

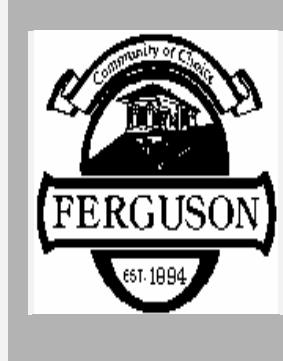
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FERGUSON CITY COUNCIL

**Council Meeting Minutes
May 8, 2007**

COUNCIL MEETING, 8:00 P.M.

**CITY HALL
110 Church Street**



The regular meeting of the Ferguson City Council was called to order at 8:00 p.m. on May 8, 2007 by Mayor Brian P. Fletcher, in the Council Chamber of City Hall, 110 Church Street, Ferguson, Missouri. Mayor Fletcher requested that everyone stand for a moment of silent prayer, after which the Pledge of Allegiance was recited. On roll call, the following Council Members were present:

Mayor Brian P. Fletcher
Kynan S. Crecelius
Michael Salant
James W. Knowles III
James Hines
Peggy Faul
Fran Grecco

Also present were City Manager John Shaw, City Attorney Stephanie Karr, and City Clerk Debbie Matthies. Mrs. Matthies declared a quorum was present.

Mayor Fletcher welcomed all present and explained the Council meeting would have four Public Hearings, Public Comment Portion at which time you are invited to speak on matters of general concern; and Business Portion in which you are welcome to listen but not participate.

PUBLIC HEARINGS

Mayor opened the Public Hearing at 8:00 p.m.

- ❖ **10768/10770 W. FLORISSANT RD. – REZONING &
10768 W. FLORISSANT RD.–SPECIAL USE PERMIT
SONIC DRIVE-IN RESTAURANT**

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City Manager, John Shaw explained the Public Hearing for 10768/10779 W. Florissant Road is for rezoning and 10768 is for a Special Use Permit for a Sonic Drive-In Restaurant. The current proposal is a resubmitted request for a rezoning to a C-2 and Special Use Permit for a Sonic Drive-In Restaurant. The original request for rezoning and a Special Use Permit was approved unanimously by the Plan Commission on December 20, 2006, but denied by City Council in January 2007. A separate subdivision plat for the same property was approved by the City Council at that meeting.

Mr. Shaw further explained that the petitioner submitted a new set of plans on April 20, 2007. These plans have not changed from the plans submitted December 29, 2006. The staff report approved by the Plan Commission on May 2, 2007 incorporates information from the last revised plans and adds a Condition of Approval that requires additional trees to be planted above the retaining wall to mitigate any noise and light impacts on surrounding residential areas. The petitioner will also add a sight-proof fence at the top of the retaining wall for safety reasons.

Clark Amos with Otis & Clark Properties, A&O Investments, the owner of the property in question gave a brief background of Otis & Clark Properties who bought the North County Festival. Jim Otis bought the Builder's Square property which is still in the process of being leased out. Mr. Amos went on to explain that the property was renovated through the normal procedures with the City and as part of that development, they also purchased slightly more than two acres of ground, to the north, which is the subject of this meeting.

Mr. Amos explained that they were denied by Council for rezoning and a Special Use Permit and have reapplied. Otis & Clark have about 200,000 square feet of property in the City and feels they have some qualifications for what tenants are looking for. Mr. Amos explained that the finished grade of the proposed site will be about 33 feet below the height of the Black Oaks Subdivision. The building itself will still be below the height of the top of the 21 foot high, sloped retaining wall. There will be a large buffer, with trees around it, a fence and additional trees.

Mr. Amos commented that the back of the building to the closest house in Black Oaks is approximately 320 feet. Mr. Amos further commented on the objections of this property being commercial and explained that in the Vision 2015 this property is identified as a C-2 use and a drive-in restaurant is not a permitted use without a Special Use Permit. Mr. Amos stated that they have tried many uses for this property in placing the right tenants. Mr. Amos reviewed property records in the area, assessed values and appraised values through the most recent sales and found that the property values have not

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declined but have increased and there is no evidence of values declining. Mr. Amos commented that the Florissant Sonic, which was built approximately 5 years ago, shows property values did not decline.

Mr. Amos feels the plan was put together to meet every requirement of the City codes and the zoning requirements for conditional Use Permits, which are also in the staff's recommendations. Mr. Amos explained that this property is a very unusual situation because of a 21 foot high barrier to properties that are about 10 feet in the air. There are a lot of trees on the property. Some trees cannot be saved but all trees that can be saved will be saved. There are circumstances where roots can be damaged and a tree could die. Mr. Amos commented that Chris Wilson who represents Sonic offered to plant more trees to create a bigger buffer. There are no plans for the vacant parcel. The C-2 zoning is asked because that is under the plan and they recognize that a Special Use Permit would be required. Mr. Amos studied the Black Oaks Subdivision property values and did not see any decline. To the contrary, since commercial has been built property values have gone up.

Mr. Amos commented that they have put a lot of effort into this project, listened to the residents and what their objections are, but feels that they have rights too and if they fulfill what the City's vision is of the zoning and uses in the City and staff supports it, he feels they are entitled to use the property for that use.

No questions from Council.

Petitioner, Chris Wilson with the Core States Engineer presented a proposal for a new Sonic Restaurant located at 10768 W. Florissant Ave. The site is currently vacant and zoned as R-1A and a C-2 zoning change is requested. In conjunction with the request, on behalf of the owner Otis & Clark Properties, they are also requesting a zoning change for a parcel east of this development at 10770 W. Florissant Ave. Ms. Wilson explained that the new project will consist of a new 1,557 square foot building with a drive-thru window and 20 order bay parking stalls. All related paving, grading, and landscaping is in accordance with the City of Ferguson Zoning Ordinance. The access to the site will be via Somerset Terrace Drive with a right out only exit onto W. Florissant Ave. A preliminary approval from St. Louis County Department of Highways and Traffic has been received and is in the process of obtaining final construction approval. Ms. Wilson stated that during the review the St. Louis County engineers felt that the development would not negatively impact the existing traffic conditions and did not request any further traffic studies to be performed. All utilities are available to serve the site, and the storm water will be captured by proposed storm

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sewers and will be taken to new detention basis on the property. Preliminary approval from MSD has been received and is in the process of obtaining final construction. The site plans have remained unchanged since the last review by the City Council, with the exceptions of the revisions to the proposed Hercules retaining wall system along the northern and eastern sides of the property and the relocation of the refuse area.

No questions from Council.

The following residents were in attendance and are opposed to amending the zoning ordinance and the zoning map to reflect a change in the zoning classification from R-1A Single Family Residential District to C-2 Planned Commercial District for the property located at 10768/10770 West Florissant Road and the construction of a Sonic Drive Thru Restaurant:

Harry Neiner – 67 Harneywold Drive presented Council a petition in opposition of the rezoning of property at 10768 and 10770 W. Florissant Road for the purpose of constructing a Sonic Drive Thru Restaurant; Kathy Shaffstall – 71 Harneywold Drive; Kevin Fazazzo – 27 Harneywold Drive; Dr. Stuart Shafer – 57 Harneywold Drive; Loretta Gerdine – 65 Harneywold Drive; Fred Portis – 58 Harneywold Drive; Diane Gee - 3109 Somerset Green Court; Marilyn Pernell - 3144 Somerset Green Court; Kim Reed – 10 Somerset Terrace Court; Marie Hubbard - 18 Harneywold Drive; Bill Muenz – 69 Harneywold Drive; and Roberta - 3101 Somerset Green Court.

The residents in opposition of the re-zoning voiced their comments and concerns regarding the height of the proposed retaining wall, additional traffic and congestion, noise, smell, and light pollution, trash, located too close to the existing residences, residents feel that their backyards will become useless, foundations cracking with the construction, swimming pools and ground shifting and property values declining.

Stan Caldwell – 900 Dyerdown was in favor of the proposed Sonic and felt the City needs to move forward and is tired of hearing negative comments regarding new development in Ferguson.

Mr. Amos commented on the resident's comments regarding trees, buffers, landscaping, parking lot, and retaining wall and its height, and the North County Square buildings.

Chris Wilson clarified the retaining wall dimensions and height.

Ricky Ridgdill, Sonic Restaurant operator commented that this is the same group that operates the Sonics in St. Peters and Chesterfield, which is the

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number one Sonic in the State of Missouri. It is a franchise group company that has been around well over fifty years. The Sonic does not have a dining room, the dining room is the parking lot so it is given particular attention in keeping the property clean and picked up, and employees are on the lot constantly cleaning. Mr. Ridgdill appealed to Council to look at their other properties, at Page Ave., St. Peters, Chesterfield, which are very well run stores. Also as a company they do mystery shop reports where they pay an outside company to come in and give a customer's point of view of the business, properties and the quality of the surroundings, lighting, cleanliness of the restaurant, and the parking lot, etc. Mr. Ridgdill feels that they will be a good neighbor.

Eric Schmitt, Attorney Lathrop & Gage, represents Petitioner and commented that aside from Sonic being a quality operation, and the additional and significant buffer that is being provided in the proposal he feels that it is important to point out that the nearest property is 300 feet away. The proposed zoning is consistent with the surrounding zoning, and consistent with the City's comprehensive plan, which is the City's vision for future development in the City. Mr. Schmitt further commented that the professional planning staff of Ferguson has recommended the approval as well as the approval of the Planning and Zoning Commission. It meets all of the City requirements for the rezoning as well as the provisions regarding the Special Use Permit. Mr. Schmitt would like to introduce into the record the City's Code the City's Zoning Ordinances all of the exhibits presented, the application, packet, Council's packet and any other exhibits the City Attorney deems appropriate.

Mayor commented that the Vision 2015 dictates the City as far as what previous Council's have deemed as future development for commercial and any developer can bring any plan or proposal before the Planning & Zoning Commission, which is a group of citizens, who then make a recommendation to the Council.

Mr. Patterson – Royal Ave. had comments regarding the proposed rezoning and special use.

There being no additional public comments, Mayor closed the Public Hearing at 9:00 p.m.

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Mayor opened the Public Hearing at 9:05 p.m.

❖ 800 CHAMBERS ROAD AND 10 N. HARTNETT AVENUE - REZONING & 800 CHAMBERS ROAD AND 10 N. HARTNETT AVENUE - AMENDING SPECIAL USE PERMIT- CHRISTIAN WOMAN'S BENEVOLENT ASSOCIATION

Mr. Shaw explained this Public Hearing is in reference to the property at 800 Chambers Road and 10 N. Hartnett Ave. The rezoning of 800 Chambers Road and 10 N. Hartnett Ave. and amending the Special Use Permit to the Christian Woman's Benevolent Association. The property of the nursing home, which was originally development under a zoning district category, allowed the use with the approval of a Special Use Permit. The request for the rezoning to R-3 is the same zoning as the adjacent apartments to the east and consistent with the Vision 2015 Plan which specifies future land use as Urban-Medium Residential. Any change in use from a nursing home would be in conformance with the land use plan of the City.

Mr. Shaw further explained that the nursing home is already in existence and they are now wishing to put a dialysis center on their property for the convenience of the residents.

Jeff Hente, Hente & Associates Architects – is working with the nursing home and dialysis clinic and was present for questions. Mr. Hente confirmed the center will be used for residents as well as out-patient. Most centers treat 18 or more patients at a time and are very commercial, this center will allow patients not to be transferred elsewhere and this service is a benefit to the residents but from a feasibility standpoint out-patients need to be brought in.

Council questioned further explanation of the amendment.

Director of Planning, Rosalind Williams explained the rezoning and special use permit amendment for the Christian Woman's Benevolent Association.

City Attorney, Stephanie Karr further explained that currently there is no classification which allows a nursing home with a medical clinic inside. There is an Ordinance which will amend the Chapter 49 Zoning Ordinance which adds new definitions and added a classification in R-3 only for nursing facilities with accessory medical and dentists offices therein. That is why the zoning needs to go to R-3 because that is the only zoning district that provides for this.

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Mayor questioned if the Special Use Permit would be specifically used for the dialysis center only or could a dentist office be added internally.

Ms. Karr stated if additional services would be added they would have to amend the Special Use Permit.

There being no public comments, Mayor closed the Public Hearing at 9:10 p.m.

Mayor opened the Public Hearing at 9:10 p.m.

❖ *CHAPTER 49 ZONING ORDINANCE AMENDMENT – NURSING FACILITIES AND ACCESSORY MEDICAL AND DENTIST OFFICES THEREIN*

City Manager, John Shaw explained that this request for rezoning and amending the Special Use Permit goes along with the previous request and is for an in-patient/out-patient medical clinic that would be allowed as an accessory use in a nursing home facility with certain conditions. The amendment to the nursing home's Special Use Permit would allow a medical clinic to operate in the nursing home as an accessory use.

There being no public comment, Mayor closed the Public Hearing at 9:15 p.m.

Mayor opened the Public Hearing at 9:15 p.m.

❖ *600 S. FLORISSANT ROAD - SPECIAL USE PERMIT*

Mr. Shaw further explained that on April 18, 2007, the Plan Commission tabled, until May 16, 2007, the review and recommendation on the petition for a Special Use Permit in the DB-2, Downtown Area Business District.

Mayor asked if there was anyone in the audience wishing to address this proposed Special Use Permit for 600 S. Florissant Road.

A motion was made by Council Member Faul to continue the Public Hearing of 600 S. Florissant Road Special Use Permit to the May 22, 2007 Council Meeting, seconded by Council Member Grecco. Motion passed unanimously by voice vote.

There being no public comment at this time, at 9:20 p.m. the Mayor continued the Public Hearing to the May 22, 2007 Council Meeting.

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PUBLIC COMMENTS

John Knowles – 716 N. Elizabeth - announced the National Association of Letter Carriers Annual Food Drive - Saturday, May 12, 2007. All food collected in the 63135 area zip code will be distributed to the City of Ferguson. Interested citizens should place their food in bags by their mailbox.

There being no further comments, the Public Comments portion closed at 9:20 p.m.

BUSINESS PORTION

MINUTES

Council Meeting Minutes – April 17, 2007. A motion was made by Council Member Knowles, seconded by Council Member Hines and carried to approve and receive as presented the Council Meeting Minutes of April 17, 2007 and file as appropriate.

Council Meeting Minutes – April 24, 2007. A motion was made by Council Member Knowles, seconded by Council Member Hines and carried to approve and receive as presented the Council Meeting Minutes of April 24, 2007 and file as appropriate.

4B. PROCLAMATIONS

Peace Officers' Memorial Day and Police Week Proclamation was read by Mayor Fletcher.

4C. APPOINTMENTS

Council appointed City Manager, John Shaw to the North County Inc. Board of Directors.

BILLS REQUIRING FIRST READING

BILL NO. 6790 - AN ORDINANCE OF THE CITY OF FERGUSON, MISSOURI AMENDING THE ZONING ORDINANCE AND THE ZONING MAP TO REFLECT A CHANGE IN THE ZONING CLASSIFICATION FROM R-1A SINGLE FAMILY RESIDENTIAL DISTRICT TO C-2 PLANNED COMMERCIAL DISTRICT FOR THE PROPERTY LOCATED AT 10768/10770 WEST FLORISSANT ROAD, was introduced by Council as a whole and read the first time.

City Manager, John Shaw commented that prior to the opening of the Public Hearing and in addition to the background information given, the Plan

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Commission voted to recommend approval of the Staff Report recommending approval of the rezoning from R-1B to C-2 at 10768 West Florissant.

BILL NO. 6791 - AN ORDINANCE OF THE CITY OF FERGUSON, MISSOURI GRANTING A SPECIAL USE PERMIT FOR THE PROPERTY LOCATED AT 10768 WEST FLORISSANT SUBJECT TO THE CONDITIONS, RESTRICTIONS AND REQUIREMENTS SET FORTH HEREIN, was introduced by Council by Council as a whole and read the first time.

Mr. Shaw explained that the Plan Commission voted to recommend the approval of the Staff Report recommending approval of a Special Use Permit for the construction of a Sonic Restaurant at 10768 West Florissant.

BILL NO. 6792 - AN ORDINANCE OF THE CITY OF FERGUSON, MISSOURI AMENDING THE ZONING ORDINANCE AND THE ZONING MAP TO REFLECT A CHANGE IN THE ZONING CLASSIFICATION FROM R-1C, SINGLE FAMILY RESIDENTIAL DISTRICT TO R-3, MULTI-FAMILY RESIDENTIAL DISTRICT FOR THE PROPERTY LOCATED AT 800 CHAMBERS ROAD AND 10. N. HARTNETT AVE., was introduced by Council as a whole and read the first time.

Mr. Shaw explained that the Plan Commission voted to recommend approval of the Staff Report recommending approval of the rezoning of 800 Chambers and 10 North Hartnett Avenue from R-1C to R-3.

BILL NO. 6793 - AN ORDINANCE OF THE CITY OF FERGUSON, MISSOURI AMENDING THE SPECIAL USE PERMIT TO ALLOW A MEDICAL CLINIC AS AN ACCESSORY USE FOR THE PROPERTY LOCATED AT 800 CHAMBERS ROAD AND 10. N. HARTNETT AVE., was introduced by Council as a whole and read the first time.

BILL NO. 6794 - AN ORDINANCE AMENDING CERTAIN PROVISIONS OF CHAPTER 49, ZONING, OF THE CODE OF ORDINANCES FOR THE CITY OF FERGUSON RELATING TO STATE LICENSED NURSING FACILITIES AND ACCESSORY MEDICAL AND DENTIST OFFICES THEREIN, was introduced by Council as a whole and read the first time.

BILLS REQUIRING SECOND READING

BILL NO. 6789 - AN ORDINANCE OF THE CITY OF FERGUSON, MISSOURI, AMENDING SECTIONS 7-236 AND 7-237 OF ARTICLE XI OF TITLE 7 OF THE MUNICIPAL CODE RELATING TO REGULATIONS FOR ACCESSORY STRUCTURES ON COMMERCIAL PROPERTY, was introduced by Council as a whole and read the first time.

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City Manager, John Shaw explained that many commercial establishments have started placing clothing donation receptacles on their parking lots. In many instances, these receptacles are merely dumpsters which are painted red or yellow and do not have any screening. Mr. Shaw stated that it has been reported in recent months, many of these dumpsters, located on the parking lots of commercial property are maintained by for-profit companies who make large profits by selling the donated items.

Mr. Shaw further commented that without limitation or regulation, these receptacles may be placed where they interfere with the flow of the traffic on the parking lot, block parking spaces which may be required for the business, or rest in the property's setback areas or other prohibited spaces. Therefore, Mr. Shaw stated that most cities require Special Use Permits for such donation receptacles. This ordinance provides some regulations with regard to the appearance, maintenance and placement of the receptacles.

A motion to read the Bill a second time and place it upon its passage was made by Council Member Knowles, seconded by Council Member Grecco.

On roll call vote, the motion carried as follows:

AYES: 7 – Crecelius, Salant, Knowles, Hines, Fletcher, Faul, Grecco
NOES: 0

Bill No. 6789 was declared passed and sent to the Mayor for signature. Bill No. 6789 thus became Ordinance No. 2007-3308 and is permanently recorded in Book 29 on page 22.

MISCELLANEOUS

Ms. Faul – reminded everyone of the Farmers' Market and to think about volunteering for the Volunteer Flower Club.

Ms. Faul regarding some of the Sonic concerns, said that she has only positive experience at Sonic Restaurants and is surprised at how clutterless the site is, but not to say that offsite things will appear. Ms. Faul feels that Sonic will not necessarily add extra traffic, but it might congest it and that leaves to be seen.

Ms. Faul further commented that with the letter carrier drive she hopes the City can help out with the drive. Ms Faul further commented that with summer coming, school will be out and reminded everyone to read to their kids fifteen minutes a day.

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Ms. Grecco – encourages everyone to join in the Farmers' Market and volunteers are welcomed for set up. Ms. Grecco encourages anyone who can in any way they can to participate in the food drive. Summer is coming and school kids are at home not getting breakfast and lunch at school and food budgets for many residents are stretched significantly and any help they can receive is more than welcome.

Mr. Hines – reminded Council Members to wear their name badges at meetings and City functions.

Mr. Knowles – commented about massive amounts of water coming down the Missouri River and will reach flood levels again that are going to be within three feet of where they were in 1993 along the Missouri River. Mr. Knowles commented that our sister cities in North County have experienced flood problems in the past and may again in the future and suggested the City of Ferguson and City Council be prepared to lend any help to cities like Hazelwood, Bridgeton, Florissant and Spanish Lake that border along the River, whether it be equipment, men or signs. Mr. Knowles would like Council to direct City staff to be prepared and offer help if it happens.

Mr. Shaw commented that the situation will be assessed and the City will do what it can to help.

Mr. Salant – suggested also getting the CERT Team involved. Reminded everyone of the Neighborhood Watch Picnic on Wednesday, May 9 at the January Wabash Bandshell at 5:00 p.m.

Mr. Crecelius - with regard to the letter carriers donations feels it is a great opportunity to go through your pantry and donate food, hunger never takes a back seat. Mr. Crecelius reminded residents, who have older children, teenage years that responsibility for raising kids does not end at any particular age, malls are no longer allowing children to be dropped off unattended, and to think about what opportunities you can give your children while they are out of school to keep them occupied and safe this summer.

Mr. Shaw encourages the entire Council to attend the upcoming St. Louis County Municipal League Annual Installation of Officers Dinner, May 19, 2007 at Norwood Hills Country Club, 6 p.m. reception, 7 p.m. dinner and the Annual League Golf Tournament hosted by the City of Florissant Golf Club, June 7, four person scramble, 12:15 lunch, shotgun start at 1 p.m.

Mr. Shaw announced the dates for the Strategic Planning session are June 22 and June 23, details will be provided at a later time and thanked

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Council and staff for making this date work. Council confirmed the start date of 4:00 p.m. on Friday, June 22.

Mr. Shaw reminded Council of the NorthPark Partners and St. Louis County the "Economic Summit on the NorthPark Development" on Wednesday, May 16, 8-2 p.m. at the Millennium Student Center, on the UMSL Campus. Mr. Shaw will attend the event and report to Council.

Mr. Shaw asked Council to consult their calendars for a time to meet for the first initial budget workshop and suggested Tuesday May 15 at 6:00 p.m. Council confirmed the date of Tuesday, May 15 at 5:30 p.m.

Mayor Fletcher – announced a closed session after the meeting. Mayor asked Council for one name for the Charter Review Commission. The commission needs to have representation throughout the City, possibly one person from each Ward, it could be a former Council Member, a business person or a resident. Council should email their names to the Mayor. Mayor will then pick the chair person for the commission.

Mayor reminded everyone, with the weather getting warmer, the youth are gathering in the streets, and it is the parents obligation for their children. If there are problems, try to get as much information as possible and to please inform the Police Department.

Mayor asked to please keep trash picked up on your streets and around your home to keep the City clean. Also, make sure your grass is cut you have a responsibility to yourself as well as your neighbors to keep up your property.

ADJOURNMENT

On May 8, 2007 at 9:45 p.m. a motion was made by Council Member Knowles, seconded by Council Member Grecco to enter into closed session in accordance with RSMo 610.021/610.022 to discuss matters relating to communications with the City Attorney, and Real Estate, matters as provided under Sections 610.021 (1) and (2) RSMo. Motion carried.

Having concluded the closed session at 11:15 p.m., a motion was made by Council Member Grecco, seconded by Council Member Crecelius to reconvene to open session at 11:15 p.m. On roll call vote, the motion carried.

There being no further business to consider, Council Member Grecco moved to adjourn, seconded by Council Member Crecelius. The meeting adjourned at 11:15 p.m.

Deborah L. Matthies, City Clerk