



CITY COUNCIL AGENDA ITEM

To: Mayor Graham and City Council

From: Ted Shekell, Planning Director
Walter Denton, City Administrator

Date: February 4, 2008

Subject: McDonald's/Southview Plaza Commercial Center Water Main Variance

List of committees that have reviewed: The Community Development Committee reviewed and unanimously recommended to approve the water main variance with a vote of 3-0 at their meeting on January 28, 2008.

Variance Summary:

Loren Ettinger for Walpert Properties has filed a request for a variance to Section 3.5(11) of the City's Development Manual. The variance would grant relief from installing an 8-inch water main along Whitehall Drive. Currently, a 6-inch water main exists in that location. Attached is a letter from Mr. Ettinger outlining his request, as well as a memo from the Engineering Department outlining their position.

Below is the language from Section 3.5(11) of the City's Development Manual:

11. All commercial developments shall be served by a minimum eight (8) inch main. Residential subdivisions shall be served by a minimum six (6) inch main.

According to Mr. Ettinger's letter, he believes that the City is relying on the Minor Subdivision for Southview Plaza Commercial Development to enforce the provisions of the City's Subdivision and Development Control Ordinance. However, it is clear that the Ordinance applies to more than just subdivisions. The Subdivision and Development Control Ordinance states,

"To the maximum extent permitted by applicable law, the provisions of the Ordinance shall also apply to all planned developments whether residential, commercial, or otherwise in nature, and to any other Developments whether a subdivision is required or not under the law, statutes, ordinances or regulations of the governmental body or agency having jurisdiction or control, and regardless of whether the same is labeled a subdivision or not, it being the intent of this Ordinance to apply to all types of development, both within the City and to areas lying within one and one-half (1½) miles of the corporate limits of the City of O'Fallon."

Therefore, the Ordinance applies to the McDonald's/Southview Plaza Commercial Center development not only because it included a Minor Subdivision, but because it was a planned commercial development within the City's jurisdictional boundary.

Recommendation: Although staff believes Mr. Ettinger has some valid points, the Development Manual is clear on the requirement that all commercial developments must be served by at least an 8-inch water main. Therefore, the City Council must decide whether to enforce the ordinance or to grant relief from it.