the minutes of the July 7, 2009 Planning and Zoning Commission meeting.

MOTION:

Motion by Commissioner Best and seconded by Vice-Chairperson Romine, and unanimously carried to approve the minutes of the July 7, 2009 meeting.

OLD BUSINESS

4. Request For Recommendation Of Approval Of A Special Use Permit For Branson Bingo For Properties Located At 3310 W Highway 76 Branson, Missouri. Project No. 09-1.7 (09-00100007).

Applicant: Branson Bingo LLC.

Tara Norback, City Forester, presented the staff report as filed with the Planning Division. As per the applicant, she said they wished to postpone for one month.

Chairperson Harris confirmed that staff had heard from the applicant and they wish to postpone for a month; Ms. Norback said yes.

Mr. Lawson asked Chairperson Harris if the commission would vote on a deferral for one month. Chairperson Harris said yes. He asked the commissioners if there were any questions about deferring the item; there was no response. He entertained a motion.

MOTION:

Motion by Commissioner Boyce and seconded by Commissioner Wescott to postpone Resolution 09-1.7 for one month.

AYES: Commissioners Best, Boyce, Davis, Hartley, Westcott, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioners Butler and Loyd.

Motion to postpone Resolution 09-1.7 for one month carried with an 8-0 vote.

5. Request For Recommendation Of Approval Of A Planned Development Amendment For Branson Landing PD Amendment For Properties Located At 100 Branson Landing Branson, Missouri. Project No. 09-5.2 (09-00500002).

Applicant: HCW Private Development LLC.

Tara Norback, City Forester, presented the staff report as filed with the Planning Division and showed the zoning vicinity map on the overhead screen. An aerial map displayed on the overhead screen indicated the location of the subject property. She used a PowerPoint presentation to aid in the description of this item.

Mr. Lawson said this presentation outlined was what the applicant was requesting. He said staff was recommending no signs on the garage and signs on every other arch under the

specifications already mentioned. He had talked with the applicant and understood that they agreed with staff's recommendation.

Chairperson Harris recognized Commissioner Boyce.

Commissioner Boyce asked Mr. Lawson if staff was okay with the twelve by three (12' x 3') dimensions. Mr. Lawson said yes.

Chairperson Harris recognized Commissioner Davis.

Commissioner Davis said this was an amendment to the planned development; Mr. Lawson said that was correct. Commissioner Davis said the current planned development did not have this language in it then; it excluded these signs. He asked where in the planned development they would be making this change. Mr. Lawson said he was not sure exactly which section it was, but it would be changed in the appropriate place. He said, when this first came up, they had contacted the city attorney to confirm there was not something in the agreement that would prohibit these signs. The only action they were taking today would be to amend the PD to allow these signs.

Chairperson Harris invited the applicant to come forward.

Melissa Hudson stepped up to the podium and introduced herself as the assistant general manager with the Branson Landing. She said they were pleased with the staff recommendation and were happy with it. Chairperson Harris said they were fine with the stipulations that staff recommended, such as every other arch, black letters and no sign on the garage. Ms. Hudson said yes. Chairperson Harris asked, if this were to go through, when they anticipated the signs to go up. Ms. Hudson said it may take up to two (2) years to get everyone on board. It may be hard for some businesses to put the money into another sign while others were ready to do it. She said they would probably send letters out within the next month to those tenants in those buildings. They hope everyone would be on board in a year or two to put up a sign. Chairperson Harris said it would be a one to two (1-2) year time period. Ms. Hudson said yes.

Chairperson Harris recognized Commissioner Best.

Commissioner Best asked, as the tenants came on board, such as Kirkland's, would their signs go up first or would they wait until they had signs to go on all of the arches and put them up all at one time. Ms. Hudson said it would probably happen over the course of the year. She said each tenant would be paying for their own sign and would have to submit their drawings to management. She said if the commission preferred they go up all at once, they could delay it after they get an agreement to install a sign. She anticipated the signs would go up here and there, though.

Chairperson Harris recognized Commissioner Hartley.

Commissioner Hartley asked who would be responsible for installing the signs and, if that tenant left, who would be responsible for removing their sign. Ms. Hudson said they contract through the local sign companies and require a certificate of insurance from them. When tenants left, they would typically take their signage with them and would then have to repair the building to the condition it was in before they installed the sign. Some tenants have left without doing that, so management has had to remove the signage and then repair the facing of the building. She said they would continue that same procedure.

Chairperson Harris recognized Vice-Chairperson Romine.

Vice-Chairperson Romine said the staff recommendation was black letters and their descriptions show the corporate or company logo. She asked which they would be using. She asked if they would have a uniform look with all black letters or would the tenants use their own trademark signs. Ms. Hudson said the font of the lettering may be different, but with the recommendation that they all be in black, they would require their tenants to have their signage in black lettering. Vice-Chairperson Romine asked what would happen with the *Arvest Bank* and *Ride the Ducks* signs, would they stay the way they were. Ms. Hudson said those would stay the same. Vice-Chairperson Romine said the others would be uniform, though. Ms. Hudson said right. The ones on the brick part of the building would be uniform.

Chairperson Harris asked if there was anyone else there who wished to make a comment about this particular item or who had a question; there was no response. He asked if the commissioners had any other questions or comments of staff; there was no response. He asked Ms. Norback if they would need to incorporate the staff recommendations into the motion, if the commission approved it, because what basically was there was what they had asked for originally. Ms. Norback said right, yes. Chairperson Harris said he would entertain a motion.

Chairperson Harris recognized Commissioner Davis.

Commissioner Davis offered the following amendment to the planned development to include the staff recommendation:

1. Black controlled-size signage be allowed in every other arch opening on the buildings outlined 1, 2, 2 loading dock and 5; no signage on the parking garage.

Commissioner Davis said he believed that was the extent of that limitation other than that the balance of the specifications in terms of lighting being optional would remain unchanged and the process as outlined would also remain unchanged.

Chairperson Harris asked if there were any discussions on the motions for amending the sign usage on this property; there was no response. He said this was a recommendation that would go on to city council at a later time.

MOTION:

Motion by Commissioner Davis and seconded by Vice-Chairperson Romine to approve and pass Resolution 09-5.2 as amended.

AYES: Commissioners Best, Davis, Hartley, Westcott, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: Commissioner Boyce.

ABSENT: Commissioners Butler and Loyd.

Motion to approve Resolution 09-5.2 as amended carried with a 7-1 vote.

PUBLIC HEARINGS

6. Request For Recommendation Of Approval Of A Special Use Permit For Hertz Rental For Properties Located At 415 Highway 265 Branson, Missouri. Project No. 09-1.12 (09-00100012).

Applicant: Hertz Corporation.

Tara Norback, City Forester, presented the staff report as filed with the Planning Division and showed the vicinity map on the overhead screen. An aerial map displayed on the overhead screen next indicated the location of the subject property. She said they planned on renting office space within the Chateau on the Lake. She showed a site map with the proposed spaces within the parking garage that they would be using. She pointed out the hotel entrance and the exit for the parking garage at that location. A video of the subject property and surrounding area was played on the overhead screen. Chairperson Harris asked if in staff's opinion there was ample inside parking for this particular item. Ms. Norback said yes.

Chairperson Harris invited the applicant to come forward.

Genae Smith stepped down to the podium and introduced herself as the representative for Hertz and added that she would be the branch manager for this location. Chairperson Harris asked her how many cars they would have and when they anticipated starting. She said they would like to open on the sixth of this month, if possible. They would start with just a few cars at first until they got an idea of what kind of business they could expect. Chairperson Harris asked if there were any other Hertz rental areas within this region near Branson. Ms. Smith said Springfield had a franchise, but this would be a corporate office.

Chairperson Harris recognized Commissioner Davis.

Commissioner Davis asked if they would be doing any kind of construction to modify office space or that sort of thing. Ms. Smith said no. He said oftentimes in a special use permit they would want to know about hours of operation and asked her if they had hours of operation yet. Ms. Smith said yes. She said right now they had planned on eight to six, Monday through

Friday, and eighty-thirty to twelve-thirty on Saturday (8:00 a.m. – 6:00 p.m./M-F and 8:30 a.m. – 12:30 p.m./ Sa). They would be closed on Sunday, temporarily.

Chairperson Harris recognized Commissioner Woolery.

Commissioner Woolery asked if the vehicles would be cleaned and washed at this location and, if so, were there facilities available to do this there. Ms. Smith said no. She was in the process of looking for a car washing facility close by, so they would not wash any of the cars there.

Chairperson Harris recognized Commissioner Wescott.

Commissioner Wescott said there was a default deadline date of six months attached to special use permits, which would be October 4th in this case. He said if they could not get opened within that timeframe, they would have to go back through the commission again. He asked if this 6-month date acceptable or would she want to extend it. Ms. Smith said it was fine.

Chairperson Harris recognized Commissioner Davis.

Commissioner Davis said this request was originated by the Hertz Corporation and that the special use permit actually applied to the property. In the future, if the Hertz Corporation ceased to operate this business venture, he asked if the special use permit could then be removed or if it would apply to another rental car company other than Hertz. Mr. Lawson said if Hertz went out of operation then someone else would have to come in and apply for their business. Otherwise, somebody else coming in, such as Budget, they could have different hours of operation or a different number of cars, et cetera. He said it would be a good idea for them to come back to apply. He said that was normally how it would work. Commissioner Davis said the point was if Hertz ceased operation of its business for a certain number of consecutive months then its special use permit would expire. He asked Ms. Smith if she was okay with that and she said yes.

Chairperson Harris asked if there was anyone else there who wished to speak in regard to this item or have a comment or question; there was no response. He asked if there was any other discussion by the commissioners about the item; there was no response. He said he would entertain a motion.

MOTION:

Motion by Commissioner Wescott and seconded by Vice-Chairperson Romine to approve Resolution 09-1.12.

Chairperson Harris recognized Commissioner Davis.

Commissioner Davis offered the following amendments:

1. **Item 6 would reflect the hours of operation: 8:00 a.m. – 6:00 p.m. Monday through Friday and 8:30 a.m. – 12:30 p.m. Saturday;**

2. Item 7 would state that this special use permit shall expire after such time as the business ceases to operate for a period of six (6) consecutive months or longer.

MOTION:

Motion by Commissioner Davis and seconded by Commissioner Boyce to amend Resolution 09-1.12.

AYES: Commissioners Best, Boyce, Davis, Hartley, Westcott, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioners Butler and Loyd.

Motion to amend Resolution 09-1.12 carried with an 8-0 vote.

Chairperson Harris asked if there were any further questions on the item as amended; there was no response.

AYES: Commissioners Best, Boyce, Davis, Hartley, Westcott, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioners Butler and Loyd.

Motion to approve Resolution 09-1.12 as amended carried with an 8-0 vote.

7. **Request For Recommendation Of Approval Of A Special Use Permit For Millennium Plaza Dinner Theatre For Properties Located At 3307 W. Highway 76 Branson, Missouri. Project No. 09-1.13 (09-00100013).**
Applicant: Millennium Plaza LLC.

Tara Norback, City Forester, presented the staff report as filed with the Planning Division. She said staff recommended postponement at this time. As of last Friday, staff had received some actual parking plans. With the zoning vicinity map on the overhead screen, she said this would be the location. She put an aerial map on the overhead screen and indicated the location of the parking area then showed where the helicopter next door was situated. She displayed an example of the site data the applicant had provided them then showed the parking plan on the screen. It showed the existing buildings and the existing helicopter pad. She said they would have to review this information to make sure it met all the requirements. Chairperson Harris verified with Ms. Norback that staff received this information just a few days ago and that it was not submitted with the original application, which was normal procedure.

Chairperson Harris recognized Mr. Lawson.

Mr. Lawson said they had some concerns because that was from where the helicopters took off and landed, and he did not quite understand how that would work. Commissioner Boyce asked if this had been postponed and Mr. Lawson said that was what staff had requested.

Chairperson Harris invited the applicant to come forward to speak before they talked about postponement.

Mallory Gause came down to the podium and introduced herself as the representative for Millennium Plaza. Chairperson Harris asked her if she understood the reason for the postponement. Ms. Gause said yes. She said unfortunately they were in a huge time crunch. They had tenants lined up for this building and said they would like to put a dinner theater in this space. She said it had been approved for this twice before and apologized that it had dragged on this long. Chairperson Harris said it was his understanding those special use permits had expired. Ms. Norback said yes. One had been issued July 6, 2004 and expired a year later. Another had been issued July 3, 2006 and expired a year later. Staff had worked with the applicant for over five (5) years to try to get the project going, but nothing had transpired. Chairperson Harris asked Ms. Gause if she represented the same applicants that had applied for the two (2) expired special use permits. Ms. Gause said yes. Chairperson Harris asked her if she understood that it was normal business procedure to have all those things available to the staff, particularly if they were going to park next to an area where helicopters took off and landed. Ms. Gause said yes and apologized again. Chairperson Harris said they spent a lot of time on helicopter issues, including safety, and when changes were made close to them it sent up red flags to them. Safety was a number one concern for both visitors and citizens.

Chairperson Harris recognized Commissioner Davis.

Commissioner Davis asked if the helicopters would continue to operate in their current format. Ms. Gause said they would continue to operate; however, the helipad closest to the building would not be operable whatsoever. She said they would be moved to the other side closer to the Ria Motor Inn on the same pad that was there now.

Chairperson Harris recognized Commissioner Boyce.

Commissioner Boyce asked if the applicant owned both pieces of property. Ms. Gause said yes. He asked if the owner leased the helicopter pad; Ms. Gause said correct.

Chairperson Harris recognized Commissioner Wescott.

Commissioner Wescott verified this item would be postponed for one month and would be heard at the September meeting. Chairperson Harris said it would be for one month. Commissioner Boyce asked if the engineering department or public works had looked at the parking. Ms. Norback said they just received the information, so they had not had a chance to review them yet. Mr. Lawson said he had not read it, but it brought up another issue. They were actually putting in a parking lot on the other SUP (Special Use Permit) that was for a

helicopter operation. He said they were almost going to have to change that one. He had been out there several times watching the helicopters go back and forth, and they flew right over where there would be parking. He did not know how the FAA would respond, but he was not happy about it because they used that grassy area as part of their flight path. He was told by the helicopter operators they could not go straight up, especially depending on which way the wind was blowing, so he did not know how they would put a parking lot there and thought the SUP would have to be amended. If they recalled, the site plan they had looked at before showed where the helicopter paths were going to be, and they were actually dealing with two (2) SUPs now. Chairperson Harris said one stacked on the other.

Chairperson Harris asked if there was anyone else there who wished to comment in regard to this item.

Prabjot Singh stepped to the podium and introduced himself as a representative of Ria Motor Inn. He said, as the applicant pointed out, all the operations would be moved to the flight pad closest to Ria Motor Inn and, if they got a smaller helicopter, it would mean more noise right next to them, which would disrupt their business. Right now, as they had requested, the helicopter business had started to operate the smaller, noisier helicopter on the other side of the pads, so it would not disrupt their guests. He said this would bring more noise thus compounding the existing noise issue they have with them. They also operate at nine o'clock in the morning when some of the guests were still sleeping, so that would create some problems for them. Chairperson Harris asked if his concern was mainly for the change in noise because of the change in location of the helicopter, which they anticipated doing in order to put in the parking lot. Mr. Singh said yes. Ms. Gause came back to the podium and clarified that, as of now, they were currently using the helipad closest to the Ria Motor Inn. They used both of them right now, but they would strictly be using the one closest to the Ria Motor Inn.

Chairperson Harris asked if anyone else was there who wished to speak in regard to this item.

Mark Weisz came down to the podium and introduced himself. He said he was involved in the sub-leasing of this site to the current helicopter operator. It was his understanding from his conversations with the helicopter operator that there was a sufficient 60-foot path to get them to the current landing pad, which was just left of the little building. Right now he was sure they were flying over what would be parking, but they were very capable of staying within the path that was set out and designed into their lease for them and would be able to maintain that. Their intention was not to fly over the parking lot once it was put in place.

Chairperson Harris recognized Mr. Lawson.

Mr. Lawson said, if he understood that the applicant needed a vote tonight, staff would recommend denial. Commissioner Wescott asked why that was. He asked why not postpone it until next month. Mr. Lawson said they would prefer it be postponed to give staff a chance to review it some more, if he heard what the applicant had said, that they would prefer a vote tonight instead of postponement. He was not convinced it was safe at all plus there was already a noise problem. Putting in a parking lot would add even more noise. He said it did not look

like it was going to work, but he would be glad to give them the benefit of the doubt. If it came down to tonight, though, he would have to recommend denial. Chairperson Harris said Mr. Lawson meant that the motion for postponement would be probably to the greatest benefit of everybody. Mr. Lawson said yes. Ms. Gause said she wanted to clarify that postponement was much better than denial.

Chairperson Harris said he would entertain a motion for this special use permit.

MOTION:

Motion by Commissioner Boyce and seconded by Commissioner Hartley to postpone Resolution 09-1.13 for one month.

Chairperson Harris asked if there was any other discussion by the commission; there was no response:

AYES: Commissioners Best, Boyce, Davis, Hartley, Westcott, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioners Butler and Loyd.

Motion to postpone Resolution 09-1.13 for one month carried with an 8-0 vote.

Chairperson Harris said this item had been postponed for thirty (30) days.

8. Request For Recommendation Of Approval Of A Preliminary Subdivision Plat For The Woods For Properties Located At 2201 Roark Valley Rd., Branson, Missouri. Project No. 09-6.1 (09-00600001).

Applicant: Westgate GV At The Woods LLC.

Tara Norback, City Forester, presented the staff report as filed with the Planning Division. She said staff recommended approval of both the preliminary and final plats. With the zoning vicinity map was displayed on the overhead screen, she said it was just for the hatched area, as the interior part had already been platted and developed. An aerial map was displayed on the overhead screen that indicated the location of the subject property. She said showed the preliminary plat on the screen and stated she had hard copies available, if anyone would like to see it. She then put an example of a final plat up on the screen. The hatched area was the trail and part of it had been developed at this point. As the preliminary plat was eighteen (18) pages long, she put up only sections with details on them including appropriate easements and right-of-way. Mr. Lawson said there had been some concern expressed about the sewer easements and that David Miller, City Engineer, could respond to them.

David Miller, City Engineer, stepped over to the podium. He had talked with Larry VanGilder, Public Works Director, who said he and his staff had reviewed the plat to ensure there were adequate sanitary sewer easements through this property to reach the northeast corner of Frew

Kleypas' property and the property to the east as well. Mr. VanGilder had checked it out and told Mr. Miller he was okay with it. Mr. Miller said the trail was what they wanted also. Chairperson Harris asked Ms. Norback to display the aerial view of the property again. He then asked Mr. Miller if they were going to access that trail with a new connector trail somewhere. Mr. Miller said they were working with MoDOT to build a sidewalk from Shepherd of the Hills Expressway sidewalk system along the west side of Roark Valley Road to the trailhead. The design was finished and they just needed to get MoDOT to approve it so they could go out to bid on it. Chairperson Harris asked Mr. Miller to show them the path of the trail. Using a laser pointer, Mr. Miller said it was basically along the southern edge and indicated the starting point. He showed the area where the creek was located and said there was a waterfall up in another area. The trail would go along the creek up to the waterfall and would eventually extend on into Henning Forest. He said Matt Filice, Assistant City Engineer, had talked with the folks at Treasure Lake about crossing their property and was looking at options for getting across there.

Chairperson Harris asked if there was anyone there who wished to speak in regard to this item.

Eddie Wolfe came down to the podium and introduced himself as the applicant representative. Mr. Wolfe said he owned Wolfe Surveying, Inc. in town. He said they wanted to plat the remaining part of the property to satisfy the PD, so whenever they built a building they would not have to go back through the commission to get approval to plat that building. Since the PD was approved, they had platted a 3000 and 3200 building and that was as far as they could go administratively. Until they got approval for the final plat to satisfy the PD, they could not plat anymore buildings to sell anymore units out there at the project. He worked with Kendall Powell, Public Works Plans Review, about the sewer easements and was a hundred percent sure they had gotten them all on there because they were requesting some to the south to service some property. Indicating a certain corner location on the overhead screen, he said the trail came up right there and they were cutting out a lot right there for a well at the city's request. He said there would be direct access into it from Royal Oak Drive up there on the north end, so they would not have to go into the project to service the well because they could actually get to it off a public road. Chairperson Harris asked Mr. Miller if he had plans to put a well in there and Mr. Miller said it was for future use. Mr. Wolfe said they were trying to look ahead to satisfy some problems that may occur. Chairperson Harris asked if they would have any difficulty with the trail going alongside that area. Mr. Wolfe said no. In fact, the trail had been in place for two or three (2 or 3) years. He said they had written a legal description and he believed they had been transferred to the city and were platting it as a right-of-way through there, so it was on record on a plat instead of just a metes and bounds legal description.

Chairperson Harris asked if anyone was there who wished to speak in regard to this item or had a comment or question about it.

Frew Kleypas came down to the podium and introduced herself. She pointed out her property on the overhead screen and said she had a question about the sewer. At Chairperson Harris' request, Mr. Wolfe came back down to the podium to help answer her questions. Ms. Kleypas asked where it would be. Mr. Wolfe used a laser pointer and pointed out where he thought a

manhole cover was located. He said Mr. Powell had requested they put an easement directly down there and run a sewer line all along the south line. He said they were actually leaving the right-of-way there for that so they could service those properties. He thought public works was going to take a lift station offline there. Ms. Kleypas asked if there was any kind of a timeframe. Mr. Wolfe said the last two buildings Westgate had built were right there and he indicated the location on the overhead map. Their current plan included a road that would cross the creek and two or three (2 or 3) buildings that could be built in the near future, but the sewer line was already existing through there, so at any time a person could put this line into that line. They were just providing the easement so it could happen.

Chairperson Harris asked if anyone else had a question, comment or concern; there was no response. He asked if the commissioners had any other questions of staff; there was no response. He said he would entertain a motion.

MOTION:

Motion by Commissioner Boyce and seconded by Vice-Chairperson Romine to approve Resolution 09-6.1.

Chairperson Harris asked if there was any other discussion on the item; there was no response.

AYES: Commissioners Best, Boyce, Davis, Hartley, Westcott, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioners Butler and Loyd.

Motion to approve Resolution 09-6.1 carried with an 8-0 vote.

9. Request For Recommendation Of Approval Of A Final Subdivision Plat Of The Woods For Properties Located At 2201 Roark Valley Rd. Branson, Missouri. Project No. 09-8.2 (09-00800002).

Applicant: Westgate GV At The Woods LLC.

Tara Norback, City Forester, presented the staff report as filed with the Planning Division and showed the zoning vicinity map on the overhead screen. An aerial map displayed on the overhead screen indicated the location of the subject property.

Chairperson Harris said this was the final plat of the preliminary plat they had discussed. He said it would be forwarded on to city council for their review.

Chairperson Harris asked if there was anyone there who wished to ask a question or make a comment about the final plat; there was no response. He asked if the commissioners had any questions; there was no response. He said he would entertain a motion for the final subdivision plat for this item.

MOTION:

Motion by Commissioner Wescott and seconded by Commissioner Best to approve Resolution 09-8.2.

Chairperson Harris asked if there was any other discussion on the item; there was no response.

AYES: Commissioners Best, Boyce, Butler, Davis, Hartley, Westcott, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Loyd.

Motion to approve Resolution 09-8.2 carried with an 8-0 vote.

10. Request For Recommendation Of Approval Of A Municipal Code Amendment To Section 70-4 Pertaining To Temporary Sign Exemptions. Project No. 09-12.2 (09-01200002).

Applicant: Planning & Development

Tara Norback, City Forester, presented the staff report as filed with the Planning Division. From a slide on the overhead screen, she read the proposed amendment. She displayed an example of sandwich board signage on the overhead screen.

Chairperson Harris invited Tim Davis, City Attorney, to comment on this request.

Mr. Davis said this amendment to the sign code carved out an exception for signs that had previously been found to be in violation of the code, even though the city believed they were not doing any harm and almost certainly benefited the business. They were not offensive or invasive signs, but were small and sat directly in front of the business. They usually advertised restaurants. Chairperson Harris asked if his opinion was that these items would come down at the end of the business day for the majority of those places. Mr. Davis said yes. He said that might be something they could consider adding as an amendment, that they would be taken in at night. He had not thought about it ahead of time, but if the commission agreed to it, it would not do any harm. Chairperson Harris said oftentimes with signs they worried about safety because if a wind came along they could be blown into the street. He confirmed with Mr. Davis that he would be all right with adding that as an amendment.

Chairperson Harris recognized Commissioner Hartley.

Commissioner Hartley said she did not see how this could apply downtown. Mr. Davis said some of the businesses downtown had alcoves, so they could set the sign in the alcove immediately in front of their business; that way it would not impede the pedestrians walking up and down the sidewalk. Commissioner Hartley asked if the alcoves would be public property or private property. Mr. Davis said they were probably private. He said he noticed just tonight that the language stated it would be 'placed on a public sidewalk.' If it was sitting

in an alcove, which was probably private, then it would not be sitting on a public sidewalk. When he drafted the original version of the ordinance, his intent was that the signs could be placed in the alcoves off the public sidewalk in the downtown business district. He commented that he was not attached to the exact wording and said they could amend it in any way they thought best. Commissioner Hartley said they did not have much private property downtown. In the second part of it, she noticed it was not within fifty feet (50') from a public roadway, which would be impossible, as was stated in the first part of the ordinance. Mr. Davis said that was correct. He said the candy store, Reish Shoe Store and First Community Bank each had an alcove. Commissioner Hartley said they could place a sign in that little entry, but it was very limited. Mr. Davis said that was his intent when he said it had to be within five feet (5') of the front door. The signs would have to be inside those entryways or alcoves for any of the businesses.

Chairperson Harris recognized Commissioner Woolery.

Commissioner Woolery asked Mr. Davis if the alcoves were in fact on private property would he think that signs would not meet this qualification downtown at all on public property. He asked if the public property would not really provide a space for these criteria for the signs in downtown. Mr. Davis said that was right. If it had to be within five feet (5') of the front door, there would be some businesses that could not take advantage of this at all, if it also had to be on a public sidewalk. Commissioner Hartley said it was most of them. He said one option would be to remove the requirement that it sat on a public sidewalk and just state it had to be within five feet (5') of the front door. Mr. Lawson said if they had a wide enough sidewalk, ten to twelve feet (10'-12'), then there would be enough room to have it on the public sidewalk and still allow people enough room to walk by, but most of the downtown was not that wide. He thought if they put it on the sidewalk at all it would hinder the people walking. Mr. Davis said they could change the wording by adding the word "not" in front of the word "placed," so it would read "and not placed on a public sidewalk," period. Chairperson Harris said to also include that the signs would be removed at the end of the business day. Mr. Davis said there would be two amendments then. One would be that on the signs in the downtown business district they would be not placed on a public sidewalk, period, and then an additional point that all signs would be removed at the end of the business day.

Alderwoman Cris Bohinc stepped to the podium and introduced herself. She stated she was very confused by this. She was having trouble with it and had a few questions. She asked why this even came about. She asked if the city had been approached by merchants or people who wanted these signs. Mr. Lawson said it came from an enforcement action in the Country Mart area on Highway 248 because there had been temporary signs in the parking lot. When they had gone out there to address those signs, they were asked about all the other signs that the other stores had out on display. The literal ordinance stated that there could not be any temporary signs, so they had to remove all those signs. They then discussed if there was an area where they could have a sandwich board type sign that did not interfere with the sidewalk, which was the first part of the amendment, item (12), and he said they did not have an issue with that. Someone then asked about the downtown area, stating they might want to have these kinds of boards also, and that was where item (13) originated. He said they wanted

to give the downtown area the same possibilities, even though their walkways and streets were different. As far as he knew, staff had not been contacted by any downtown business people about this. Alderwoman Bohinc said then this type of sign was completely prohibited prior to this. Mr. Lawson said yes. She asked if she was correct to understand that because they could do basically anything in the ordinance this would now allow, for example, a political sign or a real estate sign. Mr. Lawson said this would not change any other part of the ordinance and the sign ordinance did allow people to have certain types of real estate signs. Alderwoman Bohinc said it did not include sandwich board signs. Mr. Lawson said no. She asked if this would not allow them to do that at this point. Mr. Lawson said no. She said she did not think anyone was allowed to have any signs on any public right-of-ways period, only on private property. Mr. Lawson said that was true. She said she was just voicing an objection to that and, if or when it came before the city council, she would want to see examples.

Chairperson Harris recognized Mr. Davis.

Mr. Davis addressed some of Alderwoman Bohinc's concerns. He said, as listed in section (12), it stated the sign had to be more than fifty feet (50') away from a public roadway. He said section (12) had been narrowly tailored to situations like the strip mall with Country Mart and K-Mart. The strip mall itself was located about three hundred feet (300') from the public roadway. He said someone may want to have a small sign in front of their restaurant on private property, which would not offend or hurt anyone. Again, he said section (12) was narrowly tailored to shopping centers like the strip mall. Alderwoman Bohinc said it was still be hard for her to picture without seeing an example. She thought about nothing but parking lot being in front of the strip malls and asked if the signs would be sitting in the parking lots or where because it was hard for her to determine. She said she knew the city was understaffed when it came to removing illegal signs because, even though it had gotten better, they were all over the place. She did not know if this would create more confusion and maybe she did not understand it correctly, but she was a little concerned with it.

Dave Goode stepped to the podium and introduced himself as the owner of the Uptown Café. He asked if there would be some restriction on section (12) as to how many signs a business could put out there. If it was the entrance to a strip mall, there could be fifteen (15) businesses each with a sign. A picture showing one sign did not look so bad, but twenty-five (25) of them would look pretty awful.

Chairperson Harris recognized Commissioner Wescott.

Commissioner Wescott said number (12) stated the requirement for the sandwich board sign would be more than fifty feet (50') from a public roadway, so the example shown on the overhead screen was illegal. Commissioner Davis said it was also not within ten feet (10') of the entrance of the business. Chairperson Harris said perhaps number (12) should state "a sandwich board no greater than 4 feet."

Mr. Lawson said they needed to bring this request back before the commission again next month. It should probably be limited it to one (1) board per business. He said he was glad to

have the input tonight and that he thought there were some things they really had not thought about until they were brought up here tonight.

Chairperson Harris recognized Commissioner Davis.

Commissioner Davis said he thought the response to (12) and (13) were appropriate. He remembered instances that had occurred many times when businesses put their signs out on the roadways. He said they looked very cluttered and oftentimes they were not maintained properly and were left for days before being removed. He said this request spoke to those issues by not allowing that to happen. If someone wanted a sandwich board, it had to be within ten feet (10') of the business entrance, or five feet (5') in the downtown area, if there was a suitable spot. It could not block a parking lot; it could not block a public street; it could not block a sidewalk. He thought the intentions of those signs were appropriate, such as in front of Chris Jordan's pizza place. He said it was unfortunate not everyone could have that opportunity, as they may be restricted by the amount of sidewalk or other restrictions related to distance. He thought there was a perception that the sign code was oftentimes too restrictive, so there were a considerable amount of illegal signs out there. Where they made sense to be placed, he thought they needed to be flexible and allow these sorts of signs.

Chairperson Harris asked if there were anymore comments before they acted on staff's recommendation for postponement for thirty (30) days; there was no response. He said he would entertain a motion.

MOTION:

Motion by Commissioner Woolery and seconded by Commissioner Hartley to postpone Resolution 09-12.2 for thirty (30) days.

Chairperson Harris asked if there were any other comments; there was no response.

AYES: Commissioners Best, Boyce, Butler, Davis, Hartley, Westcott, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Loyd.

Motion to postpone Resolution 09-12.2 for thirty (30) days carried with an 8-0 vote.

Chairperson Harris recognized Commissioner Hartley.

Commissioner Hartley asked if these signs would be for a special occasion or were they talking about any time, every day that these signs could be placed. Mr. Lawson said at this point they would be talking about any time, every day.

OTHER BUSINESS

Chairperson Harris asked Ms. Norback if there was any other business.

Ms. Norback said David Miller, City Engineer, would talk to them about the waterfall trail.

Mr. Miller stepped over to the podium. He said a press release was being sent out either today or tomorrow on the trail they had just discussed as part of that plat. Referring to a photograph on the overhead screen, he said this was the trailhead of the trail. If you were standing on the road that lead to the charcoal factory looking to the west, there was a sign for what they called the "Waterfall Hiking Trail." The start of the trail had surface materials that allowed a person to know where it began then as you went around the corner and across the creek it turned into a more rustic trail and went up along the woods. He said there were markers on the trees so people could follow the trail. Directing their attention to a picture taken in winter on the overhead screen, Mr. Miller said this showed them where their goal was. He said you could tell that the person on the left side was walking along a rock bluff, and you could see the side of the bluff in the picture. It was a big rock bluff and a creek dropped down over it and made a neat waterfall feature. He said the developers of The Woods development had created a catch basin at the bottom. It caught the water and then a pipe they had buried along with a pump circulated the water, so even in dry spells the waterfall would keep running. He said the developers had been working with Mr. Filice and they were going to make it more aesthetic, so it looked a little more natural. He said from there you could go on up to the right and eventually access Henning Forest.

Chairperson Harris said he had been out there for part of that not too long ago. He asked when easements were obtained on these trails, who was in charge of the actual trail, as far as maintenance was concerned. Mr. Miller said the public works department. Chairperson Harris asked who went out and walked them once in a while and checked on them. He said he believed there was a sign on the Lakeside trail that read, if you see something that needs attention, call the city help number. He asked if it would be possible to have one or two of those put out there along those trails. Mr. Miller said it was probably not a bad idea. He said they got comments from citizens who did walk it and then let them know the problems, so having a phone number to call would help. He knew Mr. Filice checked on it when he could. Mr. Lawson asked Chairperson Harris if he was volunteering to walk the trail every week. Chairperson Harris said he walked a lot of them and had certainly called his fair share, so he did not mind calling. He thought getting a phone number out there would be an excellent idea. He asked Mr. Miller to update them on the other trail projects.

Mr. Miller said there were three (3) of note this month. On the one underneath the Highway 65 bridge from Skaggs Hospital to the west, the contractor had been a little less than diligent on that project. He said they were starting to get more threatening with him with liquidated damages. He said the contractor had twenty-seven (27) days to finish it. Mr. Miller believed he could, but he would have to hurry.

Mr. Miller said at the last council meeting, the Board of Aldermen added an amendment to an agreement with MoDOT to add a third trail to some enhancement funds the city had. It would cross the James F. Epps Road bridge to the trail that went down to the tennis courts. He said it would go down the side of that embankment at a gentle slope, an ADA accessible slope. With that, it would allow you to go from Branson Landing up to the roundabout on sidewalks, up the one that was being built underneath the Highway 65 overpass, along the trail that went up the Roark Creek Valley through Stockstill Park and passed the tennis courts, up the one they were working on, across the bridge, up Fall Creek Road, across West Highway 76, through Lakeside Forest and back down to Lake Taneycomo.

Mr. Miller had one more update. He said he had gotten an agreement today from MoDOT to improve sidewalks from West Highway 76 at the interchange near Bob Evans Restaurant up the hill to Roark Valley Road. If you drove along there, you noticed there was not a sidewalk there, but a pathway where people had been walking in the mud. He said MoDOT had funds and, if the city kicked in fifty thousand dollars (\$50,000), it would install real sidewalks from the interchange up to Roark Valley Road. He said he would present this to the board at their next scheduled meeting for consideration.

Chairperson Harris thanked Mr. Miller then recognized Commissioner Davis.

Commissioner Davis complimented Mr. Miller and staff. He said this was an example where a developer further enhanced the trail experience with the waterfall and pump. He said this was the first time he had heard of this trail infrastructure type of cooperation. He said they had put in a re-circulating pump there to create a waterfall at times for people to enjoy. He said this was a good first example of how these sorts of trail efforts they were doing as a city could really amplify and enhance the experience value of a property owner here and they were willing to partner with us. He added that it made the owner's property much more valuable and attractive to offer access to a trail system right from their property.

Chairperson Harris recognized Commissioner Hartley.

Commissioner Hartley asked what, if anything, had been done about signage for when the new bridge was built. She asked what signs would be down there to direct traffic. She asked if it was going to take people down to Branson Landing Boulevard. Mr. Miller said, when the whole project was completed, that roundabout on the Hollister side of the lake would have more signage than Branson's roundabout. He said their plan was over the road signs, so as you approached the roundabout, there would be arrows directing you to the appropriate lane to go to Branson Landing Boulevard or Business Highway 65, et cetera. He said it would be to direct people who were coming from the Hollister/Forsythe side of the lake. On this side, there had not been any discussions yet about what was needed. He said they had talked about creating a master plan to see how the traffic was going to move and where they needed to make modifications. Commissioner Hartley said she would be very interested in knowing what was going on there and asked to be kept abreast of things as they progressed.

Chairperson Harris reminded Mr. Lawson that they had talked about the area on Highland Street last month. Several of the neighbors came to the meeting and talked about speeding, cut-through, and cars parked the wrong way. He asked if there was any follow-up on this, such as going out to look at the area or talking with any of the residents. Ms. Norback said she had talked with Chief Carroll McCullough about it, but she had not received an update on it yet. She said he was going to have his officers take a look at it. Chairperson Harris said, if we have the information from the citizens who had attended the meeting, it would be a good idea to get in touch with them to keep them informed.

Mr. Lawson said, when people came in to talk to the commission about various issues in their neighborhood, what they had started doing was creating a contact list with those names. He said this way, when they did neighborhood plans or the comprehensive plan and wanted public involvement, they would use this list to call these people to see if they would be interested in giving staff their input and be involved in the structuring of these plans.

Chairperson Harris invited Commissioner Davis to speak about the upcoming neighborhood meeting being held tomorrow night, August 5th.

Commissioner Davis said he was enthused to speak to the first of what he expected to be multiple outreaches into our neighborhoods. The mayor would be hosting a walkabout in the Cliff Drive/Hiawatha Heights neighborhood tomorrow afternoon. As Alderwoman Bohinc was in attendance tonight, he said he believed she would be there to lend support for her constituents in that neighborhood. As a result of this, they hoped to gain interaction from the residents to familiarize staff and elected officials with the terrain and some of the issues they had. He said they hoped to find out about the issues that were close to the hearts of the people in that neighborhood through a follow-up meeting at the First Baptist Church on August 13th from 5:00 p.m. to 7:00 p.m. He hoped they would be successful with this meeting so they could branch out to many of the other neighborhoods in the community.

Chairperson Harris recognized Commissioner Wescott.

Commissioner Wescott said he appreciated the staff recommendation, since it was a newer feature of the presentation, but he thought perhaps they could go through the entire item first and then be presented with the staff recommendation. He noted a couple of times tonight that an item was approved with the staff recommendations, but they had not heard the rest of the presentation yet. Chairperson Harris said Commissioner Wescott wanted the staff recommendations to be displayed on the overhead screen for everyone to see, but done so at the end of the presentation. Commissioner Wescott said yes, so all in attendance could see it. He said during the Branson Landing item tonight, there was a little confusion and he thought it was because the recommendation got intermingled with the actual points of the applicant. Mr. Lawson said that was the correct way to do it because the recommendation was based on what the applicant had asked for and the staff's review of it. The staff recommendation should be at the end because it was a result of all that work.

Chairperson Harris recognized Commissioner Davis.

Commissioner Davis said he knew there had been considerable interest in the evaluation of the landscape ordinance and some things would come to fruition with comprehensive planning. In deference to concerns that had occurred through observed development, though, such as the Tanstone project and other areas with extensive landscape alteration, he thought an interim action regarding a small portion of the landscape ordinance about how the landscape ordinance was applied to public right-of-ways was needed. He was formally asking staff to review that small portion of the landscape ordinance to make sure they were not facilitating this sort of thing happening again.

ADVISORY RECOMMENDATIONS

None.

ADJOURNMENT

Motion by Chairperson Harris and unanimously carried to adjourn the meeting at 8:50 p.m.


Clark Harris, Chairperson

9-1-09
Date


Sonja Paden, Office Assistant II

9.01.09
Date