

**CITY OF MANCHESTER
PLANNING AND ZONING COMMISSION
MEETING MINUTES
MONDAY, OCTOBER 24, 2011**

<u>COMMISSIONERS</u>	<u>CITY OFFICIALS AND STAFF</u>
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Dave Willson, Mayor
Jason Truesdell, Chairman (Term to 2014)
James Labit, Secretary (Term to 2012)
Tom Brown (Term to 2013)
Jack Fluchel (Term to 2014)
Mark Smith (Term to 2014)

Mike Clement, Alderman, Ex-Officio member
Franz Kraintz, Planning and Zoning Director
Cynthia Holten, Recording Secretary

<u>CASES</u>	<u>REPRESENTATIVES OF CASES</u>
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#11-SP-004

A site plan amendment is sought by Bruce Brenton of 513 Joyce Ann for his new residence. The property is zoned R-1 Single Family Residential.

- **Mr. & Mrs. Bruce Brenton**
513 Joyce Ann
Manchester, MO 63021
Phone

#11-SP-005

Site plan approval is requested by Greg & Suzanne Smith of 916 Kinsale Drive for a room addition in excess of 500 square feet. The property is zoned R-3 Single Family Residential.

- **Greg & Suzanne Smith**
916 Kinsale
Manchester, MO 63021
636 394 1613

#11-SUP-005 - Postponed

A Special Use Permit is requested by Tim Meyers & Ryan Courtois of Renovations by Hoods to open a home improvement center at 14250 Manchester Road. The property is zoned C-1 Commercial.

- **Renovations by Hoods**
Tim Meyers & Ryan Courtois
408 Kehrs Mill Road
Ballwin, MO 63011
314 482 4677 (Meyers)
314 267 6028 (Courtois)

#11-SP-006

Site plan approval is requested for the Tuscan Valley Subdivision improvements needed to support the construction of 8 single-family residential homes off of Sulphur Spring Road. The property is zoned R-3 Single Family Residential.

- **CJM Investments LLC**
Mike Lawless
10333 Schuessler Road
St. Louis, MO 63028
314 920 7076
- **California Homes**
C. Todd Brady
1215 Polo Lake Dr.
Ellisville, MO 63021
314 420 6506

#11-SUB-003

Subdivision approval is requested to subdivide a parcel of ground at 740 Sulphur Spring Road into 8 new single-family residential lots and subdivision common ground to be called Tuscan Valley Subdivision. The property is zoned R-3 Single Family Residential.

- **CJM Investments LLC**
Mike Lawless
- **California Homes**
C. Todd Brady

#11-SP-007

Site plan approval is sought for the 4 styles of single family residential homes to be built in the Tuscan Valley Subdivision. The property is zoned R-3 Single Family Residential.

- **CJM Investments LLC**
Mike Lawless
- **California Homes**
C. Todd Brady

1. CALL TO ORDER

Commissioner Truesdell called the Planning and Zoning meeting of October 24, 2011 to order at 7:05 p.m.

2. ROLL CALL

Commissioner Truesdell asked the Recording Secretary to take roll.

Commissioner/Secretary James Labit	Present	Commissioner Mark Smith	Present
Commissioner Jack Fluchel	Present	Alderman Mike Clement	Present
TBD		Director Franz Kraintz	Present
Commissioner Tom Brown	Excused		
Mayor David Willson	Present	Cynthia Holten, Recording Secy	Present
Chairman Jason Truesdell	Present		

3. APPROVAL OF MINUTES

Commissioner Labit made the motion to approve the minutes of October 10, 2011. Motion seconded by Commissioner Fluchel; motion approved by voice vote. The vote taken was recorded as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Excused</u>
5	0	0	1

4. APPROVAL OF AGENDA

Commissioner Truesdell made the motion to defer Case 11-SUP-005 regarding Hoods to a later meeting. Commissioner Fluchel seconded the motion; motion approved by voice vote. The vote taken was recorded as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Excused</u>
5	0	0	1

5. OLD BUSINESS

No old Business.

6. NEW BUSINESS

Commissioner Truesdell welcomed Joni Korte , who has been nominated to fill the position previously held by Debbie Mizerany and will be on the agenda for the next Board meeting for confirmation.

- A. **CASE #11-SP-004** – A site plan amendment is sought by Bruce Brenton of 513 Joyce Ann for his new residence. The property is zoned R-1 Single Family Residential.

Mr. Brenton said he'd moved into his new home in early March 2011. He said he'd received a temporary occupancy permit from the County because the weather had been a negative factor in the building process which prevented his driveway, grading, and various jobs getting done. He said once the weather broke and after he was able to get a few things done, his contractor went out of business, leaving Mr. Brenton with the concrete work, final grading, sprinkler system and lawn installation left to be done. He said he made the executive decision not to put in the French drain as specified in the site plan approval. He said he made this decision because he felt the grading was good on his property; there was a swale in the back and both sides, and he'd obtained letters from his neighbors that attested

to the fact there was no drainage problem. He said he'd rather take his thousand dollars deposit and put it toward landscaping. He added that he didn't know what problem he would be solving by putting in French drains, because there currently is no drainage problem.

Director Kraintz said this site plan petition came before the Commission in July 2010 and falls under the requirement of the post-construction storm water ordinance, which this Commission has the discretion to apply. If development sites are over 2,000 ft. but under an acre and less than 40% coverage, this Commission has the ability to waive the requirement storm water management and control. However, according to the testimony in the meeting in July 2010 per the meeting minutes, Mr. Brenton indicated that he would put in this storm water system which was part of the Commission's deliberations at that time. Director Kraintz said upon Mr. Brenton's request for the return of the \$1,000 deposit, Mr. Brenton informed staff that he had not put that system in. Director Kraintz wanted to make this Commission aware that this requirement was not fulfilled. Therefore, Director Kraintz felt it was necessary for Mr. Brenton to reappear before the Commission to seek approval to amend the site plan without the installation of this system and to be granted release of the \$1,000 deposit. Director Kraintz said the reason this system is required is because Mr. Brenton has added impervious surface to this lot but added that the site is under an acre and is less than the 40% coverage allowing the Commission to waive the storm water system requirement.

Commissioner Truesdell asked if Mr. Brenton had complied with all other site plan requirements. Director Kraintz answered that Mr. Brenton had and also had letters from his neighbors indicating no one was having drainage problem because of this site.

Commissioner Labit asked if the City Engineer concurred with the conclusion that there are no issues with the runoff. City Administrator/City Engineer, Ed Blattner, said he'd looked at the site some months ago when it was under construction. Now, the new house is larger and has more impervious surface than the previous house. He explained that the intent of the post-construction storm water maintenance requirement is to limit discharge of storm water as close to pre-existing conditions as possible. He said he understands the petitioner's request since there is not a big amount of water difference although in theory there is some additional runoff. Mr. Blattner said the Commission does have the discretion to waive this requirement for developments under an acre. He added if this was a subdivision of same sized multiple lots, this requirement should be mandatory, but in this case it could go either way.

Commissioner Labit said his concern was that at the time of initial approval the Commission was under the same rules and therefore the decision was to go with this drainage enhancement. And the rules haven't changed and we now have the system is in place. He said the Commission had the discretion then and chose to have the drainage system installed on this site and was trying to get support from the City Engineer on this. Mr. Blattner said although he didn't know what the specific difference in runoff is; there is additional impervious surface with the new home development. He said at the time of site plan review, the Commission did request and expect that this system would be installed as part of the site plan approval and now the resident is asking for that requirement to be waived.

Director Kraintz said the amount of impervious surface has doubled with the new house and the driveway. The new, larger driveway is, by proportion, the larger contributor compared to the existing improvements that were there. However, all of the new run-off water from the driveway runs into the street bypassing any French drains or rain barrels that might be put on the site by the owner. He said the installation of the French drain or rain barrel systems is only marginally effective in improving storm water quality because the majority of the new runoff is going to the street and as far as drainage is concerned, there are swales in the yard.

Commissioner Fluchel said he'd built a house eight years ago and he was required to have a water runoff system and completed everything that was on the plan even though he didn't want to do some of these things. He said he is not in favor of changing this request.

Mayor Willson commented about the many runoff issues he'd experienced over the years in Chadwick Estates. He understands runoff and appreciates what some of the other Commissioners have had to do,

but if the bulk of the water runs to the street and doesn't flood your yard or your neighbors' on either side and your neighbors support not having this system, there really isn't a water runoff issue. He said he looks at runoff a little differently when it doesn't flood your yard and house and it's only gutter runoff, and pop up screens and runs to the street. And even though Mr. Brenton didn't put in the rain barrels that the Commission requested, he's taken some alternative methods to limit any water problems and said he didn't have an issue with it.

Commissioner Smith had no questions.

Alderman Clement asked if Mr. Brenton had experience in the construction trades. Mr. Brenton said his father was a general contractor and that he'd swept the floors for him. Alderman Clement said he sided with the Mayor and when he reviewed the site, he saw no signs of erosion or any type of storm water drainage issues. He said if he'd been faced in the final months of a homebuilding project and his builder went belly up and he was left to make order out of the chaos, he would, like Mr. Brenton did, find ways to get into the house, get the contractors paid and get the necessary work done. He said he felt this was a good explanation for Mr. Brenton not installing the drainage system. He said that the Commission should consider this as a sign of the times. He commented that the home is such a big improvement from what was there before and encouraged the Commission to approve the site plan amendment and the refund of the \$1,000 deposit.

Commissioner Truesdell said he seconded Alderman Clement's comments. He said his parents have been in the process of building a lake home over the last three years and their developer went out of business halfway through the project, leaving them with a real mess. He said ideally Mr. Brenton would have come before the Commission for a site plan amendment when he knew he wasn't going to get the rain barrels in. However, the City of Manchester has a vested interest in making sure its rules are followed, but at the same time the City doesn't want to get the reputation for penalizing an individual on a technical failure to comply with something due to extenuating circumstances, especially when the project is a vast improvement of the property. He said he would highly recommend that the Commission would approve the site plan amendment. He said this would require four "aye" votes and there are only five Commissioners present.

Commissioner Fluchel explained why he was not in favor of approving the amendment. He said because he was required to install certain drainage systems, it actually improved the storm water runoff on his property. He said he gets about two to three feet of water through his backyard, but it doesn't come into his house because of what the City and engineers required him to do. This whole law is written to make the situation better for every lot.

Commissioner Truesdell started to make the motion to approve the site plan amendment when Commissioner Labit stated that as chairman, Commissioner Truesdell, is not supposed to be the one to make the motion.

Commissioner Labit then began to make the motion for CASE #11-SP-004 when Commissioner Truesdell explained to Commissioner Labit that by making the motion, he is in support of the motion. Commissioner Labit said that making the motion does not indicate support or disfavor for anything. Alderman Clement said that when one of the Board members makes a motion it indicates support. Commissioner Labit said the experience he had on this Commission is not that way.

Commissioner Truesdell asked for a second. Mayor Willson asked if this case should be postponed until there are all seven Commissioners present. There was no second to Commissioner Labit's motion.

Mayor Willson made the motion to table this case until there was a full attendance of seven Commissioners. Commissioner Smith seconded the motion; it was passed by voice vote. The vote taken was recorded as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Excused</u>
4	1	0	1
Truesdell	Labit		
Smith			
Willson			
Fluchel			

- B. CASE #11-SP-005** – Site plan approval is requested by Greg & Suzanne Smith of 916 Kinsale Drive for a room addition in excess of 500 square feet. The property is zoned R-3 Single Family Residential.

Mr. Smith said he is the head trustee for Seven Oaks Subdivision for about 10 years and has been a resident of Manchester for approximately 14 years. He said he’s detected a need to increase the size of his house and was contracted to move to a new house in another municipality but had issues with his contractor and contracted with an architect to evaluate remodeling and expanding his current home. He said prior to meeting with the architect, he’d met with the City Engineer, Ed Blattner, for advice on the property setbacks. Mr. Smith said the back of his house would be knocked out 10 feet from the kitchen and 20 feet from the garage, that there were no residences in the rear of his property and the expansion would be within the setbacks. He said there is approximately a 4 acre common area in the rear as well. He said the overall remodeling is multi-faceted including the finishing of a basement, redoing a great room, adding a bedroom and increasing the size of the kitchen.

Director Krantz said Mr. Smith comports with all the zoning setbacks for this zone district. He said regarding the post-construction storm water requirement that since the development site is less than 2,000 square feet it is exempt from those requirements. He said in a conversation with the City Engineer, he was told that the retention basin in the rear aids in the storm water management. He said overall this is a good addition with respect to meeting the City’s codes and requirements.

Commissioner Labit commented that it looks like a nice addition.

Commissioner Fluchel asked if the kitchen was being remodeled and the addition was behind the garage. Mr. Smith said the part behind the garage will be “net-new” with a new bedroom and laundry room and the kitchen will be expanded 10 feet and remodeled.

Mayor Willson had no questions.

Commissioner Smith had no questions.

Alderman Clement commented that he was happy that Mr. Smith decided to stay in Manchester and upgrade his home here. Mr. Smith said it will probably mean he’ll be a trustee for life.

Director Krantz informed Mr. Smith of the customary practice of the refundable deposit of \$2,500 to cover any possible damages to the streets, sidewalks, curbs or right-of-way during construction and to assure all aspects of the site plan are complied with.

Commissioner Fluchel made the motion to approve CASE #11-SP-005 as submitted with the inclusion of a \$2,500 refundable escrow deposit. Commissioner Labit seconded the motion; it was passed by voice vote. The vote taken was recorded as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Excused</u>
5	0	0	1

- C. **CASE #11-SP-006** – Site plan approval is requested for the Tuscan Valley Subdivision improvements needed to support the construction of 8 single-family residential homes off of Sulphur Spring Road. The property is zoned R-3 Single Family Residential.

Mr. Mike Lawless said he represents CJM Investments, LLC. He requested site plan approval for the 8-lot Tuscan Valley Subdivision. He said the site plan conforms to all the R-3 zoning specifications as per the City and also has MSD approval, which includes all storm water management. He said there is a new detention basin as well as a sand filter filtration system already in place.

Mr. Lawless said he has the approvals from St. Louis County to get the entrance onto Sulphur Spring and hopes to get a street poured before the winter. He said the site has been graded for some time and has been removed from the flood plain per all the necessary documentation from FEMA.

Director Kraintz said the subdivision has been a long time in formation and pointed out that this Commission had approved the initial layout and the subdivision improvements in 2008. Unfortunately for one reason or another, it wasn't brought forward again until now. He said over that period of time, there has been some minor adjustments in the design of the detention and the storm water quality aspects, but as Mr. Lawless pointed out all the necessary documentation from MSD, St. Louis County Highway and FEMA have been obtained in order to move forward with this project.

Director Kraintz said all the lots meet the minimum lot size for the R-3 Zoning and the setbacks will be complied with as well. He said staff's estimation is that the subdivision is in a position to be acted on by this Commission. Further actions by the petitioner will be taken to establish escrows for completion of the subdivision improvements. The costs have been estimated and 100% of that will be covered by the developer to assure that the improvements are completed. In addition there will need to be approval of the record plat as well as other cash maintenance agreements and approval of Indentures by the Board. He commented about the use of ash trees on the east side of the property, which would provide a necessary screening for the residents. He said because of the damage caused by a certain boring insect to the ash trees it was suggested that another tree or landscaping plant be used. Mr. Lawless commented that he would gladly comply.

Director Kraintz said Mr. Lawless had met with the adjacent homeowners to discuss any issues or concerns they might have. Director Kraintz pointed out that Mr. Lawless has agreed to side the rear part of any foundation that faces that subdivision. Mr. Lawless said he'd spoken to as many residents in the Town and Country subdivision that he could and said one specific resident said he did not like the idea that the homes would have walk out basements with concrete facing him. Mr. Lawless said he'd made a commitment to this resident that the walk outs would be framed and sided to cover the starkness of the concrete.

Commissioner Truesdell commented that CASES 11-007, SUB-003, and SP-006 were all related and Director Kraintz explained the difference of each and how they would be processed.

Commissioner Labit said according to the handout 1 of 1, the property lines for lots 8, 7, 6, and 5 appear to be in the concrete flume even to the point of nearly going to the other side. He said he recalled a rather lengthy previous discussion on why this would not be acceptable and it was consequently moved, yet it again appears to be in the same place as before. He then referred to Sheet C2.0 of the plans, which indicates that the west side of the concrete flume is the nearest point where

one of those individual property lines go so he said he didn't know which one is the case today. He said he didn't feel he could approve this with 1 of 1 showing the concrete flume included in these lots.

Mr. Todd Brady, Project Engineer, said that it was not included in the lots. He said what makes it confusing is that there is common ground as noted on Sheet C2.0. He said the reason the property line is labeled the way it is, is because that is actually the back of each one of the lots and behind that is common ground where that concrete swale sits. He said when you look at the record plat, the property line for the whole project, because the common ground is part of the subdivision, actually goes to the other side of the concrete swale and encompasses that concrete swale.

Commissioner Labit said he understood that, but it wasn't what he was referring to. He again said that he was referring to the individual lot line on the Record Plat with the dimensions and points and in his opinion the Record Plat should not be approved because it includes the concrete flume which was decided last time that it should not be on a lot owner's property. He said in fact the whole subdivision had to move to the west because of that, but that's not what is shown on these plans.

Mr. Brady said the concrete flume is not on any of the lots but is actually 100% in the common ground behind those lots. Commissioner Labit again said that is not what the drawings show. Mr. Brady repeated what he'd just said and so did Commissioner Labit. Mr. Brady asked Commissioner Labit which record plat he was looking at. He said he was looking at record plat 1 of 1. Mr. Brady said Commissioner Labit was looking at the permanent 40' drainage easement and making the assessment that that is the concrete, which it is not. He said the drainage easement is wider than the actual concrete and the concrete doesn't even show up on the record plat. Commissioner Labit said he sees an easement of 20'. Mr. Brady said there was a St. Louis Water Company easement of 20' that encompasses a water line that runs back there and there is a 40' drainage easement to St. Louis County which is the drainage easement for the concrete swale. Mr. Brady said Sheet C2.0 shows that 100% of the concrete swale is outside of the lots proper and is in the common ground.

Commissioner Labit said he'd pointed that out that there seemed to be a difference and wondered why that concrete flume is not on this record plat. Mr. Brady said physical improvements are not put on a record plat; only property lines, easements, and setbacks are shown. Commissioner Labit asked then where is the 40' easement. Mr. Brady said the 40' easement is on the plat and the edge of the easement is not the edge of the concrete. He said the easement is wider than the concrete swale. He said the back 15 feet of each of the lots effectively becomes an easement of the water company and all the other utilities and the drainage easement for the County. Commissioner Labit confirmed that Sheet C2.0 is the actual position of the individual properties. Mr. Brady said Sheet C2.0 shows where the property lines are in relation to the concrete swale and added that the concrete swale was the stippled part of the drawing that depicts the concrete from edge to edge. Mr. Lawless addressed Commissioner Labit's concerns and assured him there is no concrete on the lots and that there is a water easement which is normal for subdivisions. Commissioner Labit asked the City Engineer if he concurred with these property lines as shown on Sheet C2.0. Mr. Blattner said the petitioners are correct and that he concurred. There is a 40' easement that the County has over that drainage area but all the lots are outside that drainage channel.

Commissioner Labit asked Mr. Blattner to mention the flood plain change. Mr. Blattner said this property was originally taken out of the flood plain by the Animal Health Foundation which owned this property. About 4 or 5 years ago there was a flood study done, fill was brought into the site and the site was removed from the flood plain. But only the top elevation was taken out of the flood. He said per FEMA requirements, now the base also must be taken out of the flood plain. So that's why the site was raised up even more but the flood letter sent to FEMA years ago did not reflect that. Mr. Lawless then rebuilt the site, brought it up to the required height, resubmitted the plans and qualified to receive FEMA certification. Now all the basements of the homes will be one foot above the 100 year flood elevation.

Commissioner Fluchel had no questions.

Mayor Willson had no questions.

Commissioner Smith commented that it will be great to see the site finally developed after so many years.

Alderman Clement asked if the neighbors Mr. Lawless had contacted were supportive of this project. Mr. Lawless said when the project first came up, he didn't know how supportive they were, but he said he'd spoken to several people in the Town & Country Subdivision and addressed the concern of the one resident he'd mentioned earlier. He said he committed to framing and siding the walk out basement entrances of the homes and to screen the area with landscaping. He pointed out the landscaping plan that was included in the packets. Mr. Lawless said the homes on this site will be nice looking and be from \$300,000 to \$550,000 plus. Mr. Lawless also pointed out that his company did a substantial amount of work on the detention basin so that any flooding issues that had been there before will be improved and controlled. There will be less water flowing from all the impervious surfaces at a slower rate than what was previously managed. He said they have done everything they can to enhance this site with improvements and commitment to the nearby residents and hope for approval tonight so that they can move forward and begin building.

Alderman Clement asked if the landscaping was primarily to shield the new homeowners from the concrete. Mr. Lawless said that is more of a side benefit to them but a consideration for the residents in Town and Country south. He said there will be a nice mix of landscaping plants and trees running down that property line.

Alderman Clement asked if landscaping was planned for the other sides of the development. He said one is heavily forested and there is Fishpot Creek back there as well. Mr. Lawless said there will be some grading and seeding done but otherwise leaving it pretty much natural. Alderman Clement asked if there would be any reason to landscape that area. Mr. Lawless the site doesn't have any residents behind it and there already are trees that come up to the property line on two sides and there is the frontage on Sulphur Spring, so he saw no reason for additional landscaping in those areas. However he added that there would be some landscaping in the front of the subdivision and along Sulphur Spring to make the entrance more attractive and provide some sort of buffer to the individuals who buy the lot adjacent to Sulphur Spring.

Alderman Clement asked about the site's signage. Mr. Lawless said there will be two monument signs to the left and right of the entrance to the subdivision.

Alderman Clement asked about the planting of ash trees. Mr. Lawless said the landscaping architect included ash trees in the drawing but another type of tree can be easily submitted if that is what the Commission would prefer.

Alderman Clement confirmed that the site will be above the 100 year flood. Mr. Brady said this is his third or fourth subdivision that had flood plain issues that required going to FEMA for a Letter of Map Revision (LOMR). He explained that since most basements are walk outs, the floors are set at least one foot above the 500 year flood. He said although FEMA only requires one foot above the 100 year flood, he wants to guarantee that his buildings will not flood. The minimum flood elevation is from 515 to 517 feet above sea level, but he said these are set at 520 feet.

Alderman Clement asked about the maintenance of the detention basin. Mr. Lawless said his company would become the trustees and as the properties sell, the homeowners will become the trustees. He will build and maintain the detention basin until the each homeowner is provided with a copy of the indentures and takes on the responsibility of trustee of the subdivision. The trustees will maintain the common ground and the detention basin. Mr. Brady said on the record plat there are 15 ft wide maintenance access easements set up on the right-of-way of Tuscan Valley Court going back to the detention basin, sand filter and prebasin, with legal access for maintenance.

Commissioner Labit made the motion to approve CASE #11-SP-006. Commissioner Fluchel seconded the motion; it was passed by voice vote. The vote taken was recorded as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Excused</u>
5	0	0	1

- D. CASE #11-SUB-003** – Subdivision approval is requested to subdivide a parcel of ground at 740 Sulphur Spring Road into 8 new single-family residential lots and subdivision common ground to be called Tuscan Valley Subdivision. The property is zoned R-3 Single Family Residential.

Mr. Lawless said he conforms to all of the City’s ordinances and requested approval tonight.

Director Kraintz said he had nothing contrary to what Mr. Lawless said. He said it comports with the City’s subdivision and zoning ordinances and the record plat needs to be recommended to the Board.

Commissioner Labit had no questions.

Commissioner Fluchel had no questions.

Mayor Willson had stepped away from the dais.

Commissioner Smith had no questions.

Commissioner Truesdell began announcing the next case.

See CASE #11-SP-007 for discussion.

Commissioner Fluchel made the motion to approve CASE #11-SUB-003. Commissioner Labit seconded the motion; it was passed by voice vote. The vote taken was recorded as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Excused</u>
5	0	0	1

- E. CASE #11-SP-007** – Site plan approval is sought for the 4 styles of single family residential homes to be built in the Tuscan Valley Subdivision. The property is zoned R-3 Single Family Residential.

Mr. Lawless said he has four drawings and asked for master approval on the houses and site plan so as the houses are sold he would work with staff to ensure he was conforming to all codes and ordinances. He said the homes are from 2,800 sq. ft to 3,638 sq. ft. and have three or four elevations and we try to build a mix of elevations so there are not duplicate houses next to each other.

Director Kraintz said the square footage that Mr. Lawless referred to is the total square footage of the building including the second story. The actual building footprints are much less than that. Each of the four models has a combination of brick and vinyl and the foundations on the rear would be sided. He said if the Commission is comfortable with the styles and options of these four models and agree to the master approval, staff will have the ability to ensure the subdivision complies with all rules and setbacks. He said this was basically an efficiency and convenience aspect of the approval process. He added Mr. Blattner mentioned that the runoff in this subdivision is contained by the subdivision’s improvements; each lot will not require them. Mr. Lawless interjected that there are four houses now and will probably have another three plans in the near future to bring before the Commission. He said # 604 will be the display model on Lot 2 and is the largest model at 3,638 sq. ft.

Commissioner Labit commented that the homes look very nice. He said he confirmed that the vinyl for the rear of the homes is indicated on the plans. He said in the past the Commission has approved the style of the homes but each individual lot with a particular house on it would come before the Commission to get approval so that we could insure that the setbacks and other aspects were complied with.

Mr. Lawless said he'd built Stirling Place in Manchester about six years ago and it wasn't done that way. Instead the Commission gave him the master approval and then they were able to work with the staff. He said he doesn't know what changes have been made since then but that he'd built six houses on Old Meramec Station Road and he didn't have to come back to get approvals each time. He said he's requesting a master approval otherwise it gets cumbersome to come back each time and he commented that the City has a very competent staff who can make sure they comply.

Director Kraintz said that Baxter Commons and the Villas at Hanna Bend had been handled with master plan approval. Commissioner Labit said he recalled that the ones off of Carmen had to come back separately. Director Kraintz said this was because each one of those was different and the individual homeowner had not decided on the specific customized home style.

Commissioner Fluchel had no questions.

Mayor Willson said when his wife was on the Board she had commented how cooperative Mr. Lawless had been during the development of Stirling Place and how he had gone the extra mile for everyone and for the community. Mr. Lawless said it is to his advantage to work with the City and residents to make this development one of the best developments in the City of Manchester.

Commissioner Smith had no comments or questions.

Alderman Clement said he remembers Stirling Place and that there were questions and comments and how Mr. Lawless went beyond the call and worked with the city and residents. He said we as a City need to make it easier for developers to come in and have a presence in the City, particularly when they are promoting developments as nice as these will be. He said he would hope the Commission would allow Lawless Homes to work with staff and not have to keep coming back to review these homes.

At this point a motion was made to approve CASE #11-SUB-003. (See above for voting results).

Commissioner Labit made the motion to approve CASE #11-SP-007 with the prerequisite that the developer continues to interact with City staff to ascertain that rules are complied with. Commissioner Fluchel seconded the motion; it was passed by voice vote. The vote taken was recorded as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Excused</u>
5	0	0	1

7. PLANNING AND ZONING DIRECTOR'S REPORT

Planning and Zoning Director Kraintz said he had nothing new to add. He apologized that the Hoods case was not ready to come before this Commission. He said even though this petition has been in the works since the summer, he hopes by the next meeting, there will be a full complement of the Commission to address it.

8. EX-OFFICIO'S REPORT

Alderman Clement said last Board meeting was very brief and there was only one new resolution.

9. COMMENTS FROM THE PLANNING AND ZONING COMMISSION

Commissioner Truesdell said he would talk to City Attorney Gunn to get an opinion on a couple things. One is whether or not a Chairman can make a motion and secondly, does a motion have to be supported by the party making the motion. He said if there are residents present here and there is a chance that there might be a “no” vote, we should do everything we can to make sure there is a full Commission to vote.

Commissioner Labit said when he first got on the Commission he was of the opinion that if a Commissioner made a positive motion, he/she was supporting it. He said he’d found out that that was not the case because he’d voted “Aye” for something and it got voted down. He said it was explained to him that when someone comes before the Commission, it is necessary to make the motion to approve, but if the Commissioners choose not to approve, at least the requesting party has had the opportunity for that approval. He said that is his understanding but the City Attorney may have another opinion.

Director Kraintz said the motion has to be in the positive, but whether the Commissioner that makes that motion has to be in support of it or not is unclear. Commissioner Truesdell said he wants to avoid some previous situations where questions were called without a full Commission, and if we have a resident that is potentially going to be voted down, then if possible a full Commission should be here.

Mayor Willson said that Alderman Clement commented that when bills are assigned at the Board of Aldermen, it is understood that the person reading that bill is in support of it. He said if he assigns it to an alderman that doesn’t support the bill, on the night of the Board meeting he will reassign an alderman who does. He said if there is no motion, there is no vote, or the bill can be tabled.

Commissioner Labit said if a case is on the agenda then whoever claims that item, should at least get an up or down vote, not a sit and do nothing response. He said that isn’t fair to the applicant. It should be a “Nay”, or a table, but there should be some action. He said then there is no motion to approve.

Alderman Clement said inaction still accomplishes something. He said there have been times on the Board when the Mayor has asked for a motion to approve and if the response is silence that is the answer. And then the Board moves on to the next item. Commissioner Labit said we are comparing an apple and an orange. In the Commission’s case we have people who come with a request, but in the Board’s case, resolutions are created by the Board.

Commissioner Truesdell said if there had been a second to Commissioner Labit’s motion to bring this case to a vote, it would have been voted down since there are only five Commissioners present. He again said if it is likely that an applicant will be voted down, there really should be a full Commission available to vote on the case. Commissioner Labit said in this particular case, the motion to table the request came first, which was fine but at the same time he was fishing for a reason to vote “Aye”. He wanted to know what had changed, what was different than before. He said even the City Engineer was asked if it was okay if the resident did not put in the required and approved drainage system, but he would not state it was okay. Mr. Brenton’s site plan was approved by this Commission based on his fulfilling the requirements of which included the installation of a drainage system which he chose not to install. Having problems with his contractor doesn’t exempt Mr. Brenton from fulfilling the Commission’s request and does not provide a good reason for not doing so. And it is not fair to others who have fulfilled the requirements of their site plans.

Alderman Clement said when one’s developer goes out of business and the contractors must be paid this is a real mitigating reason. He said there are times when we, as a Commission or Board, should look at this as an extenuating circumstance that justifies changing our views. He said should something similarly like this occur again, the Commission should err on the side of the resident, particularly when there are no consequences to us, but the consequences for the resident will be the loss of his \$1,000 deposit plus \$3, 000 or \$4,000 for him to put this system in. He said he didn’t think there was anything on Mr. Brenton’s part to not do something, but rather a convergence of circumstances and view those circumstances as worthy of bending in this case.

Commissioner Fluchel asked Alderman Clement if he was going to pick a place to draw a line on that logic. What if the next resident says that he had cost overruns so instead of putting in an asphalt driveway he puts

in gravel. It doesn't hurt anyone. He said ultimately, the resident is not fulfilling what they agreed to do and it's not meeting the MSD guidelines.

Alderman Clement said he wasn't sure about that, but it should not always be black and white. There will always be circumstances and should someone return and claim there have been extenuating circumstances that will end up costing a lot more money to the development of their property, the Commission ought to consider that.

Mayor Willson said another example is having people coming to the Board wanting the City to plow their streets. How often does that come up yet these condos and private streets don't meet the street requirements, some don't have curbs, some aren't wide enough, and now they want the City to plow them and the City has to say "No." He said it was appropriate to table this case until there is a full Commission.

Commissioner Truesdell said the Commission will have the opportunity to do this all again. He said he will find out about the point of order on the two questions.

10. ADJOURNMENT

Commissioner Labit made the motion to adjourn the Planning and Zoning Commission meeting of October 24, 2011, at 8:36 p.m. Motion seconded by Commissioner Fluchel; motion approved by voice vote. The vote taken was recorded as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Excused</u>
5	0	0	1

Respectfully submitted by Cynthia M. Holten, Recording Secretary

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