



**AGENDA
COMMUNITY DEVELOPMENT COMMITTEE
Monday, February 10, 2014
5:30 PM
(Note time change – this meeting only)
Mayor's Conference Room**

I) Roll Call

II) Approval of Minutes – January 27, 2014

III) Items Requiring Council Action – February 18, 2014

- A. Schaefer Autobody Center – Use Variance (1st Reading)
- B. Domino's Retail Center – Planned Use (1st Reading)
- C. Future Land Use Map Amendment – Hartman Lane (2nd Reading)
- D. Joe's Place Adult Daycare – Planned Use (2nd Reading)
- E. MainStay Suites Hotel – Planned Use (2nd Reading)
- F. General Text Amendments – "Rural Residential"; Home Daycare; Fences; Pool Regulations (2nd Reading)

IV) Other Business – None

NEXT MEETING: Monday, February 24, 2014 – 6:00 P.M. – Mayor's Conference Room

General Citizen Comments: The City of O'Fallon welcomes comments from our citizens. The Illinois Open Meetings Act provides an opportunity for citizens to speak at all committee and Board meetings. However, 5 ILCS 120/1 mandates that NO action shall be taken on matters not listed on the agenda. Please submit your name to the chairman and limit your comments so that anyone present has the opportunity to speak.



**MINUTES
COMMUNITY DEVELOPMENT COMMITTEE
6:00 PM Monday, January 27, 2014**

Minutes of a regular meeting of the Community Development Committee of the City of O'Fallon, held in the City Council Chambers, 255 S. Lincoln, O'Fallon, Illinois.

CALL TO ORDER: 6:00 PM

I) Roll Call – *Committee members:* Jerry Albrecht (chair), Gene McCoskey (vice chair), Jerry Mouser, David Cozad, and Harlan Gerrish. *Other Elected Officials Present:* Courtney Cardona, Ed True, John Drolet, Herb Roach, Richie Meile and Michael Bennett. *Staff:* Ted Shekell, Jeff Stehman, Sandy Evans and Justin Randall. *Visitors:* Charlie Pitts, Georgia Hillyer Jack Eddinger, Ron Schantz, Maggie Hilla, Janis Stauder, Lloyd Mordis, Nathan Vering, Michelle Braddock, Sal Elkott and Stewart Drolet.

II) Approval of Minutes from Previous Meeting– All ayes. Motion carried.

III) Items Requiring Council Action

A. Future Land Use Map Amendment – Hartman Lane (1st Reading)

B. Joe's Place Adult Daycare – Planned Use (1st Reading)

Justin Randall gave an overview of the first two proposals for the Future Land Use Map Amendment and Joe's Place. The committee discussed the proposal at length, regarding whether the change to the comprehensive plan for office uses was appropriate at that location, noting the need for this type of development for the community. Citizens raised some concerns about the larger area being changed. The petitioner and her supporters indicated that the project was needed for the community and the area would not likely develop residentially in the future. Randall provided staff's recommendation of denial was based on the existing conditions of Hartman Lane and the level of pressure for non-residential development of the area. Randall also noted that without a change to the Comprehensive Plan staff could not support the Joe's Place submittal, however if the committee found the Comprehensive Plan should be amended, the Joe's Place submittal would be a great fit for the area. The committee in discussing the potential Comprehensive Plan amendment noted the traffic on Hartman Lane and the lack interest in single family residential development and the future expansion of Frank Scott Parkway would alter the area. The committee also discussed the compatibility of office type uses when adjoining residential land uses, citing Rasp Farm and Benchmark Centre as developments at the intersection with residential uses behind. The committee recommended approval of the Future Land Use Map with a vote of 5-0. The committee recommended approval of the Joe's Place Adult Daycare – Planned Use with a vote of 5-0.

C. MainStay Suites Hotel – Planned Use (1st Reading) – Justin Randall brief explanation on conversation of the senior living facility to an extend stay hotel. The committee recommended approval with a vote of 5-0.

D. General Text Amendments – "Rural Residential"; Home Daycare; Fences; Pool Regulations (1st Reading) – Ted Shekell provided a quick overview of the proposed text amendment and asked the committee if they had any question. The committee asked about the pool setbacks and Jeff Stehman indicated the building code did not require setback and this was merely a zoning setback. The committee recommended approval with a vote of 5-0.

IV) Other Business- None

MEETING ADJOURNED: 7:30 PM

NEXT MEETING: Monday, February 10, 2014 – 6:00 PM – Mayor's Conference Room

Prepared by: Justin Randall, Senior City Planner

**O'FALLON ZONING HEARING OFFICER
MEETING MINUTES
January 28, 2014**

Zoning Hearing Officer Douglas Gruenke called the meeting to order at 5:00 p.m. in the City Council Chambers.

Staff in attendance was Ted Shekell, Community Development Department Director and Justin Randall, Senior City Planner.

Petitioner Lechner Realty Group, Inc. and Owner Peoples National Bank were present.

Gruenke gave a brief description of the procedures that would take place during the hearing and explained the standards of a Use Variance being granted only when failure to authorize the use denies all economically viable use of the property or similar extreme hardship is demonstrated by the evidence presented.

PUBLIC HEARINGS:

(ZHO2013-10) - Request for Use Variance for auto repair (auto body) located in a "B-1(P)" Planned Community Business District; located at 1290 Central Park Drive; Petitioner is Lechner Realty Group, Inc., agent for the owner, Peoples National Bank.

Randall presented the project background summary for the petition explaining the timeline leading to the variance request. Randall gave a PowerPoint presentation showing the location of the parcel and the site plan received from the applicant. Also presented were photos of the subject site and an aerial photo of surrounding area denoting the surrounding businesses. Randall indicated the uses included the auto dealerships along Central Park Drive and Collision Plus 0.3-mile south, which was approved by Special Use Permit in 1997.

Randall continued and explained the Existing Conditions from the January 28, 2014, Staff Memorandum:

Existing Conditions

- The parcel is approximately 2.05 acres
- Zoned B-1(P) – Previously approved for Subaru of O'Fallon
- Existing 11,866 sq. ft. building
 - 149 parking spaces
 - 15 repair bays
- Comprehensive Plan Future Land Use Map denotes the area as Regional Commercial
- Property is in Special Service Area Number 5
 - \$665,000 bonds (not City funds) issued to Subaru dealership
 - \$580,000 bonds remaining
 - \$56,100 interest payment due ending FY2014 (April 30, 2014)

- \$1m+ potential if paid out through 2027

Randall reported the applicant is proposing to block off approximately 24 double-spaced parking spaces (12 on both sides of the building) enclosed with privacy fencing made of 8' decorative vinyl fencing with brick pillars matching the building exterior. Photos were shown of privacy fencing and landscaping which will be provided along drive aisles. Gates will be closed during off-business hours to enclose the storage of damaged vehicles after hours. Images provided to the City by the applicant were shown of what would be visible from various perspectives driving alongside the property, both from Central Park Drive and Interstate 64.

Randall read the authority of the Hearing Officer from the applicable codes:

- **USE VARIANCES** shall be any variation that authorizes any use or classification of use to continue or commence in a zoning district in which that use is not a permitted use by right. Any proposed use variance which fails to receive the approval of the Hearing Officer shall not be approved, except by the favorable vote of two-thirds of all Council members. No variance shall be granted that shall authorize a use that may be granted by special use or planned use procedures.
- Use variances are not favored and shall be granted only when failure to authorize the use denies all economically viable use of the property or similar extreme hardship is demonstrated by the evidence presented.

(Ord 3382; passed 11-7-2005).

Randall reported that a Use Variance has not been used by the City in the last 15 years.

Randall continued and stated the Background & Hardship Argument from the January 28, 2014, Staff Memorandum:

Background & Hardship Argument

- Automotive Repair Use
 - Not an allowed use in the B-1 district
 - Rezoning to B-2 could result in “spot zoning” along Central Park Drive, which is all zoned B-1
- Use Variance
 - City’s use of the Use Variance process
 - Use Variance Test
 - Failure to authorize the use denies all economically viable use of the property, or
 - Similar extreme hardship is demonstrated by the evidence presented.
- Existing Property
 - Reuse of the building limits potential buyers to new and used auto sales, expansion of an auto dealership already on Central Park Drive, or an automotive retail store
 - Marketing of the property by the applicant
 - Automotive dealerships (new or used)
 - Potential buyers told Applicant that site and building are too small

- Obtaining a new dealership has proven difficult

Gruenke asked about Collision Plus being approved by Special Use Permit in 1997. Randall testified the Zoning Ordinance has since been changed and Special Use Permit for auto repair facility has been removed from the code.

Gruenke asked for comments on behalf of the petition.

Steve Lechner of Lechner Realty Group as the applicant was sworn in. Lechner indicated they were hired by Peoples National Bank December 1, 2011, to market the property after two prior commercial brokers had it listed for approximately 2 years. Lechner stated the property is clearly a single-purpose building as automotive, considering it has 14 overhead doors and a paint booth. Lechner stated he understood the Zoning Ordinance would not allow used car sales unless they also had new car dealership so he felt obligated that their initial focus was for a new car dealership.

Lechner detailed their exhaustive search (including: in person, via mail, Lechner's website, LoopNet, Co-Star, Auto Dealers Association, Commercial Industrial Exchange for local brokers, and through other commercial brokers) by his brokers and by himself personally. Various dealers expressed that the building was too small for their sales operations. As time passed, they attempted to gain interest with other types of dealers: equipment, RV, boat, and motorcycle. They also approached auto repair businesses similar to a Dobbs Tire and Auto concept. He has documented approximately 350 entries in their marketing report where direct contact has been made to gain interest in the property.

Lechner concluded that Schaefer Autobody Center is a natural fit considering the layout of the property and the building.

Gruenke asked the listing price and Lechner responded \$1,600,000. Gruenke asked if there have been any offers and Lechner reported there have been some contracts back and forth for less than the listing price, but none had ever been signed. There was interest that came with a letter of intent, but it was never an accepted agreement. Proposals had been made to car dealers rather than waiting for an offer. Lechner reported there have not been any acceptable offers received in writing.

Lechner reported to Gruenke that negotiations with one manufacturer ended when they had to obtain approval from other dealers of the same brand in the general area and he could not obtain their approvals.

Gruenke asked if Lechner wanted to submit the contacts ledger (marketing report) as evidence. Lechner stated if the ledger would be submitted he would breach his confidentiality with his clients, so he could not submit it.

Lechner explained he had approached the local dealers and neither Newbold nor Auffenberg wanted to expand to the site, as neither found the building desirable.

Gruenke stated that used cars are permitted as a Special Use Permit, which is easier to have approved than a Use Variance. He asked if they had applied for Special Use Permit for used car sales. Lechner replied they had not. However, they have had some clients ask about used car sales and he has referred them to contact the City directly. Lechner testified that he does not have much confidence that a used car permit can be obtained.

Shekell reported there are two used car dealerships have been approved in this area. CarMax was approved as a planned use. Gateway Classic Cars recently purchased the former American TV property for automobile sales and because the vehicles were inside the facility, they were not required to obtain additional approval by the City.

Shekell testified they had obtained an opinion from City Attorney Dale Funk that used cars are a permitted use within the B-1 district as a Planned. Car dealerships, whether new or used, are permitted as a planned use in B-1.

Lechner commented that it was his understanding that the subdivision indenture required the others in the subdivision to approve it. Shekell and Gruenke indicated that was between the other owners and him.

No other public comments for or against the petition came forward; testimony was closed.

Gruenke asked for the Staff Recommendation.

Staff Recommendation

Randall read the Staff Recommendation:

“The applicant has the clear burden to prove their case meets the hardship requirements of the City code. Their proposed use variance **can only be approved when: (1) failure to authorize the use denies all economically viable use of the property or (2) similar extreme hardship is demonstrated by the evidence presented.**

In light of the information we currently have, and while it is clear there have been significant challenges in the reuse of this property, staff cannot at this time state affirmatively that all economically viable use of the property is denied without the variance.

However, if after all the facts and testimony has been given in this case, the Zoning Hearing Officer finds all economically viable use of the property is lost without the variance, then staff believes the petitioner has provided an appropriate site plan and provides the necessary screening to reduce the impact of a B-2 District use in a B-1 Community Business District. Additionally, if the Zoning Hearing Officer finds in favor of the petitioner, staff would recommend the following conditions of approval:

- The installation of the fencing must be completed prior to the commencement of the autobody shop use..
- All vehicle storage shall be located within the screened area.
- All outdoor storage shall be located within the screened area.
- No outdoor storage shall exceed the height of the fence.
- All hazardous materials associated with the body shop must be handled in accordance with all local, state and federal regulations.
- The use variance shall not transfer to future property owners of the site. If the property were to be sold to a different automotive repair facility, the future user of the property would be subject to the B-1 Community Business District and shall be required to submit and proceed through the use variance process.”

Lechner had no response to the Staff Recommendation or conditions, but deferred to Scott Schafer.

Scott Schaefer, Vice President Schaefer Autobody Centers, was sworn in. Schaefer testified that if approved, they are committed to fulfilling the Staff's requirements. They care for higher-end vehicles and want that reflected in their facility. They have faced challenges with other communities with similar concerns, and they have overcome those challenges and have won community improvement awards for their work.

Gruenke explained that his decision would not be the final decision. Gruenke indicated his role in the use variance process is to provide a recommendation to the City Council and the City Council will have the responsibility of a final decision. After receiving the transcribed minutes, his Decision and Findings of Facts would be prepared within 10 days.

The hearing was closed and the meeting was adjourned at 5:38 p.m.

Respectfully submitted by

Vicki Evans
Transcriptionist

Approved by Zoning Hearing Officer via e-mail January 31, 2014.



MEMORANDUM

TO: Community Development Committee
FROM: Justin Randall, Senior City Planner
THROUGH: Ted Shekell, Director of Planning and Zoning
DATE: February 10, 2014
SUBJECT: ZHO2013-10: Schaefer Autobody Center, Use Variance (1st Reading)

Recommendation

The Zoning Hearing Officer held a public hearing on the above referenced application at the January 28, 2014 meeting. The Zoning Hearing Officer provided the Finding of Facts and Recommendation to the City on January 31, 2014. The Zoning Hearing Officer has recommended the City Council deny the requested use variance for Schaefer Autobody Center.

Project Background and Summary

The petitioner is seeking a variance to allow the reuse of the former Subaru dealership building located at 1290 Central Park Drive as an automotive repair and body/collision shop (Schaefer Auto Body Center), which is not an allowed use in the B-1 Community Business District. The typical process to locate a business in an area not currently zoned for the proposed use would be to apply and go through the process of a rezoning. However, in this particular circumstance, rezoning the subject property to B-2 General Business District would potentially result in "spot zoning", as the entire corridor of Central Park Drive is zoned B-1 Community Business District.

City staff does not typically recommend the use variance process because of the typical process is to rezone the property. The use variance process is very rarely used and has not been used by the City of O'Fallon for over 15 years, even though the use variance process is allowed according to the code. There is a high standard to meet in approving a use variance; it is a difficult test **and can only be approved when: (1) failure to authorize the use denies all economically viable use of the property or (2) similar extreme hardship is demonstrated by the evidence presented.**

Section 158.296(C) provides authority for the Hearing Officer to hear a use variance. After the hearing, the Zoning Hearing Officer forwards a written report containing findings of fact and a separate conclusion recommendation to the City Council. The City Council may by ordinance without further public hearing adopt any proposed use variance, refer it back to the Hearing Officer for further consideration, or deny the use variance request as a final action. Since the Zoning Hearing Officer has recommended the City Council deny the use variance, the use variance shall not be approved, except by the favorable vote of two-thirds of all Council members.

Please see the attached Zoning Hearing Officer Project Report for more detailed information on the proposal.

Staff Recommendation

The applicant has the clear burden to prove their case meets the hardship requirements of the City code. Their proposed use variance **can only be approved when: (1) failure to authorize the use denies all economically viable use of the property or (2) similar extreme hardship is demonstrated by the evidence presented.**

Community Development Department

255 South Lincoln Avenue O'Fallon, IL 62269 ♦ P: 618.624.4500 x 4 ♦ F: 618.624.4534

In light of the information we currently have, and while it is clear there have been significant challenges in the reuse of this property, staff cannot at this time state affirmatively that all economically viable use of the property is denied without the variance.

However, if after all the facts and testimony has been given in this case and two-thirds of all City Council members find that all economically viable use of the property is lost without the variance, then staff believes the petitioner has provided an appropriate site plan and provides the necessary screening to reduce the impact of a B-2 District use in a B-1 Community Business District. Additionally, if the City Council finds in favor of the petitioner, staff would recommend the following conditions of approval:

1. The installation of the fencing must be completed prior to the commencement of the autobody shop.
2. All vehicle storage shall be located within the screened area.
3. All outdoor storage shall be located within the screened area.
4. No outdoor storage shall exceed the height of the fence.
5. All hazardous materials associated with the body shop must be handled in accordance with all local, state and federal regulations.
6. The use variance shall not transfer to future property owners of the site. If the property were to be sold to a different automotive repair facility, the future user of the property would be subject to the B-1 Community Business District and shall be required to submit and proceed through the use variance process.

Attachment:

Findings of Fact submitted by the Zoning Hearing Officer

Recommendation of the Zoning Hearing Officer

Report to Zoning Hearing Officer

CITY OF O'FALLON ZONING HEARING OFFICER

IN RE THE MATTER OF:)

Request for Use Variance for auto repair (auto body))
Located in a "B-1(P)" Planned Community Business)
District; located at 1290 Central Park Drive; Petitioner)
Is Lechner Realty Group, Inc., agent for the owner,)
Peoples National Bank.)

ZHO2013-10

FINDING OF FACTS

In the matter of the City of O'Fallon Zoning Hearing, Cause No. ZHO2013-10, the Zoning Hearing Officer, Douglas C. Gruenke, makes the following findings of fact:

1) The Petitioner for the variance is Lechner Realty Group, Inc. The property is located at 1290 Central Park Dr., O'Fallon, Illinois ("Property"), and is owned by Peoples National Bank. Petitioner is the agent for the owner.

2) The Petitioner and the owner signed the Petition for Use Variance.

3) Notice of the hearing was given to all required parties by the Petitioner, and the City of O'Fallon published notice of the hearing in the O'Fallon Progress, pursuant to 65 ILCS 5/11-13-6 and 65 ILCS 5/11-13-7.

4) The hearing was held on January 28, 2014, and was called to order at 5:00 p.m. by Zoning Hearing Officer Gruenke.

5) The City of O'Fallon, by and through Justin Randall, presented the project background summary for the application. Said background summary is, and the ZHO finds as conclusive, as follows:

- a) The parcel is approximately 2.05 acres.
- b) The Property is currently zoned B-1(P) and previously housed a Subaru new car dealership.
- c) The building currently situated on the Property is vacant and is 11,866 square feet and contains 15 repair bays. The parcel also contains 149 parking spaces.
- d) The applicant is proposing to block off approximately 24 double-spaced parking spaces (12 on both sides of the building) enclosed with privacy fencing made of 8' decorative vinyl fencing with brick pillars matching the building exterior.

6) Automotive repair use is not a permitted use, a planned use, or a special use in a B-1(P) zoning classification.

7) Mr. Steve Lechner of Lechner Realty Group, Inc., after being duly sworn, provided the following testimonial evidence, and the ZHO finds as conclusive:

- a) The owner acquired the Property in 2009.
- b) Petitioner listed the Property for sale in December 2011.
- c) Potential buyers have attempted to obtain, without success, another Subaru franchise for the Property. Subaru has stated that it likely will not have enough new vehicles to supply another dealership and that it would also have to determine if another dealership is warranted.
- d) Petitioner has contacted several other auto dealerships and manufacturers to determine if a different dealership would be interested in the Property. Petitioner believes that it is difficult to obtain a new vehicle franchise for the Property. Other dealers have told Petitioner that the building is too small for an expansion.
- e) Petitioner has attempted to market the Property as a sales facility for boats, recreational vehicles, and motorcycles, but has been unsuccessful in finding a buyer.
- f) Petitioner has discussed a lower asking price than the current \$1,600,000.
- g) Petitioner has not marketed the Property for used car sales.

8) Scott Schaefer, Vice President of Schaefer Autobody Centers, was sworn in and testified that he would like to purchase the Property and use it as an auto body shop.

9) No other members of the public were present to cross-examine the Petitioner or to present additional evidence or testimony.

10) Although it is true that the current state of the Property lends itself to automotive uses, the B-1 Community Business District zoning classification contains 16 general categories of permitted uses, containing no less than 115 specific permitted uses. The B-1 Community Business District zoning classification also contains 10 special uses, one of which is used car sales.

11) The City of O'Fallon Zoning Code permits automotive repair garages only in conjunction with car sales, and specifically excludes the use in other automotive uses.

12) The ZHO takes judicial notice of the City of O'Fallon Zoning Code and finds that it is presumptively valid under Illinois law.

Dated: January 31, 2014



Douglas C. Gruenke
O'Fallon Zoning Hearing Officer
Bruckert, Gruenke & Long, P.C.
1002 E. Wesley Drive, Suite 100
O'Fallon, IL 62269
(618) 624-4221
(618) 624-1812

CITY OF O'FALLON ZONING HEARING OFFICER

IN RE THE MATTER OF:)

Request for Use Variance for auto repair (auto body)) ZHO2013-10
Located in a "B-1(P)" Planned Community Business)
District; located at 1290 Central Park Drive; Petitioner)
Is Lechner Realty Group, Inc., agent for the owner,)
Peoples National Bank.)

RECOMMENDATION OF ZONING HEARING OFFICER

The Petitioner has requested a use variance for the property located at 1290 Central Park Drive, O'Fallon, Illinois ("Property"). Pursuant to Section 158.296.C of the O'Fallon Zoning Code, use variances are not favored and shall be granted only when failure to authorize the use denies all economically viable uses of the property or similar extreme hardship is demonstrated by the evidence presented.

A use variance is an extreme measure taken only when the property will have no economic value if required to be used under the permitted or special uses for the subject zoning classification. This is evidenced by the fact that the City of O'Fallon has not issued a use variance in over 15 years.

The Property in question has only been marketed as a new vehicle dealership and at a price of \$1,600,000. I concur with Petitioner that the most suitable use of the Property is automotive. However, there is no evidence that suggests the Property will not be economically viable if it is used for any other allowed use in the B-1 zoning classification, particularly as a used car dealership.

In addition, even assuming that the \$1,600,000 asking price is the fair market value for the Property, being a viable economic use does not mean that the Property will sell for the fair market value. There was no evidence presented to demonstrate that the Property would not sell for an economically viable use for \$500,000, \$800,000, \$1,000,00, etc.

As such, I cannot find that the failure to allow the Property to be used as an auto body shop will deny all economically viable use of the Property.

For the reasons stated above, I recommend that the City Council **DENY** the use variance for the Petitioner.

Dated: January 31, 2014



Douglas C. Gruenke
O'Fallon Zoning Hearing Officer
Bruckert, Gruenke & Long, P.C.
1002 E. Wesley Drive, Suite 100
O'Fallon, IL 62269
(618) 624-4221
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MEMORANDUM

TO: Hearing Officer
FROM: Justin Randall, Senior City Planner
THRU: Ted Shekell, Planning Director
DATE: January 28, 2014
SUBJECT: ZHO 2013-10: Schaefer Autobody Center, Use Variance

Location: 1290 Central Park Drive, O'Fallon, IL
Applicant: Lechner Realty Group, Inc.
Owner: Peoples National Bank
Submitted: December 23, 2013

Variance Application Summary

The applicant, Lechner Realty Group, Inc., request a use variances to allow Schaefer Autobody Center (automotive repair) to be located in a B-1(P) Community Business District at 1290 Central Park Drive (old Subaru building). An automotive repair facility is not an allowed use in the B-1 Community Business District, and Section 158.296 provides authority for the Hearing Officer to hear a use variance.

Applicable Codes to the Variance

A use variance is defined in Chapter 158: *Zoning*, Section 158.296.C *Powers and Duties* of the O'Fallon, Illinois Code of Ordinances:

(C) *Use variances.*

- (1) *To hold public hearing for applications for use variances and to forward a written report containing findings of fact and a separate conclusion recommendation thereon to the City Council, consistent with ILCS Ch. 65, Act 5, § 11-13-14.1.C(1), which Council may by ordinance without further public hearing adopt any proposed use variance, or the Council may refer it back to the Hearing Officer for further consideration or deny the use variance request as a final action. For purposes of this section, **USE VARIANCES** shall be any variation that authorizes any use or classification of use to continue or commence in a zoning district in which that use is not a permitted use by right. Any proposed use variance which fails to receive the approval of the Hearing Officer shall not be approved, except by the favorable vote of two-thirds of all Council members. No variance shall be granted that shall authorize a use that may be granted by special use or planned use procedures.*
- (2) *Use variances are not favored and shall be granted only when failure to authorize the use denies all economically viable use of the property or similar extreme hardship is demonstrated by the evidence presented.*
(Ord 3382; passed 11-7-2005).

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Existing Conditions

The subject property is approximately 2.05 acres in size and is located at 1290 Central Park Drive. The parcel was zoned to B-1(P) Planned Community Business District in 2005. At that time the site was approved for an 11,866 square foot Subaru car dealership facility for new motor vehicle sales and ancillary repairs, including collision repair. The development included 149 parking spaces. The building was designed with 4 service bays (one bay is a paint booth) on the eastern side of the building, 10 service bays on the western side of the building and one additional bay at the front of the building along Central Park Drive.

The Subaru dealership, like most new car dealerships, had auto repair as an accessory but integral part of the business, however, unlike most new car dealerships, the proposal included a broader collision repair component, as outlined in the 2005 Report to the Planning Commission:

*The applicant proposes to provide general automotive repair, service, and collision/body repair services out of this facility. This is evidenced by the proposed signage on the Central Park Drive façade of the building, which states "Welcome, Subaru of O'Fallon – Complete Service and Repair Facility, **All Makes and Models**". As proposed, this could constitute a problem. Automotive repair services are allowed in the B-1 zoning district only as an ancillary, accessory use associated with a new car dealership. The zoning code is clear that stand-alone general automotive repair services are not authorized in a B-1 district.*

All cars waiting for collision or body repair will be required to be in an enclosed area at all times, either in a bay or in an enclosed area on site. Currently, no enclosed area is proposed to store cars waiting for body work, therefore all cars waiting for body/collision repair work should strictly be kept in the repair bays. For example, Collision Plus, a general body and collision repair facility, was required to construct a decorative masonry enclosure for the cars waiting to be repaired. Subaru should be required to do the same if they are to be providing accessory body repair services. It should be made clear that if this facility ever ceases to be a new car dealership, according to the zoning code, it will lose the zoning authorization for general repair and body work.

Ordinance No. 3401 approved the Subaru dealership with conditions, two of which are pertinent to the current case:

- 1. Automotive repair and body/collision repair services are authorized as an accessory use, such that if this facility ever ceases to be a new car dealership, per zoning code and the terms of this planned use, it will lose zoning authorization for general auto repair and body work on this site.*
- 2. Any cars waiting for body/collision repair must be maintained inside the building and/or in an outside enclosure at all times. The outside area, which includes the dumpster, must be enclosed with a decorative vinyl fence 6' high and maintained in good repair.*

The area surrounding the subject property includes two car dealerships; northwest is Auffenberg Hyundai and southeast is Newbold Toyota. Garden Ridge is located to the southwest, across Central Park Drive. The area is zoned B-1 Community Business District and B-1(P) Planned Community Business District. Additionally, Collision Plus, a collision/body repair facility, is located 0.3-mile to the southeast at 1274 Central Park Drive.

The location of the subject property is primarily automotive in nature. There are multiple dealerships located along Central Park Drive, as well as Collision Plus, which is a collision/body repair facility. The adaptive reuse of the site as Schaefer Autobody would not alter the essential character of the zone district or surrounding properties. The petitioner has submitted a number of street views of the proposed redevelopment of the site. The petitioner has indicated according to the site plan, the petitioner will screen 12 double parking spaces on both sides of the building where they store the damaged vehicles. The screening will include an 8' decorative vinyl fence with brick pillars to match the exterior of the building and landscaping to break up the vinyl fence. Additionally, the petitioner will have four gates that will be closed during off business hours to completely enclose the storage of the damaged vehicles.

Additionally, the Subaru dealership was issued \$665,000 in private special service area bonds (not City funds) under Ordinance 3428 as Special Service Area Number Five. The current total remaining on the bonds is 580,000, with \$56,100 of interest due ending in FY2014 (April 30). If the bonds are paid through the 2027 as agreed upon the total amount due would exceed \$1 million.

Community Development Department

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Background & Hardship Argument

The petitioner is seeking a variance to allow the reuse of the former Subaru dealership building located at 1290 Central Park Drive as an automotive repair and body/collision shop (Schaefer Auto Body Center), which is not an allowed use in the B-1 Community Business District. The typical process to locate a business in an area not currently zoned for the proposed use would be to apply and go through the process of a rezoning. However, in this particular circumstance, rezoning the subject property to B-2 General Business District would potentially result in "spot zoning", as the entire corridor of Central Park Drive is zoned B-1 Community Business District.

City staff does not typically recommend the use variance process because of the typical process is to rezone the property. The use variance process is very rarely used and has not been used by the City of O'Fallon for over 15 years, even though the use variance process is allowed according to the code. There is a high standard to meet in approving a use variance; it is a difficult test **and can only be approved when: (1) failure to authorize the use denies all economically viable use of the property or (2) similar extreme hardship is demonstrated by the evidence presented.**

In this particular case, the property is zoned B-1 Community Business District. The B-1 District allows a multitude of commercial, retail and office type uses. The property has an existing facility constructed that was used for an automotive dealership with multiple bays for the repair of vehicles. Therefore, barring the demolition of the site, the potential reuse of the building is greatly limited. The B-1 District uses that could potentially reuse the existing building would be a new or used automotive dealership, an expansion of an existing dealership already located on Central Park Drive or an automotive retail store, with repair as an ancillary use.

In 2008, Subaru of O'Fallon closed and was taken over by Peoples National Bank. In December of 2011, Peoples National Bank entered into an agreement with Lechner Realty (petitioner) to market the property to potential buyers, including dealerships and other retail operations permitted in the B-1 Community Business District, in an attempt to reuse the existing building.

During the marketing of the property, Lechner Realty Group informed staff they engaged over 500 commercial brokers throughout the metro area. The marketing of the property included a three page marketing brochure sent monthly. Additionally, the Lechner Realty Group indicated they engaged over 350 decision makers in the retail and other commercial use sector, typically associated with the uses permitted in the B-1 Community Business District.

Lechner Realty Group also marketed the subject property by placing 2 v-shaped signs 4-foot by 8-foot in size along the I-64 and Central Park Drive frontage. The realty firm also posted the subject property on various web sites including, but not limited to, Lechner Realty Group, Inc.'s, website, Loopnet, CIE and CoStar.

According to Lechner Realty Group, the site was marketed to other dealerships, including every auto dealership in the St. Louis metropolitan area, as well as other dealerships outside the metropolitan area. However, Lechner Realty Group found that the property lacked the necessary size of building and acreage for any other new dealerships to take the property over.

Lechner Realty Group has indicated the current and future projections of the auto dealer market have not favored additional franchisees within the market place. Lechner Realty Group indicated two separate auto dealers have approached Subaru Corporate for the purpose of obtaining a franchise. Both were denied; one because of the potential encroachment on a St. Louis Subaru dealer and the second was told that Subaru cannot provide enough cars for the existing dealers. Numerous other potential automotive dealers have looked into the site, but were unable to either secure a franchise or negotiate a contract to purchase the property, according to Lechner Realty Group.

Staff Recommendation

The applicant has the clear burden to prove their case meets the hardship requirements of the City code. Their proposed use variance **can only be approved when: (1) failure to authorize the use denies all economically viable use of the property or (2) similar extreme hardship is demonstrated by the evidence presented.**

Community Development Department

255 South Lincoln Avenue O'Fallon, IL 62269 ♦ P: 618.624.4500 x 4 ♦ F: 618.624.4534

In light of the information we currently have, and while it is clear there have been significant challenges in the reuse of this property, staff cannot at this time state affirmatively that all economically viable use of the property is denied without the variance.

However, if after all the facts and testimony has been given in this case, the Zoning Hearing Officer finds all economically viable use of the property is lost without the variance, then staff believes the petitioner has provided an appropriate site plan and provides the necessary screening to reduce the impact of a B-2 District use in a B-1 Community Business District. Additionally, if the Zoning Hearing Officer finds in favor of the petitioner, staff would recommend the following conditions of approval:

1. The installation of the fencing must be completed prior to the commencement of the autobody shop.
2. All vehicle storage shall be located within the screened area.
3. All outdoor storage shall be located within the screened area.
4. No outdoor storage shall exceed the height of the fence.
5. All hazardous materials associated with the body shop must be handled in accordance with all local, state and federal regulations.
6. The use variance shall not transfer to future property owners of the site. If the property were to be sold to a different automotive repair facility, the future user of the property would be subject to the B-1 Community Business District and shall be required to submit and proceed through the use variance process.

Attachments

- a) Petition for Use Variance Application
- b) Zoning and Aerial Maps of Parcel
- c) Site Plan
- d) Screening Package
- e) Building Elevations

Community Development Department

255 South Lincoln Avenue O'Fallon, IL 62269 ♦ P: 618.624.4500 x 4 ♦ F: 618.624.4534

RECEIVED DEC 23 2013

BUILDING DEPARTMENT ORIGINAL
PETITION FOR USE VARIANCE

Revised December 16, 2013

Paid 12-23-13

Community Development Department, O'Fallon City Hall
253 South Lincoln Avenue, 2nd Floor
O'Fallon, IL 62269 Phone (618) 624-4500 Ext. 4

Variance Request No. **ZHO2013-10**
Date: **12-23-13**

(Do not write in this space -- For office use only)

Date set for hearing: _____

Perm. Parcel No. _____

Date hearing held: _____

Fee paid: \$ **225⁰⁰** Date: **12-23-13**

Newspaper: _____

Building Permit App. No. _____

Action by Zoning Hearing Officer:

Comments: (Indicate other actions such as continuances)

- Denied
- Approved
- Approved with modification

INSTRUCTIONS TO APPLICANTS: All information required by the application must be completed and submitted herewith. Applicants are encouraged to visit the Community Development Department for any assistance needed in completing this form.

1. Name of property owner(s): Peoples National Bank Phone: 618-241-6500
Mailing address: 520 S 42nd Street, Mount Vernon, IL 62450 E-Mail: bill.kennedy@peoplesnationalbank.com
2. Applicant's name: Lechner Realty Group Inc Phone: 314-909-8100 Ext 109
Mailing address: 13421 Manchester, St Louis 63131 E-Mail: slechner@lechnerrealty.com
3. Property interest of applicant (Owner, Contractor, etc.): Agent for owner
4. With respect to any portion of these premises, a previous appeal or petition for variance was made:
 No. Yes. If "yes", list all previous appeals and/or petitions, giving dates:

5. Address of property: 1290 Central Park Drive
Present use of property: Vacant auto dealer Parcel (Tax) ID #: 03-250-330-008 Zone District: B-1(P)
6. State what type of use variance you are requesting:
Auto repair (auto body)
7. A sketch plan (drawn to scale) shall be provided showing the following:
 - a) Dimensions of the zoning lot;
 - b) Dimensions and use of all buildings;
 - c) Location of any proposed improvements;
 - d) Any additional information as may be reasonably required by the Community Development Department.

Section 15.020 of the O'Fallon Zoning Order states the powers of the Hearing Officer including the power to hold public hearing for applications for use variances and to forward a written report containing findings of fact and a separate conclusion recommendation thereon to the City Council, consistent with 65 ILCS 5/11-13-14.1.C(1), which Council may by ordinance without further public hearing adopt any proposed use variance, or the Council may refer it back to the hearing officer for further consideration or deny the use variance request as a final action. For purposes of this Section, "use variances" shall be any variation that authorizes any use or classification of use to continue or commence in a zoning district in which that use is not a permitted use by right. Any proposed use variance which fails to receive the approval of the hearing officer shall not be approved except by the favorable vote of 2/3 of all Council members. No variance shall be granted that shall authorize a use that may be granted by special use or planned use procedures. Use variances are not favored and shall be granted only when failure to authorize the use denies all economically viable use of the property or similar extreme hardship is demonstrated by the evidence presented.

TEST: No use variance will be granted without showing by you (the applicant) that applicable zoning regulations and restrictions have caused unnecessary hardship. The following tests must be met for each and every use allowed by zoning on the property. Below please briefly describe how each of the four variance tests are met. Attach all supporting materials.

8. The applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial.

Proof: There is zero return. There are no tenants or buyers for the property for this single purpose building under the current zoning. See supplemental sheets attached

9. The alleged hardship relating to the property is unique. (The hardship may not apply to a substantial portion of the zoning district or surrounding properties)

Proof: The auto body shop located in the same block has the required zoning and/or variance. The auto dealers in the same block have franchises and are located in buildings and on lots sufficient for the use.

10. The requested use variance, if granted, will not alter the essential character of the zone district or surrounding properties.

Proof: The property is surrounded by automotive uses including dealerships and auto body

11. The alleged hardship has not been self-created.

Proof: The hardship is a result of dealerships not being available to franchisees and the lack of demand for an alternative use for an automotive building

12. A use variance is requested for the property described above in conformity with the documents submitted herewith.

I certify that all of the above statements and the statements contained in any papers or plans submitted herewith are true and accurate.

I consent that the entry in or upon the premises described in this application by any authorized official of O'Fallon, Illinois for the purpose of inspecting or of posting, maintaining, and removing such notices as may be required by law.

Date: 12-20-13

Signature of Applicant:

Lechner Realty Group Inc by [Signature] President

Date: 12-20-13

Signature of Owner:

[Signature]
President, Peoples NATIONAL Bank

SUPPLEMENT SHEET TO HARDSHIP
1290 Central Park Drive
O'Fallon, IL

1290 Central Park Drive, O'Fallon, IL was listed with Lechner Realty Group, Inc. December 13, 2011 for \$1,600,000, approximately \$1,000,000 less than appraised by the St. Clair County Assessor's Office. Since that time, the property has been presented to a variety of auto related uses including every auto dealership in the St. Louis metropolitan area as well as other dealerships outside the metropolitan area. The property has been advertised on the internet on Loopnet, CoStar, CIE and Lechner Realty Group, Inc. web site. In addition, approximately monthly, information has been distributed to over 500 commercial real estate brokers in the St. Louis area. Over 600 people have been communicated to directly concerning this property by agents of Lechner Realty Group, Inc. Two separate auto dealers have approached Subaru Corporate for the purpose of obtaining a franchise. Both were denied, one because of potential encroachment on a St. Louis Subaru dealer that is investing substantial sums in expansion and the other was told that Subaru cannot provide enough cars for the existing dealers. A Dodge Chrysler franchisee made a very serious attempt to obtain a Dodge Chrysler franchise but was unable to obtain the necessary approval of other Dodge Chrysler franchisees in the metropolitan area. Numerous other dealers with a variety of brands have indicated that franchises are simply not available. It is unlikely that a car dealer will occupy this location in the foreseeable future. Since this is an automotive building, the only feasible use for the building is an automotive related use. This hardship was created by changes in the auto industry nationwide.

January 22, 2014

Justin Randall
255 S. Lincoln Ave.
2nd Floor
O'Fallon, IL 62269

Re: Marketing of 1290 Central Park Drive

On December 1, 2011, Lechner Realty Group began marketing the former Subaru car dealership at 1290 Central Park Drive in O'Fallon, IL. During the listing period, which is currently active, our office has reached out to over 500 commercial brokers, once a month with a marketing brochure. During this same time frame we have spoken to over 350 decision makers of retail and commercial uses within the permitted zoning.

Due to property circumstances including, but not limited to, size, building configuration, internal building fixtures, corporate retail needs in the region and future projections of the market, a retail body shop is the best and highest use for subject property.

For reference to our marketing efforts, please see the attached documents.

Sincerely,



Jason Rjegelsberger
Marketing Associate

Enclosure

F:\LISTINGS\CENTRAL PARK DR 1290\MARKETINGLETTER.DOCX

Steven Lechner

From: Jason Riegelsberger
Sent: Tuesday, December 03, 2013 4:24 PM
To: Steven Lechner
Subject: Fwd: 1290 Central Park - Special Service Area 5

Please see below.

Thank you,

Jason.

Begin forwarded message:

From: Justin Randall <jrandall@ofallon.org>
Date: December 3, 2013 at 4:06:57 PM CST
To: Jason Riegelsberger <JRiegelsberger@lechnerrealty.com>
Subject: 1290 Central Park - Special Service Area 5

Jason,

Here is the [link](#) to the latest (April 30, 2013) audit with regards to the SSA at 1290 Central Park.

You can find the information on SSA 5 at the bottom of page 64 and 65 of the PDF. In summary, the bond is issued through 2027 with a principal of \$580,000 and interest at \$517,600.

Justin Randall
Senior Planner
City of O'Fallon, IL
255 S. Lincoln Avenue
(618) 624-4500 x 4
jrandall@ofallon.org

NOTES TO FINANCIAL STATEMENTS
(continued)
April 30, 2013

Note 7: Long-Term Debt (continued)

A. Summary and Discussion Relating to Debt Recorded on Accompanying Financial Statements (continued)

Debt Service Requirements to Maturity (continued)

3. (continued)

The proceeds are to be used for various commercial ventures within the City.

During fiscal year 2013, the remaining portion of the SSA 6 and SSA 7 bonds were defeased with the 2012A Special Service Area Number 6 (\$1,540,000) and 2012B Special Service Area Number 7 (\$1,360,000) bond issues and the City has removed the original liabilities from its books. This refunding resulted in a net present value loss of \$91,888. Below are the debt service to maturity of the SSA 5 issue and the revised debt service to maturity for SSA 6 and SSA 7.

Fiscal Year Ending April 30,	SSA 5		SSA 6 (refunding issue)		SSA 7 (refunding issue)	
	Principal	Interest	Principal	Interest	Principal	Interest
2014	\$ 20,000	\$ 56,100	\$ 75,000	\$ 41,725	\$ 60,000	\$ 37,125
2015	25,000	54,500	80,000	39,850	65,000	35,625
2016	25,000	52,500	85,000	37,850	70,000	34,000
2017	25,000	50,500	90,000	35,725	70,000	32,250
2018	30,000	48,500	95,000	33,475	75,000	30,500
2019	35,000	45,500	100,000	31,100	75,000	28,625
2020	35,000	42,000	100,000	28,600	80,000	26,750
2021	40,000	38,500	105,000	26,100	85,000	24,750
2022	45,000	34,500	115,000	22,950	90,000	22,200
2023	50,000	30,000	120,000	19,500	95,000	19,500
2024	55,000	25,000	130,000	15,900	100,000	16,650
2025	60,000	19,500	140,000	12,000	105,000	13,650
2026	65,000	13,500	145,000	7,800	110,000	10,500
2027	70,000	7,000	115,000	3,450	120,000	7,200
2028	-	-	-	-	120,000	3,600
	<u>\$ 580,000</u>	<u>\$ 517,600</u>	<u>\$ 1,495,000</u>	<u>\$ 356,025</u>	<u>\$ 1,320,000</u>	<u>\$ 342,925</u>

4. The City issued \$20,100,000 in general obligation bonds Series 2006 to defease a portion of the 2002 bond issue for roads and to construct a sports complex, convention center and other road improvements. The bonds have interest rates ranging from 4.25% to 5.00%. The following is the future debt service maturity schedule:

(continued on next page)

Total \$1,636,100



LECHNER REALTY GROUP, INC.

Exclusive Listing Agreement
(Sale)

St. Clair, IL
County, State

December 1, 2011
Date

In consideration of the agreement of the undersigned BROKER to endeavor to procure a purchaser (hereinafter referred to as Purchaser), we the undersigned OWNER (hereinafter referred to as OWNER) of property known as and/or numbered 1290 Central Park Drive, hereinafter O'Fallon, IL referred to as Property), for ourselves, our heirs and assigns and representing by our signatures hereto that jointly and severally we have a legal right to make an absolute sale of the property (hereinafter referred to as Sale), hereby appoint said BROKER as our sole and exclusive agent with the exclusive right to sell the Property for a Purchase Price of One Million Six Hundred Thousand and 00/100 dollars (\$ 1,600,000.00) or for any other price to which we shall consent and under the following special terms (if any): _____

This is an Exclusive Right to Sell Listing Agreement. OWNER represents to BROKER that OWNER is not a party to any other exclusive representation agreement with respect to the Property which would be effective during the duration of this Agreement.

If within Twelve (12) months after the date of execution of this Listing Agreement by all parties, a ready, willing and able Purchaser is procured by the undersigned BROKER, or by us, or by any other person, or if said Property shall be optioned or contracted by us to be sold to, optioned to, exchanged or leased with option to buy (hereinafter referred to as Sold to) with any person procured by the undersigned BROKER, or by us, or by any other person, we will pay said BROKER a commission of Six percent (6%) of the total selling price, option price or exchange price at the time of closing. The Six percent (6%) commission shall also apply to the gross lease amount in the event of a lease transaction, said commission due upon commencement. Further, the above commission shall apply for an additional term of one year if the property is contracted by us to be sold to anyone with whom BROKER or its agents has made presentation to or had negotiations with prior to the final termination of this Listing Agreement provided we have received notice in writing including the names of such prospective purchasers within thirty (30) days after the expiration or termination of this Agreement, or any extension thereof. However, in the event OWNER enters into an exclusive listing agreement with any other broker after the expiration or termination of this Agreement, OWNER agrees to name the parties registered by BROKER as an exclusion to said exclusive listing agreement for a period of thirty (30) days and thereafter BROKER agrees to "co-broker" any transaction with the exclusive agent and BROKER herein shall receive not less than 45% of the commission stated in said exclusive listing agreement and OWNER shall recognize BROKER as the procuring party of any transaction involving those parties registered as called for herein.

In the event the Property is leased and thereafter during the tenant's occupancy the Property is purchased by the tenant, the OWNER shall pay to BROKER the above described commission, but crediting thereto the amount of all unaccrued leasing fees previously paid by OWNER to BROKER hereunder, provided however that the extent of such credit shall never exceed the amount of the sales commission.

In the event the Property shall be sold in cooperation with another broker within the term of this Agreement, BROKER shall receive not less than Fifty-Five Percent (55%) of the total commission due. OWNER hereby authorizes BROKER to split the commission with any cooperating real estate brokers on the same basis as such cooperating real estate broker splits with BROKER when said cooperating broker represents a property owner. In the event BROKER procures a Purchaser and that Purchaser or any related entity participates in the commission, the maximum commission to that Purchaser shall be Ten Percent (10%) of the total commission paid. OWNER agrees to not allow contractors of Buyer to participate in commissions for prospects procured by BROKER.

In the event the Property shall be sold by or through another broker in cooperation with the undersigned BROKER, the total commission shall not exceed the rates set forth above.

OWNER acknowledges that:

- A. In a co-brokered situation where the other agent identifies himself as a Purchaser's Agent, that agent will represent the interests of his client even if compensated by the BROKER, or by the OWNER, and will not be a sub-agent of the owner.
- B. In some transactions where the Purchaser is represented by an agent of Lechner Realty Group, Inc., a dual agency may be created.

OWNER warrants and represents that, except as noted hereinbelow:

- A. We have no knowledge of any Hazardous Materials (including but not limited to PCB's, dioxin, asbestos, radioactive material, hydrocarbons and/or other hazardous materials) that are or have been stored, placed, leached, dumped or sprayed into and/or onto the Property, including both the land and the improvement (if any).
- B. To our best knowledge all the mechanical elements of the property and the appliances being sold or leased therewith, including

but not limited to the heating, cooling, plumbing and electrical equipment of the property, if any, are in proper working condition, or will be restored to proper working condition as of the date of closing or commencement of the Lease as the case may be.

- C. We have no knowledge of any Hazardous Materials (including but not limited to PCP's, dioxin, asbestos, radioactive material, hydrocarbons and/or other hazardous materials) that are or have been stored, placed, leached, dumped or sprayed into and/or onto the Property, including both the land and the improvement (if any).

The OWNER agrees to indemnify and save BROKER harmless from and against any liability, loss or expense incurred by BROKER as a result of OWNER's misrepresentation or failure to disclose any adverse condition concerning the Property known to OWNER.

Within Seven (7) working days after execution of this Agreement by Owner, Owner shall deliver to Broker, at no cost to Broker, copies of all Certificates of Title, Owner's Policies of Title Insurance, leases, income and expense statements, building blue prints, copy of most recent sewer, water, electric and gas bills, copies of tax bill(s) for the most current year, notices of assessments (special or otherwise), appraisals, zoning ordinances, environmental reports, building inspections, surveys, test borings, and other engineering reports now in the possession of Owner (if any). Further, Owner will authorize any engineering, architectural or other company previously employed by Owner (if any) to release to Broker copies of all engineering, architectural or other information available which Broker deems is pertinent to marketing subject property. Any charges or costs associated with producing, copying or delivery of such documents shall be by prior mutual agreement between Broker and Owner.

If the Property is "Under Contract" (whether by Letter of Intent, Sale Contract, Lease With Option to Buy, Option, Exchange or any other written agreement between OWNER and Purchaser) due to OWNER's acceptance of an offer during the initial term of this Agreement (or extension thereof), this Agreement shall be automatically extended for a period of time equal to the number of days that the Property is and/or was "Under Contract" up to a period of one year following the termination date of this Agreement (or any extension thereof) as set forth above.

In the event either party should default in the terms of this Agreement, the non-defaulting party shall be entitled to cost of enforcement including expenses, court costs, arbitration fees and reasonable attorneys' fees. OWNER and BROKER agree that any dispute between OWNER and BROKER arising out of this Agreement shall be resolved by binding arbitration conducted by professional arbitrators of the "American Arbitration Association's" local office, 100 N. Broadway, Suite 1820, St. Louis, Missouri 63102. The prevailing party will be entitled to reimbursement of cost of enforcement including expenses, court costs, arbitration fees and reasonable attorneys' fees from the non-prevailing party. For the purpose of this paragraph, the prevailing party is the party who receives substantially the relief sought, whether by judgment, summary judgment, dismissal, settlement, or otherwise.

In endeavoring to obtain a Purchaser for the subject property, BROKER will have the right to use all reasonable and recognized professional practices including but not limited to the association and cooperation with other licensed brokers, the right to advertise in any newspapers or other periodicals, and in any multiple listing organization, posting on numerous internet sites including, but not limited to, Lechner Realty Group, Inc.'s website, Loopnet and CoStar and to place a sign on the property; to provide information, including the final Sale price obtained for said property, to the Comps Plus and other pertinent professional organizations, and authority is hereby granted to BROKER to use OWNER's name for advertising and trade papers in connection with the Sale.

The words OWNER, Seller, Purchaser, Optionor, Optionee, Exchangor, BROKER, or Agent where appearing in this Agreement, shall be construed in the plural if more than one.

This Property is offered without respect to race, color, religion, national origin, ancestry, sex, handicap or familial status.

The OWNER agrees to refer all inquiries and prospects to the BROKER.

This is a legally binding contract; if not understood, seek legal advice.

OWNER herein discloses any noted exceptions to the warranties or representations called for herein:

Duties of OWNER. OWNER understands that OWNER has a legal obligation to disclose to buyers all adverse material facts of which the OWNER is aware or should be aware which exist upon or affect the Property. OWNER authorizes BROKER, agents associated with BROKER, prospective buyers, lenders or appraisers to make or allow non-governmental third parties to make professional inspections with regard to the condition of the Property upon reasonable notice to the OWNER. In the event any of OWNER's disclosures, concealments, representations or warranties to the BROKER or to the buyer result in claims, disputes, litigation and/or judgments against the BROKER, OWNER agrees to indemnify and hold the BROKER harmless.

Duties of BROKER. Under the terms of this Agreement, BROKER and BROKER's affiliated Licensees who represent the OWNER ("client") shall be the OWNER's limited agent with the following duties and obligations: (1) To perform the terms of any written agreement made with the client; (2) To exercise reasonable skill and care for the client; (3) To promote the interests of the client with the utmost good faith, loyalty and fidelity, including: (a) Seeking a price and terms which are acceptable to the client, except that the Licensee shall not be obligated to

seek additional offers while the Property is subject to a contract for sale, (b) Presenting all written offers to and from the client in a timely manner regardless of whether the Property is already subject to a contract for sale, (c) Disclosing to the client adverse material facts actually known or that should have been known by the Licensee, and (d) Advising the client to obtain expert advice as to material matters about which the Licensee knows but the specifics of which are beyond the expertise of the Licensee; (4) To account in a timely manner for all money and property received; (5) To comply with all requirements of applicable real estate rules and regulations as promulgated pursuant to Missouri State statutes; (6) To comply with any applicable federal, state and local laws, rules, regulations and ordinances, including fair housing and civil rights statutes or regulations; and (7) To not disclose confidential information about the client unless disclosure is required by statutes, rules or regulations or failure to disclose the information would constitute a misrepresentation or unless disclosure is necessary to defend the affiliated Licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee. No cause of action shall arise against a Licensee acting as the OWNER's agent for making any required or permitted disclosure. An OWNER's agent may show alternative properties not owned by the OWNER to prospective buyers and may list competing properties for sale or lease without breaching any duty or obligation to the OWNER. A Licensee acting as an OWNER's agent owes no duty or obligation to a customer, except that a Licensee shall disclose to any customer all adverse material facts actually known or that should have been known by the Licensee.

In addition, BROKER and BROKER'S affiliated Licensees shall provide, at a minimum, the following services (1) Accepting delivery of and presenting to the client or customer offers and counteroffers to buy, sell, or lease the client's property or the property the client or customer seeks to purchase or lease; (2) Assisting the client or customer in developing, communicating, negotiating, and presenting offers, counteroffers, and notices that relate to the offers and the counteroffers until a lease or purchase agreement is signed and all contingencies are satisfied or waived; and, (3) Answering the client's or customer's questions relating to the offers, counteroffers, notices, and contingencies.

This Agreement consists of three (3) pages and 0 addenda attached hereto and forming a part of this Agreement.

This Agreement, or any modifications hereof, is not binding upon Lechner Realty Group, Inc. until accepted and approved in writing by an authorized Officer of the Company. No sales associate of Lechner Realty Group, Inc. has the authority to modify this Agreement either orally or in writing.

Costs. Owner shall reimburse Broker for all costs associated with marketing brochures, print ads and signs incurred by Broker to advertise the Property for sale or for lease. Owner shall reimburse Broker for all documented costs not to exceed \$1,000.00.

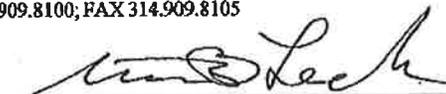
BROKER agrees that the marketing of the Property shall include (but not be limited to) the following:

- A. Sign(s) measuring 4' X 8' (subject to local sign ordinance), one "V" sign facing Central Park Drive and one facing I-64 (or a banner)
- B. Preparation of marketing brochures which are 4 sided.
- C. Distribution of brochures to appropriate commercial/industrial brokers in the St. Louis metropolitan area.
- D. Posting on various web sites including, but not limited to, Lechner Realty Group, Inc.'s web site, Loopnet, CIE and CoStar.

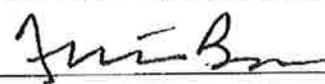
THIS LISTING AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

Listing Agent(s): Steven B. Lechner, George F. Koob, Jason A. Riegelsberger

BROKER:
LECHNER REALTY GROUP, INC.
13421 Manchester Road, Suite 101
Des Peres, MO 63131
314.909.8100; FAX 314.909.8105

By:  12/11/11
Steven B. Lechner, President Date

OWNER:
PEOPLES NATIONAL BANK, N.A.
Address: 620 5042nd P.O. Box 908
Mo. Vernon, FL 68864
Phone No.: 618-841-6507
Fax No.: 618-841-6507

By:  12-13-11
Date
Title: President

\\LECHNER01\USERS\LECHNER\WORD\LISTING AGREEMENTS\CENTRALPARKDRIVE1290.I.A.DOC

AMENDMENT TO UNIFORM LISTING AGREEMENT

In reference to that certain Listing Agreement dated December 1, 2011 by and between Peoples National Bank, N.A., Owner, and Lechner Realty Group, Inc., Broker, for the property known as 1290 Central Park Drive, O'Fallon, IL:

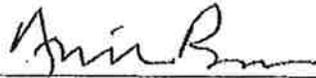
The parties herein agree to amend said Listing Agreement as follows:

The Listing Agreement scheduled to expire on December 13, 2012 is hereby extended for an additional twelve (12) month period to end the later of December 13, 2013 or 365 days from full execution hereof.

All other terms and conditions shall remain the same.

OWNER:

PEOPLES NATIONAL BANK, N.A.

By: 

Date: 12-12-12

BROKER:

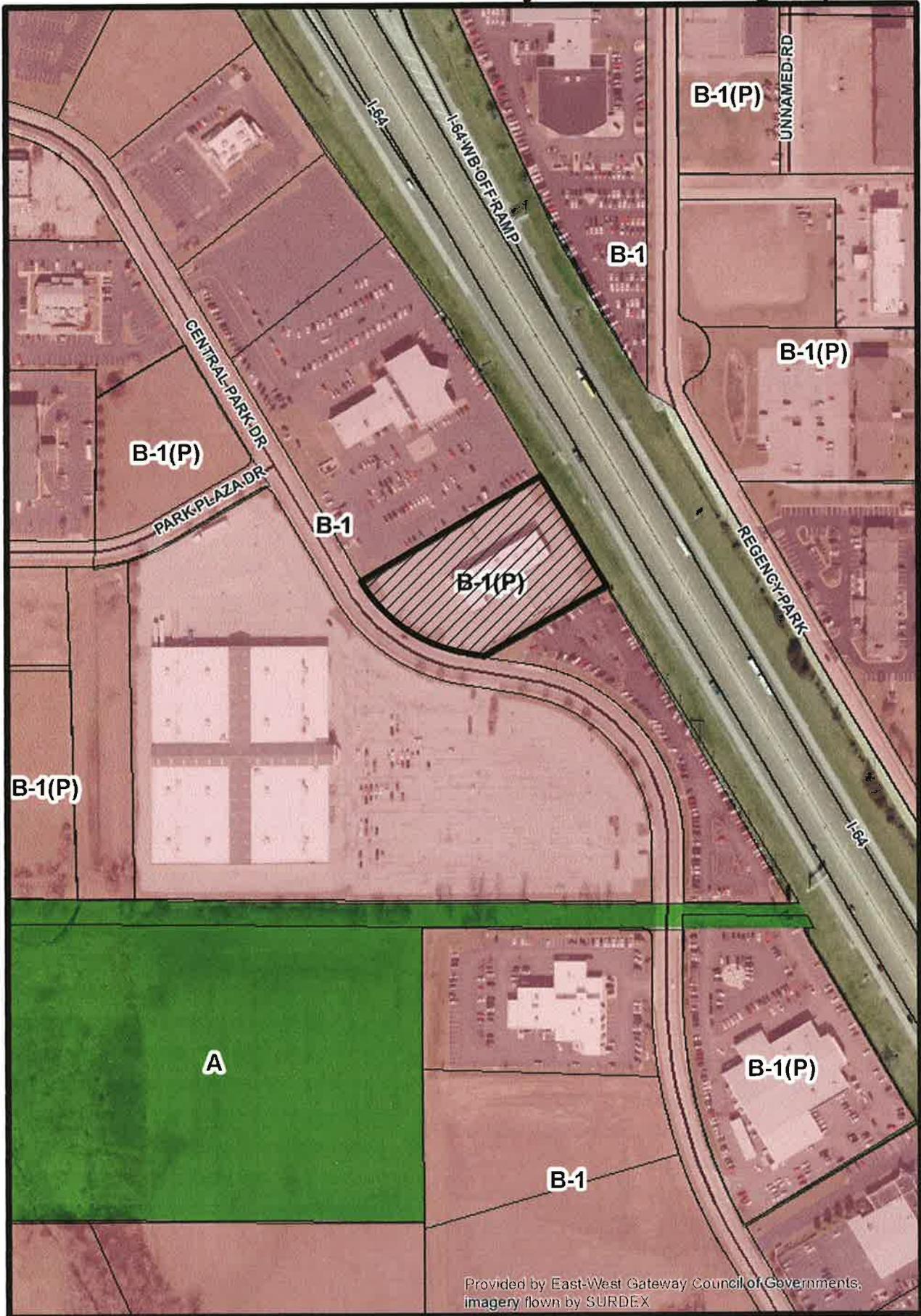
LECHNER REALTY GROUP, INC.

By: 
Steven B. Lechner, President

Date: 12/7/12

\\LECHNER01\USERS\LECHNER\WORD\LISTING AGREEMENTS\CENTRALPARKDR1290.RNW.DOC

ZHO2013-10: Schaefer Autobody Center - Zoning Map



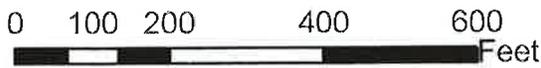
Provided by East-West Gateway Council of Governments, imagery flown by SURDEX



ZHO2013-10: Schaefer Autobody Center - Land Use Map



Subject Property





December 23, 2013

Planning & Zoning Department
O'Fallon City Hall
255 South Lincoln Avenue, 2nd floor
O'Fallon, IL 62269

Re: Petition for Use Variance, 1290 Central Park

As a potential future owner/occupant of this property, I am writing to provide information on us and how we would use the property.

Our business, Schaefer Autobody Centers, has operated in the St. Louis, MO metro area since 1985 and currently has 7 locations. Our typical customers are owners of late model cars, many of whom have been referred to us by insurance companies such as State Farm, USAA, American Family, and many others. We provide our customers with a lifetime warranty on repairs and consistently provide a very high level of customer service.

Within the communities we operate, we have always worked hard to be a "good neighbor and member". Our type of business is challenged by industry stereotypes, however, every community we operate in will likely give a very positive recommendation based on how we have overcome these concerns and become very good business neighbors.

Our plan, if we purchase this property, includes attractive signage and landscaping, and a method of shielding the view of damaged cars and dumpsters from the public and neighbors. Even so, we are always receptive to ideas from the community that can improve it further.

Our contact information is below. Please feel free to contact us at any time for any questions you may have.

Thank you for your consideration.

Sincerely,

Handwritten signature of Scott Schaefer

Steve Schaefer (314) 378-6809

Scott Schaefer (314) 718-0440

Phone 636.305.8288 • www.SchaeferAutobody.com • Fax 636.305.1397

FENTON
300 Biltmore Dr.
Suite 320
Fenton, MO
63026

ELLISVILLE
16109 Manchester Rd.
Suite 109
Ellisville, MO
63011

O'FALLON
#1 Team Drive
O'Fallon, MO
63366

WEBSTER GROVES
50 North Gore Ave.
Webster Groves, MO
63119

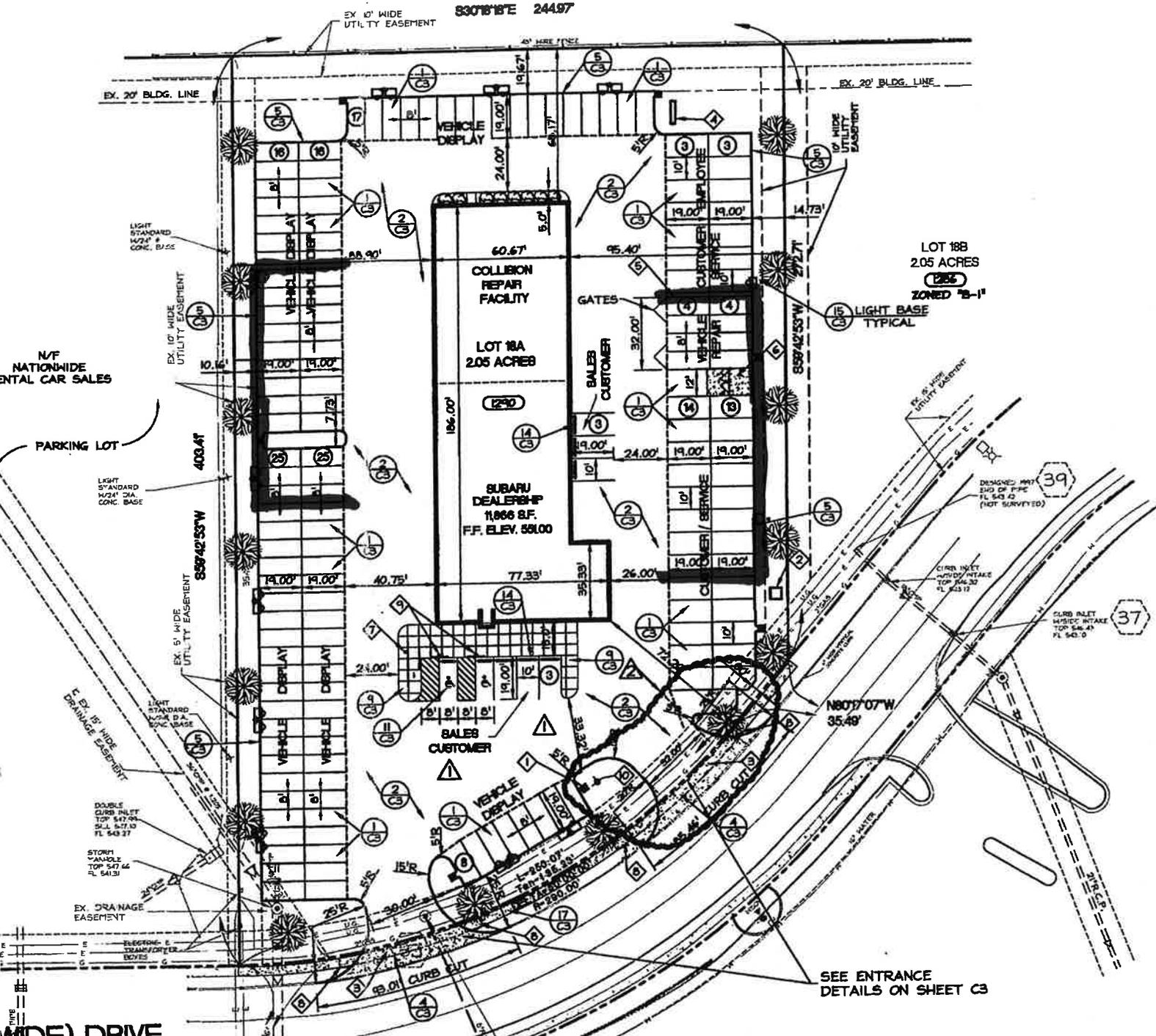
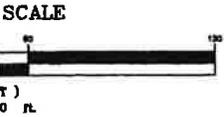
CRESTWOOD
9902 Watson Road
Crestwood, MO
63126

CREVE COEUR
10771 Baur Blvd.
Creve Coeur, MO
63132

HAZELWOOD
9091 Dunn Road
Hazelwood, MO
63042

LOT 18A
PROPOSED AMENDED PLAT OF CENTRAL PARK PLAZA
1ST ADDITION 2ND AMENDMENT
CITY OF O'FALLON, ST. CLAIR COUNTY, ILLINOIS

INTERSTATE 1 - 64



LOT 18B
 2.05 ACRES
 ZONED "B-1"

N/F
 NATIONWIDE
 RENTAL CAR SALES

PARKING LOT

WIDE) DRIVE

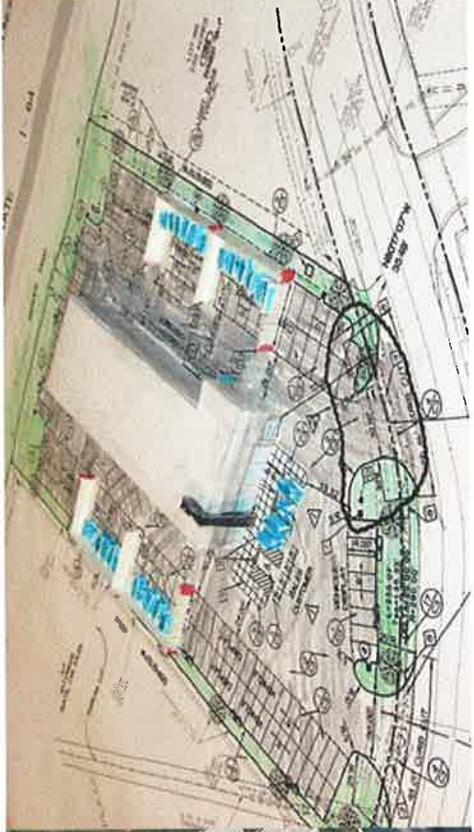
SEE ENTRANCE
 DETAILS ON SHEET C3

- KEYED NOTES**
- NO. DESCRIPTION
 - ▲ WATER METER PIT

PARKING CALCULATED	
PROVIDED	DESCRIPTION
(0)	SHOWROOM

(4)
 (ATG)
 SANITARY
 MANHOLE
 TOP 540.42
 FL 539.72
 18" DIA. (BALTS)

Proposed Privacy Fencing



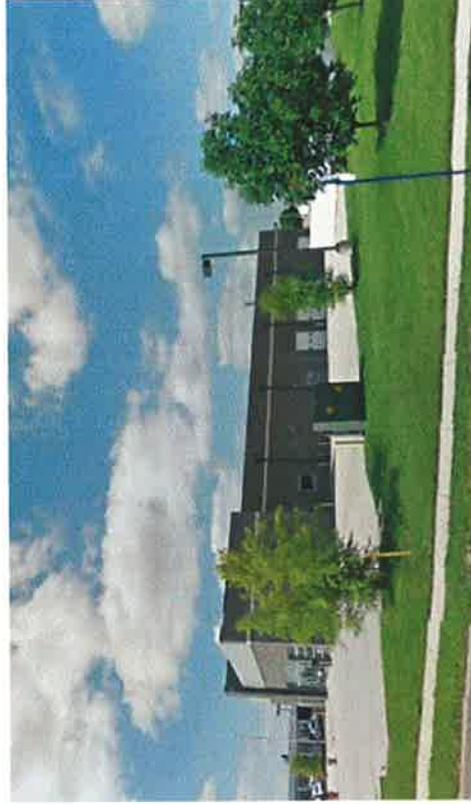
The proposed privacy fencing would be 8' decorative vinyl with brick pillars. Colors selected would match exterior of building.

Fencing would be installed over 'parking lot islands' and would be surrounded by shrubs and 'privacy trees' to soften the appearance.

Privacy Fencing and Landscaping



Driving East to West on Central Park Dr.



Continued - Driving East to West on Central Park Dr.



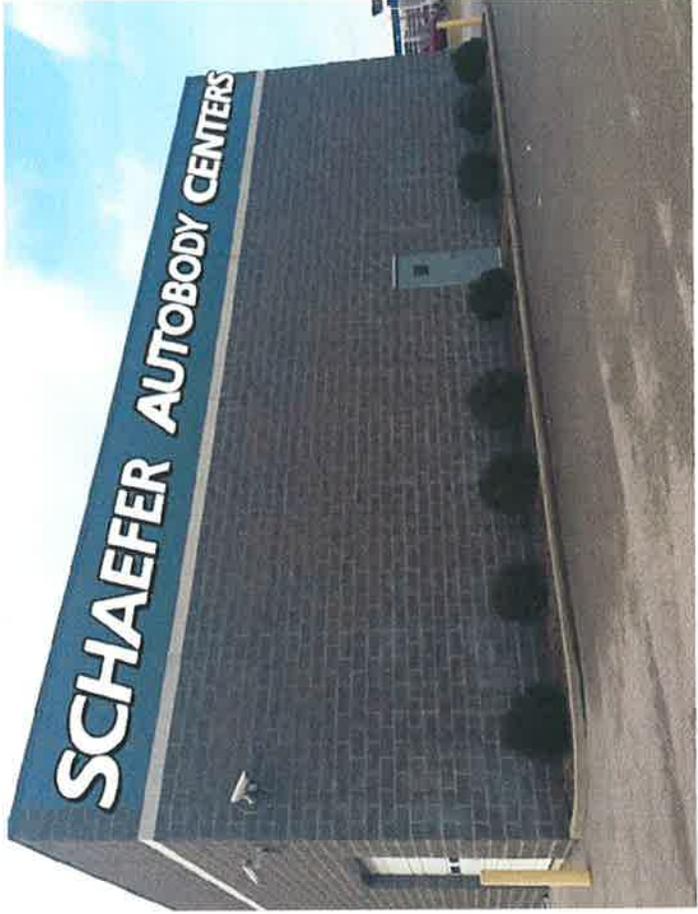
I-64 Westbound (rear of building)



Continued - I-64 Westbound



Proposed Signage & Example (Crestwood Location)



DRAFT MINUTES
O’FALLON PLANNING COMMISSION
January 28, 2014

Chairman Larry Sewell called the meeting to order at 6:00 p.m. in the City Council Chambers and led the Pledge of Allegiance.

ATTENDANCE: Debbie Arell-Martinez, present; Jeffrey Baskett, present; Joan Cavins, present; Al Keeler, present; Joe Rogers, present; Ray Rohr, present; Larry Sewell, present; A quorum was declared present by Sewell.

MINUTES: Motion was made by Cavins and seconded by Rohr to approve the minutes of January 14, 2014. All Ayes. Motion carried.

Sewell welcomed everyone and explained the role of the Planning Commission. The Planning Commission members introduced themselves. Also present were Director of Planning and Zoning Ted Shekell and Senior City Planner Justin Randall. Present in the audience was City Alderman Herb Roach. Sewell gave an overview of the process that would be followed for the evening.

UNFINISHED BUSINESS: None.

PUBLIC HEARINGS:

(P2013-11) – Zoning Amendment Subject to the Planned Development Ordinance for B-1(P) Planned Community Business District for property immediately east of 302 East Highway 50; the proposal is to construct “Domino’s Retail Center” - a Domino’s restaurant space with pick-up window, and a retail space; Petitioner is Mark Ratterman, MBR Management.

Public hearing was opened at 6:04 p.m. Randall presented an overview of the project and staff report. A map of the subject and surrounding properties and their zoning was shown, along with several site photos taken by Staff and aerials. Randall highlighted various points and issues from Staff’s Project Report dated January 28, 2014, among them:

Land Use

- Domino’s Pizza with pick-up window
- One presently unidentified retail tenant
- Sidewalk will be constructed along East Highway 50
- Hours of Operation for Domino’s

Building elevations

- Meets standards of the Commercial Design Handbook
- 3,300 sq ft building total
- Seating for 12 inside the building mainly for customers awaiting pizza preparation

Traffic and Parking

- 30’ wide entrance from E Hwy 50

- Cross access points to the east and west as required
- Domino's parking was calculated using number of tables and employees netting 6 less parking spaces than using the building sq. ft. calculation
- Parking for retail tenant calculated as required
- Drive-thru (pick-up window) – 8 stacking is required and have requested variance for 3. Traffic engineer, Lee Cannon, has suggested to City that 3 is sufficient and will not block traffic circulation.
- On-site circulation meets the 24' drive aisles requirement in the area of 90 degree parking and there is an escape lane available to maintain on-site circulation.

Drainage

- Since this is a pre-existing site; proposing sheetflow to the rear (southwest) of the property into a ditch which lies behind the property on the south side.
- Also the plan will extend stormwater pipe and additional rip-rap may be necessary to control erosion.

Landscaping & Buffering

- The landscaping throughout the parking lot meets city code
- A fence will be constructed on the southern property line and they are requesting variances to the width of the landscape planting strip and reducing size of landscape islands

Randall reviewed the Review & Approval Criteria:

Relationship to the Neighborhood

- Surrounding uses are commercial in nature
- Proposed use would be complimentary of the surrounding uses

Conformity with other City Ordinances

- Comprehensive Plan
- Zoning Ordinance – variances requested
 - Stacking spaces for a Drive-Thru
 - Parking Lot Buffer and Landscape Islands
- Commercial Design Handbook

Normal and Orderly Development

- Proposed development would not impede the normal and orderly development of the surrounding area

Physical Design

- Drive-thru stacking remains the biggest concern

Sewell commented that a drop from 8 stacking down to 3 is significant. Shekell reported that they repeatedly asked applicant to reconsider. While Staff is concerned that people would block the entrance or traffic around the site, it was traffic engineer Lee Cannon's opinion that with the proposed use of pick-up only window, and parking on the site, 3 will be sufficient.

Shekell pointed out the access to the pick-up window on the west side of the building and the traffic pattern will have to be one-way only. There will be a by-pass lane as required.

Keeler asked if employees can see a stacking problem from inside the store and asked about the necessity of a drive-thru. Randall pointed out there are windows on the side of the building and suggested the petitioner address those questions. Rohr indicated that Gator's had noticed an increase in business with their drive-thru.

Baskett noted there appears there will be many variances requested as a result of this awkward shape and size lot and suggested a little give-and-take will be necessary for the parcel to be developed. Shekell concurred that the property is somewhat of a residual lot with the history of developments that have taken place. Shekell indicated the cost of the lot may be driving the need for the second tenant.

Rohr questioned why the walk-in cooler was moved from the southeast corner of the building to the southwest and Shekell reported it was possibly to allow better flow of traffic and parking, which in turn flipped the restaurant and retail spaces (originally Domino's was proposed to be on the east side of the building). He suggested the applicant answer.

Public comments were opened at 6:25 p.m.

Jeff Moon, Bax Engineering, was sworn in. Moon testified that the pick-up window has been installed at other restaurants (not just Domino's) and is a matter of convenience to the customers to not have to get out of their car. While a 4th car will block the driveway, cars can still leave the site through the other two cross-access options. On the southeast corner, the walk-in cooler was encroaching into the turn. It was moved to the southwest corner so trash trucks and fire trucks wouldn't have such a tight turn.

Moon testified that the variances requested are similar to those requested for Dairy Queen (DQ) and their site looks very nice.

Moon continued that drainage was approved for a waiver as the site was previously re-worked for an EPA clean-up.

Moon pointed out that DQ had purchased a 25 ft wide swath to allow for their by-pass lane which reduced the size of the proposed Domino's lot.

Baskett asked if there were curbs next to the parking spaces in the back and Moon reported there were none and he presumed customers will likely pull through to the animal hospital property to get out of their lot. Baskett asked what the necessity is of ensuring a full loop around the building if there is cross-access. Shekell reported the animal hospital owner is very good to work with for the cross-access and a recorded cross-access easement will be required. However, in the future there could be a different owner of the property and long-term maintenance of the neighboring property is not always guaranteed. Businesses generally want their customers to enter and exit their property, but not have to go through adjoining properties.

Sewell re-stated concern with the reduction to 3-car stacking and over time it could become an issue as business in the area increases. He didn't want this to be a short-term solution to a long-term issue.

Mark Ratterman, area franchisee for Domino's, was sworn in and testified the pick-up was originally his idea and they have implemented this with their new stores. There is one in Troy, IL. Most customers will phone in their order then pick it up. If someone came before their order was ready, or wanted to place an order at the window, they will perform the transaction at the window, ask the customer to park, and then the pizza will be delivered to their car. There are windows on both sides so employees will see if there is a stacking issue.

Ratterman explained they will still have delivery and carry-out. Since 2010 Dominos is being redesigned and re-engineered. They have sandwiches, orders are placed on Internet and stores have been redesigned to look appealing.

Ratterman stated the most they recall is 2-3 cars at one time at the pick-up window. Customers are at the window only a minute to a minute and a half at a time to pay for their orders. Pizzas cook in 8 minutes so the pizzas are ready all the time and if they a customer's order wasn't ready they would pay, then park, and have the pizza delivered to their car.

Ratterman stated inside people, and likely the delivery drivers, will park in the back and their customers and the retail tenant space customers will park in the front.

Public comments were closed at 6:41 p.m.

Staff Recommendation:

Randall read over the Staff Recommendation as follows:

Staff recommends approval of the project with the following conditions:

- Staff supports the petitioner's request to design the site to meet the parking ratio of 1 space per each 2 seats plus 2 spaces for every 3 employees.
- A variance be granted to allow a reduction in the width of the required 7 foot wide landscape planting strip along the east, south and west property lines.
- A variance be granted to allow a reduction in the size of landscape islands from 120 square feet to 100 square feet.
- A cross-access easement must be provided along the northeast and southeast corners of the Domino's site to the adjacent animal hospital.
- A variance be granted to allow a reduction from 8 stacking spaces to 3 stacking spaces for the Domino's site
- The planned use approval is for Domino's and one retail/office use only. The pick-up window and drive-thru is authorized only for the Domino's use. Any future use that would utilize the pick-up window would need to be re-approved by the City.

Randall explained that the cross-access to DQ is already approved as part of the DQ development. The recording and care of the cross-access would be that of the owner and the adjacent property owners. Shekell reported this applicant (for Domino's) would be responsible for paving the cross-accesses. Moon stated that each property owner would be responsible for maintaining their own portion of the cross-access. This currently is the agreement with DQ and will be the same with the animal hospital owners

Rohr commented this looks nice for the small lot and is consistent with the other developments. Baskett stated this is the last piece of the area to be developed.

Motion was made by Baskett and seconded by Rohr to approve the Staff's Recommendation.

ROLL CALL: Arell-Martinez, aye; Baskett, aye; Cavins, aye; Keeler, aye; Rogers, Aye; Rohr, aye; Sewell, aye. All Ayes. Motion to approve with conditions passed.

The project moves to Community Development on February 10, 2014, at 6 p.m. The public hearing was closed at 6:45 p.m.

REPORTS OF STANDING AND SPECIAL COMMITTEES: None.

REPORTS AND COMMUNICATION:

Sewell announced there are no petitions awaiting public hearing for neither February 11th nor February 25th, so those meetings have been cancelled.

Shekell updated the Commission that Community Development Committee recommended approval of the Comprehensive Plan Amendment to office and the Planned Use Zoning Amendment brought before the Commission on January 14th pertaining to the Joe's Place development.

Baskett commented it is not really the place of the Planning Commission to sanction changing Residential to Office on the Comprehensive Plan. Discussion ensued and it was the general consensus of the Commission that while they had voted to not recommend either of the changes, they felt the project overall was a good one and was compatible with the area. The final decision appropriately truly lies within the hands of the City Council.

Shekell discussed several potential developments that may be coming to the Commission in the future.

ADJOURNMENT:

Motion was made by Baskett and seconded by Rohr to adjourn. All ayes. Motion carried. The meeting was adjourned at 7:03 p.m.

Respectfully submitted,

Vicki Evans, Transcriptionist

Minutes approved by Planning Commission



MEMORANDUM

TO: Community Development Committee
FROM: Justin Randall, Senior City Planner
THROUGH: Ted Shekell, Director of Planning and Zoning
DATE: February 10, 2014
SUBJECT: P2013-11: Domino's Retail Center, Planned Use (1st Reading)

Recommendation

The Planning Commission held a public hearing on the above referenced application at their January 28, 2014 meeting. The Commission voted 7-ayes and 0-nay to approve the requested Planned Use amendment for Domino's Retail Center subject to the conditions recommended by staff.

Project Background and Summary

Mark Ratterman has filed an application requesting rezoning a parcel of land at 302/304 East Highway 50 from B-1(P) to B-1(P), Planned Community Business District for a 3,300 square foot structure. Half of the building would be used for Domino's pizza and the other half for a retail tenant. The vacant property was formerly occupied by KFC. The subject property is 0.48-acre (20,900 square feet) in size and 25 feet of the subject property was part of a lot line adjustment to create a larger parcel for the Dairy Queen restaurant adjacent to the west.

Please see the attached Plan Commission Project Report for more detailed information on the proposal.

Staff Recommendation

Staff recommends approval of the project with the following conditions:

1. Staff supports the petitioner's request to design the site to meet the parking ratio of 1 space per each 2 seats plus 2 spaces for every 3 employees.
2. A variance is granted to allow a reduction from 8 stacking spaces to 3 stacking spaces for the Domino's site.
3. A variance is granted to allow a reduction in the width of the required 7 foot wide landscape planting strip along the east, south and west property lines.
4. A variance is granted to allow a reduction in the size of landscape islands from 120 square feet to 100 square feet.
5. A cross-access easement must be provided along the northeast and southeast corners of the Domino's site to the adjacent animal hospital.
6. The planned use approval is for Domino's and one retail/office use only. The pick-up window and drive-thru is authorized only for the Domino's use. Any future use that would utilize the pick-up window would need to be re-approved by the City.

Attachment:

Report to Plan Commission

Community Development Department

255 South Lincoln Avenue O'Fallon, IL 62269 • P: 618.624.4500 x 4 • F: 618.624.4534



PROJECT REPORT

TO: Planning Commission
FROM: Justin Randall, Senior City Planner
Ted Shekell, Planning Director
DATE: January 28, 2014
PROJECT: P2013-11: Domino's Retail Center, Planned Use

Location: 302/304 East Highway 50
Ward: 3
Applicant/Owner: MBR Management, Mark Ratterman
Submitted: December 23, 2013

Introduction

Mark Ratterman has filed an application requesting rezoning a parcel of land at 302/304 East Highway 50 from B-1(P) to B-1(P), Planned Community Business District for a 3,300 square foot structure. Half of the building would be used for Domino's pizza and the other half for a retail tenant. The vacant property was formerly occupied by KFC. The subject property is 0.48-acre (20,900 square feet) in size and 25 feet of the subject property was part of a lot line adjustment to create a larger parcel for the Dairy Queen restaurant adjacent to the west.

Zoning & Land Use

The subject property is currently zoned B-1(P), Planned Community Business District. The subject property was a part of the Planned Use approval for Dairy Queen, however at the time of approval, nothing was planned for this portion of the property. The planned use process has been triggered due to the proposed use of a "drive-in or drive-through service" as listed in Section 158.116 of the O'Fallon, Illinois Code of Ordinances and the existing Planned Use designation.

Adjacent Zoning

North: SR-3
East: B-1
South: B-1 & B-2(P)
West: B-1

Adjacent Land Use

North: Community Park across Highway 50
East: Animal Hospital of O'Fallon
South: Multi-Family Apartments along Park Entrance Place and Bel-O Cooling & Heating along Whitehall Drive.
West: Dairy Queen Grill & Chill

Please see the attached maps for more detailed information on surrounding land uses & zoning.

Comprehensive Plan

The O'Fallon Comprehensive Plan Future Land Use Map depicts the subject property as General Commercial, which is consistent with the proposed Domino's pizza and retail use.

Discussion Points/Issues

Land Use

The subject property is identified as *General Commercial* in the Comprehensive Plan. The proposed project is consistent with the Comprehensive Plan. The subject property is surrounded by commercial uses to the east, west, and southwest, and Community Park to the north, across Highway 50. A Planned Use rezoning is required because the project includes a drive-thru and because the property is already governed by an existing Planned Use rezoning.

The subject property has been vacant since KFC demolished their building several years ago. The proposal includes a 3,300 square foot building, 1,650 square foot Domino's, with a walk-in cooler off the back of the building and 1,650 square feet designated for a separate retail facility. The site is small, totaling less than half an acre in size. Because of the limited size of the parcel a smaller sized restaurant like Domino's and a small retail business may be appropriate since the traffic generated by a Domino's site and a small retail business should be lighter than other fast food restaurants or a larger retail space. The Domino's model will include very little dine-in space, providing only 12 seats, mostly for waiting customers. Concerns have been raised over the size of the building and the retail use associated with the development. The development was scaled down by approximately 200 square feet since the first submittal. However reducing the footprint forced the walk-in cooler to be located outside of the building and required the Domino's and retail side of the building to be flipped. Overall, the proposed building architecture is comparable to what the Commercial Design Handbook recommends and is in keeping with commercial redevelopment in O'Fallon and Highway 50.

Traffic Circulation/Parking

Ingress and Egress: Access to the site will be by means of one access point off of Highway 50. There is currently an access point for the property, but will be relocated further east toward the Dairy Queen site. The relocation of the entrance will create better spacing of the access points along Highway 50 between the subject property and the Animal Hospital of O'Fallon. All improvements of the access point to Highway 50 will require IDOT approval.

Additionally, there was a condition stated in the ordinance approving the Dairy Queen project that required "a cross-access easement must be provided along the northeast corner of the Dairy Queen property in the event a future connection to the property to the east is warranted by the City." The design of the site has taken the cross-access agreement into account with the design and is proposing to continue the cross-access to the east onto the adjacent Animal Hospital of O'Fallon property, both in front of and behind the proposed building.

Parking: The proposed building has two proposed uses, a restaurant (Domino's) and a retail suite. Restaurants with drive-thru facilities require 8 stacking spaces for the drive-thru. This particular site does not meet the 8 stacking spaces for the drive-thru use of Domino's. As proposed the site can accommodate up to 3 vehicles at the pick-up window. However, the use is not the typical drive-thru like a McDonalds, Taco Bell, etc. since the Domino's site will only use the pick-up window for call-ahead orders and will not include a speaker box and on-site ordering through the drive-thru. When originally submitted, the Domino's site was on the eastern side of the building with vehicles able to circle around the building to the pick-up window, with no issue of stacking. However the original site plan had poor on-site circulation and parking aisles widths were not met. With the reduced building size and re-orientation of the drive-thru, staff raised the concern to the developer and engineer about the reduced stacking spaces the site currently provides. The developer indicated that the majority of the Domino's sites with pick-up windows only provide 2-3 vehicle stacking spaces. Staff also contacted Lee Cannon of CBB and discussed the proposal and was informed the 3 vehicles stacking spaces should be sufficient and should not cause any overflow into the driving aisle nor spill out into Highway 50.

Fast Food Restaurants have two parking ratios, and the code requires that the ratio that requires the most parking spaces be applied. The first ratio is 9 parking spaces per 1,000 gross floor area (1,740 sq. ft. = 16 spaces). The

Community Development Department

255 South Lincoln Avenue, O'Fallon, IL 62269 ♦ P: 618.624.4500 x 4 ♦ F:618.624.4534

second ratio is based on number of seats and employees (12 seats + 6 employees = 10 spaces). Additionally the code requires the retail component of the building to provide parking at a rate of 4 parking spaces per 1,000 gross floor area (1,740 sq. ft. = 7 spaces). The site plan has provided 9 parking spaces in the front of the building and an additional 11 spaces to the rear of the building that will be for the employees, totaling 20 spaces for the development.

In this particular case, staff is not opposed to the petitioner's request to use the second ratio. The site appears to have enough parking for the use as long as all employees park at the rear of the building. The petitioner has provided 20 parking spaces, including 1 handicap-accessible space near the entrance to the building, in addition to the 3 stacking spaces for the drive-thru. All parking stalls meet the City's dimensional requirements.

On-site circulation: In response to recommendations by City staff, the applicant has redesigned the site to accommodate the required escape lane around the drive-thru, shifted the proposal back to meet the 24-foot drive aisle width and has incorporated the cross-access easement with Dairy Queen. Additionally, the proposal plans to continue the cross-access with animal hospital, in both the front and the rear to assist in maintaining good on-site circulation.

Sidewalks

A new concrete sidewalk along the frontage of Highway 50 has been shown on the plans with a proposed accessible route to the building in accordance with the Illinois Accessibility Code.

Utilities and Drainage

Public water and sanitary sewer is available to serve the subject property. The sewer line servicing this site will be part of a sewer main replacement to be done this spring. Stormwater will flow to an existing inlet on Highway 50 and overland flow to the existing ditch at the southwest corner of the property. The City Engineer has waived the requirement for detention for this project because the redevelopment of the site is providing a 9% reduction in impervious surface as the site was previously developed as a KFC restaurant.

Building

The proposed 3,300 sq. ft. building has been designed to meet many recommendations of the Commercial Design Handbook, including use of multiple building materials (brick, stone and metal), creating a base, middle, top and the use of awnings.

The tight layout for the site has required the location of the dumpster to the southwest corner of the site. This location is all the way to the rear of the site, but will be visible from the public right-of-way. The developer attempted to turn the dumpster perpendicular to the public right-of-way. However the turning movements of the trash truck will limit the location of the dumpster.

Landscaping and Buffer Requirements

Section 158.144 of the Code of Ordinances outlines requirements for parking lot landscaping. The proposed landscape plan meets the City's requirements, with the exception of the applicant not providing the required 7 ft wide planting strip around the parking lot on the east, south and west. The petitioner has requested a variance to reduce the planting strip to ensure the appropriate drive aisles width could be met. Staff would much rather see the drive aisle widths maintained over a wider buffer strip. The plan does still provide for a 3-foot wide buffer on the sides and in the rear the property abuts a drainage area.

No buffers are required for this project, but the applicant is providing a 6 ft tall vinyl privacy fence and landscaping along the southern property line.

Community Development Department

255 South Lincoln Avenue, O'Fallon, IL 62269 ♦ P: 618.624.4500 x 4 ♦ F:618.624.4534

Signage

According to Chapter 158, "Sign Regulations" of the Code of Ordinances, the applicant is permitted to install one freestanding sign on the property. The applicant has yet to provide a detail for the monument sign shown on the plan approximately 8 feet from the property line. The elevations provided by the architect shows a sign for Domino's on the building however it is unclear the actual size of the sign. If the planned use application is approved, the petitioner will have to submit a sign package in accordance with the Code of Ordinances, *Signs*: Section 158.160 through 158.168

Hours of Operation

Domino's restaurant will be open Sunday through Thursday from 10:00 am to 12:00 am and Friday and Saturday from 10:00 am to 2:00 am. There proposed hours of operation for the retail use was not provided, since there is not a current tenant for the space.

Review and Approval Criteria

Section 158.119 of the Code of Ordinances "Consideration of a Planned Use" lists several criteria for evaluating planned uses. Evaluation of the project based on these factors is included under each criterion.

1. The criteria governing the rezoning of the property and approval of site plans, as set forth in the standards and requirements found elsewhere in the zoning code or in other applicable law,
The project does not meet all applicable zoning standards. The site has requested variances to the required stacking spaces, the required buffer around the parking lot and the size of the landscape islands within the parking lot.
2. The physical design of the proposed plan and the manner in which said design makes adequate provisions for public services, provides adequate control over vehicular traffic, provides for and protects designated common open space and park dedication, and furthers the amenities of light, air, recreation and visual enjoyment.
The proposed development contains adequate provisions for public services, provides adequate control for vehicular traffic. However, the vehicular traffic could be greatly altered if the Domino's use is ever repurposed for a different type of restaurant. Staff recommends a condition to limit the reuse of the building to require a new Planned Use approval.
3. The relationship and compatibility of the proposed plan to adjacent properties and the surrounding neighborhood.
The new building will complement the adjacent commercial properties and continue the redevelopment of Highway 50.
4. The conformity with the standards and principles of the Comprehensive Plan and all other adopted regulations, including the Commercial Design Handbook dated July 6, 2009 and on file with the City Clerk. (Ord 3665; passed 5-3-10)
The proposal is consistent with the Comprehensive Plan and all other regulations.
5. The use(s) are designed, located and proposed to be operated so that the public health, safety and welfare will be protected.
The proposed development is designed to be operated to protect the public health, safety and welfare.
6. An identified community need exists for the proposed use.
Yes, a community need exists for the proposed use.
7. The proposed use(s) will not impede the normal and orderly development and improvement of the surrounding property, nor impair the use, enjoyment, or value of neighboring properties.
The proposed use will not negatively impact surrounding properties.
8. The degree of harmony between the architectural quality of the proposed building and the surrounding neighborhood.
The proposed building has architectural features and materials that make it aesthetically appealing and will add value to the neighborhood.

Community Development Department

255 South Lincoln Avenue, O'Fallon, IL 62269 ♦ P: 618.624.4500 x 4 ♦ F: 618.624.4534

9. The appropriateness of the minimum dimensions and areas of lots and yards set forth in the applicable zoning district regulations.
10. *The proposed development meets the area-bulk requirements set forth in the B-1 Community Business District.*

Staff Recommendation

Staff recommends approval of the project with the following conditions:

1. Staff supports the petitioner's request to design the site to meet the parking ratio of 1 space per each 2 seats plus 2 spaces for every 3 employees.
2. A variance is granted to allow a reduction from 8 stacking spaces to 3 stacking spaces for the Domino's site.
3. A variance is granted to allow a reduction in the width of the required 7 foot wide landscape planting strip along the east, south and west property lines.
4. A variance is granted to allow a reduction in the size of landscape islands from 120 square feet to 100 square feet.
5. A cross-access easement must be provided along the northeast and southeast corners of the Domino's site to the adjacent animal hospital.
6. The planned use approval is for Domino's and one retail/office use only. The pick-up window and drive-thru is authorized only for the Domino's use. Any future use that would utilize the pick-up window would need to be re-approved by the City.

Attachments

- Attachment 1 – Project Application
- Attachment 2 – Zoning Map
- Attachment 3 – Surrounding Land Use Map
- Attachment 4 – Site Plan
- Attachment 5 – Building Elevations and Floor Plan

Community Development Department

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CITY OF O'FALLON

DEC 23 2013

DATE PAID



Planned Use / Re-Zoning Application

NAME OF PROJECT: DOMINOS RETAIL CENTER
 ADDRESS/GENERAL LOCATION: 302 E. Hwy 50 or 304 E Hwy 50
 SUBDIVISION NAME & LOT NUMBER(S): WHITEHALL CENTER Lot 2
 PARCEL NUMBER(S): 04-32.0-102-031

PLEASE CHECK THE TYPE OF APPLICATION (PLEASE CHECK ONE):

- PLANNED USE
- RE-ZONING (STANDARD MAP AMENDMENT)

SUMMARY DATA (RESPOND TO ALL THAT APPLY):

PRESENT ZONING: B-1P PROPOSED NUMBER OF BUILDINGS: 1
 PROPOSED ZONING: B-1P PROPOSED GROSS FLOOR AREA: 3,420 SF
 PROPOSED # OF LOTS: 1 AREA IN ACRES: 0.48
 PROPOSED # OF DWELLING UNITS: NA PRESENT USE: VACANT

owner CM2001 LLC
 5539 Salt River Rd.
 St. Peters, MO 63376

APPLICANT INFORMATION:

NAME: MARK RATTERMAN
 COMPANY: MBR MANAGEMENT
 ADDRESS: 201 N. MAIN ST., STE 300
ST. CHARLES, MO 63301
 PHONE: 636-947-4433 x339
 FAX: 636-947-6917
 EMAIL: MRATT@MBRMGT.COM

DESIGN PROFESSIONAL INFORMATION:

NAME: JEFF MOON
 COMPANY: BAX ENGINEERING
 ADDRESS: 221 POINT WEST BLVD.
ST. CHARLES, MO 63301
 PHONE: 636-928-5552
 FAX: 636-928-1718
 EMAIL: JMOON@BAXENGINEERING.COM


 SIGNATURE OF APPLICANT


 SIGNATURE OF DESIGN PROFESSIONAL

DATE RECEIVED: <u>12-23-13</u>	STAFF USE ONLY	PROJECT ID #: <u>P2013-11</u>
APPLICATION RECEIVED BY: <u>[Signature]</u>		STAFF ASSIGNED: <u>[Signature]</u>
APPLICATION FEE: <u>\$500.00</u>		PLAN REVIEW FEE DEPOSIT REC'D: <u>\$900.00</u>

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PROJECT NARRATIVE

This project is located at 302 East Highway 50. This tract is 0.48 acres in size and is Lot 2 of Whitehall Center. Lot 1 was the development of the Dairy Queen restaurant at the corner of Hwy 50 and Whitehall Drive which was completed 2 years ago.

This project will consist of a 3,480 square foot building with one half being used for a Dominos restaurant with a pick up window, and one half being proposed retail. The retail use has not been determined at this time but will comply with the current zoning requirements.

There will be 19 parking spaces with one handicap space which will comply with the city code standards. The site coverage is: Building: 3,480 sf (16%) Pavement: 13,598 sf (66%) Greenspace: 3,817 sf (18%)

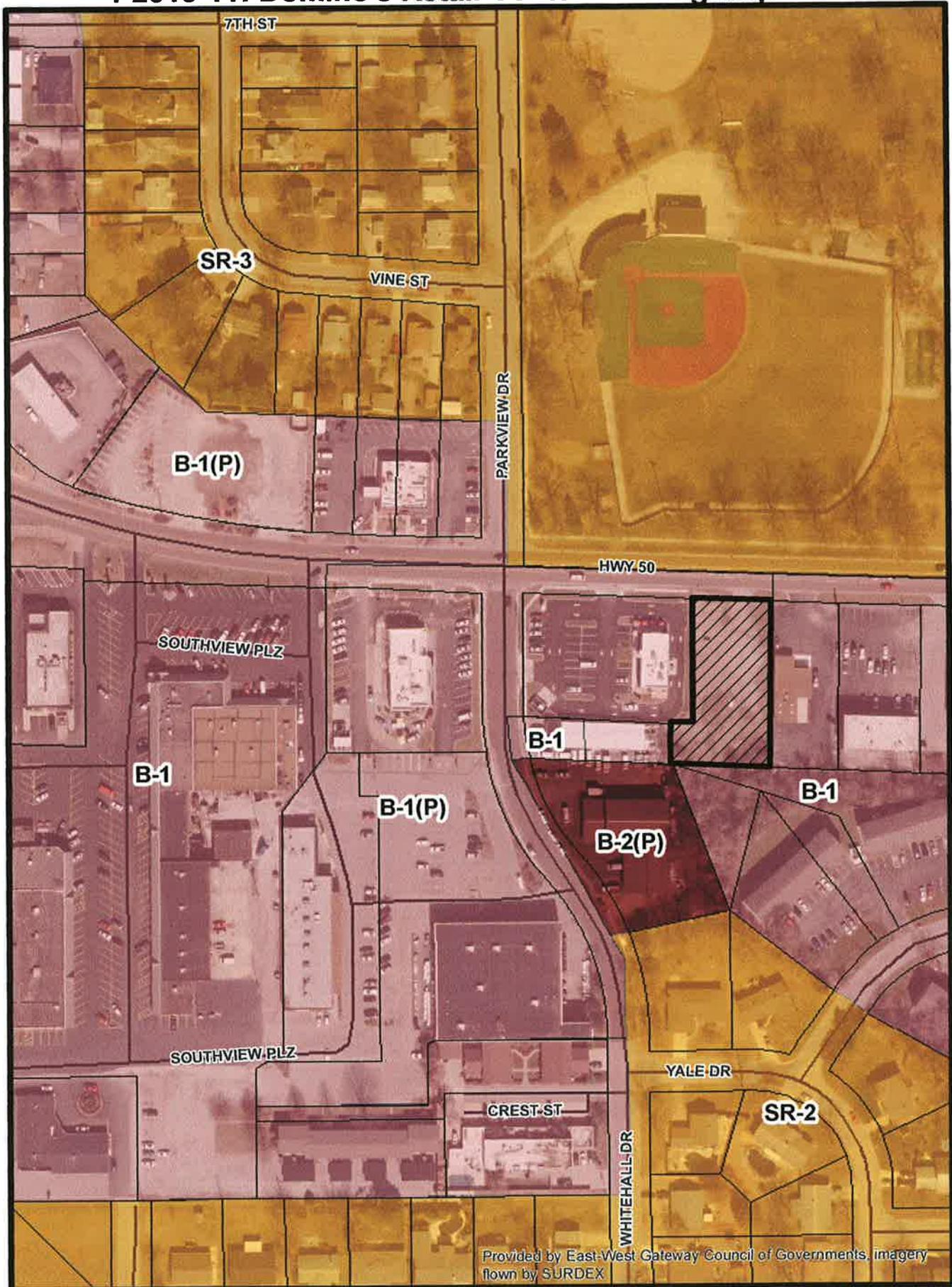
Access to the site will be provided by a new entrance per IDOT standards along with driveway connections to the properties on both sides of this development.

All utilities are available onsite with an existing 10" water main along the front property line and sanitary sewer, gas service and electric provided from the rear. Storm water will sheet flow to the existing drainage ditch at the southwest corner of the site.

As allowed per City Code Article 9 (Planned Uses) the following modifications to the underlying district regulations are part of this development:

- 1 - 20 foot drive aisle between 90 degree parking.
City code requires 24 feet wide drive aisle.
- 2 - 3 foot Side yard buffer.
City code required buffer is 5 feet wide.
- 3 - Landscape island with 105 square feet of space and no tree.
City code requires 120 square feet and a tree.

P2013-11: Domino's Retail Center - Zoning Map



Provided by East-West Gateway Council of Governments, imagery flown by SURDEX



0 65 130 260 390 Feet



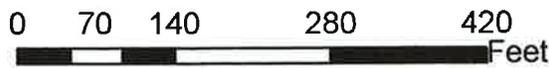
P2013-11: Domino's Retail Center - Land Use Map



Provided by East-West Gateway Council of Governments, imagery flown by SURDEX

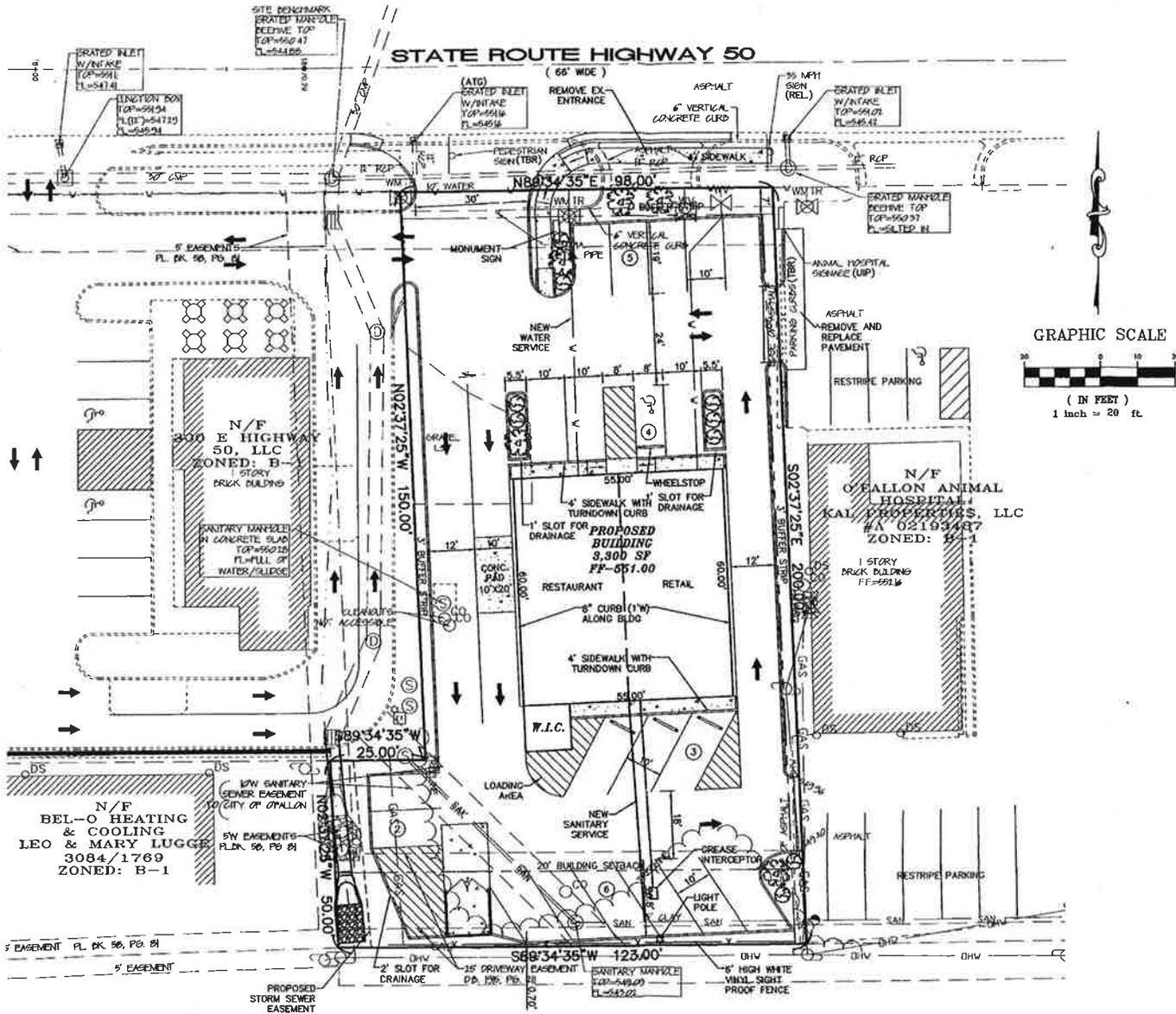


Subject Property



A PRELIMINARY SITE PLAN FOR DOMINOS RETAIL CENTER

A TRACT OF LAND BEING LOT 2 OF "WHITEHALL CENTER"
AND PART OF THE NORTHWEST QUARTER OF SECTION 32,
TOWNSHIP 2 NORTH, RANGE 7 WEST OF
THE 3RD PRINCIPAL MERIDIAN
ST. CLAIR COUNTY, ILLINOIS



RECEIVED JAN 22 2014

CITY COUNCIL APPROVAL

THE PRELIMINARY SITE PLAN FOR DOMINOS RETAIL CENTER WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF O'FALLON, ILLINOIS ON THE ____ DAY OF ____ 2014.

MAYOR GARY GRAHAM
DATE: _____

ATTEST:

PHIL GOODWIN, CITY CLERK
DATE: _____

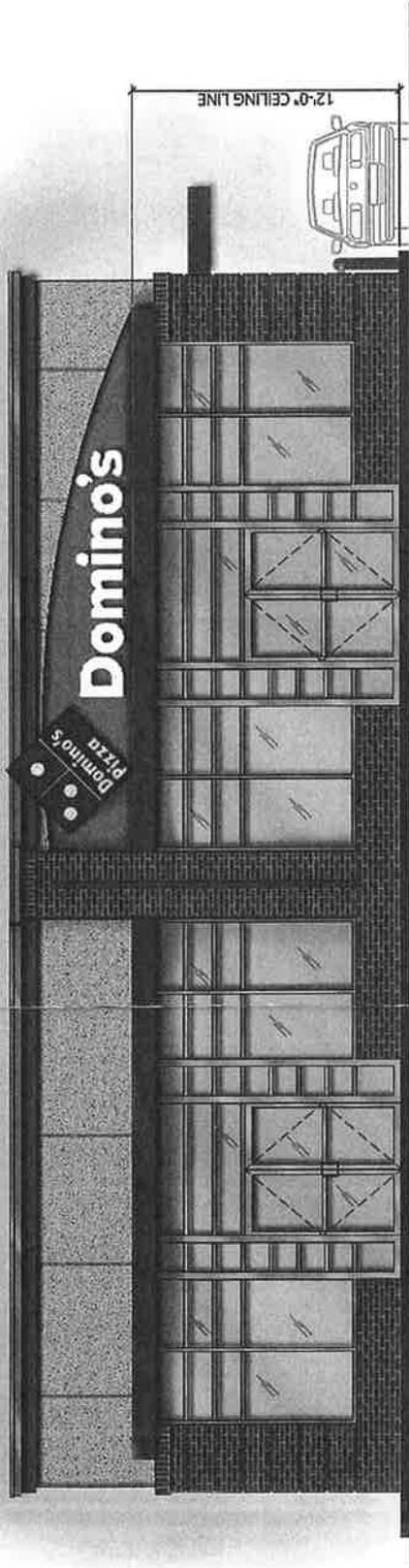
LANDSCAPE LEGEND		
SYMBOL	QUANTITY	COMMON NAME
(DECIDUOUS)	5	BALD CYPRESS, WHITE ASH, HACKBERRY, RED MAPLE (2" MIN. CAL.)
(SHRUB)	9	WILD HYDRANGEA, FRAGRANT SUMAC, BLACK COHOSH, COMPASS PLANT (18" MIN.)

NOTE: LANDSCAPING AS SHOWN SHOULD BE REVIEWED BY A QUALIFIED LANDSCAPE DESIGNER.

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BEGINNING FEET-WEST ALONG SECOND...
HEREIN FOLLOWING FEET: 54 MINUTES FEET: N BEGINNING DURING I

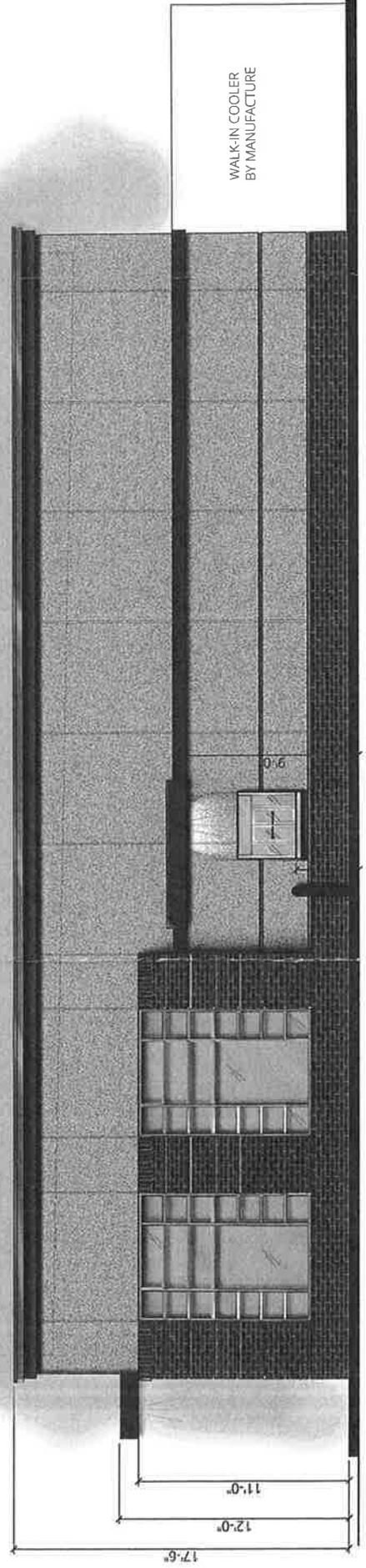
3

DO



1 PROPOSED NORTH ELEVATION

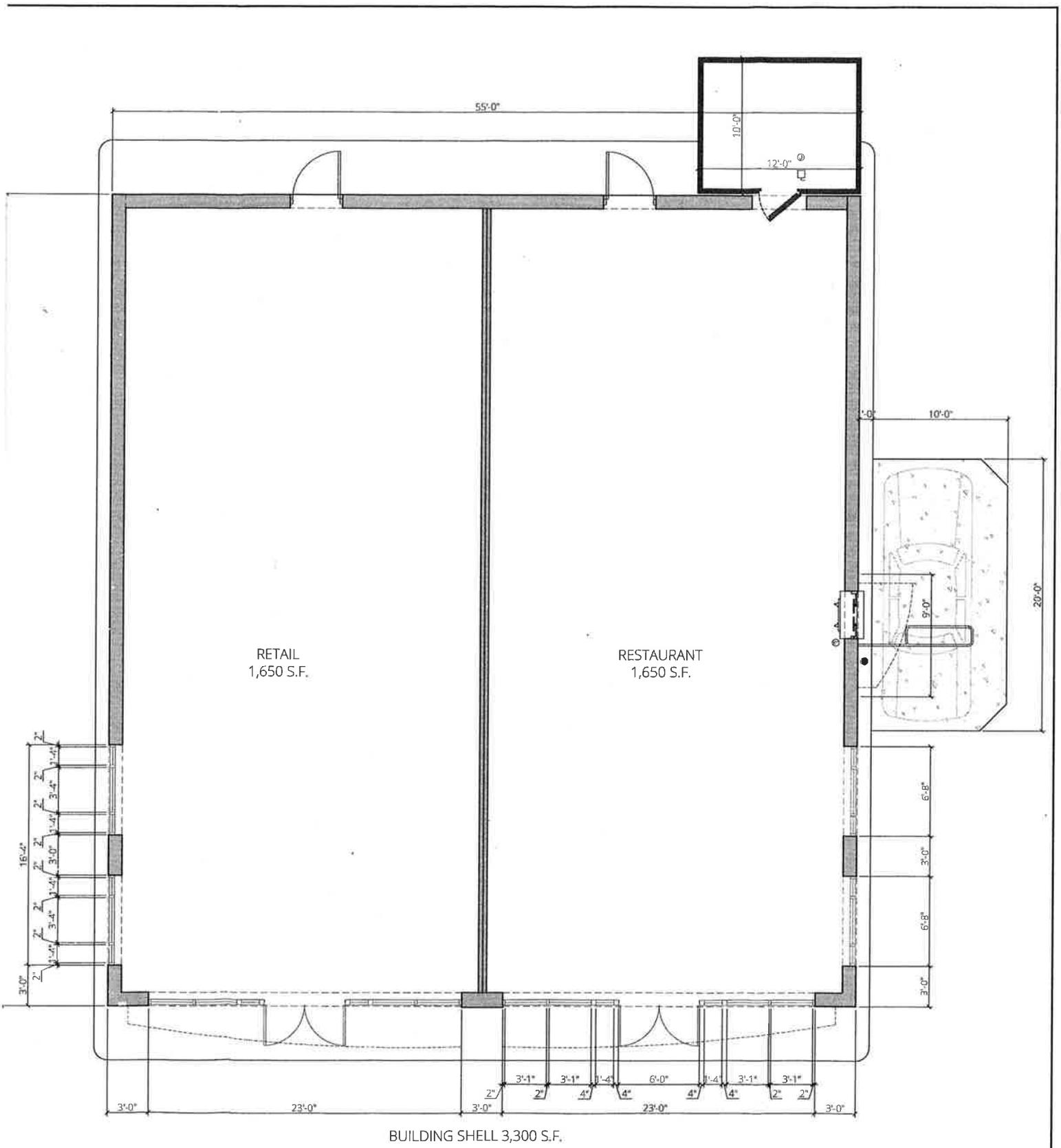
A2.0 SCALE: 1/4" = 1'-0"



2 PROPOSED WEST ELEVATION

A2.0 SCALE: 1/4" = 1'-0"

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RETAIL
1,650 S.F.

RESTAURANT
1,650 S.F.

BUILDING SHELL 3,300 S.F.

1 PROPOSED FLOOR PLAN
A1.0 SCALE: 1/4" = 1'-0"



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PROJECT: DDONCES DOMINIC
 ARCHITECT: IANA
 RWA #1501
 FILE 149C
 ARC FLC DIV
 ARCHITECT: IANA
 CHECKED BY: atk
 DRAWN BY: Issue Date: XX XX XX PERMIT SET