

**CITY OF MANCHESTER**  
**PLANNING AND ZONING COMMISSION**  
**MEETING MINUTES**  
**MONDAY, SEPTEMBER 10, 2012**

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**COMMISSIONERS**

Jason Truesdell, Chairman (2014)  
James Labit, Secretary (2012)  
Joni Korte (2012)  
Tom Brown (2013)  
Jack Fluchel (2014)  
Mark Smith (2014)

**CITY OFFICIALS AND STAFF**

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

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**CASES**

**#12-SP-004**

Site Approval is being sought by Mike Lawless of CJM Investments LLC for the modification of #11-SP-006 to add a retaining wall on the rear yards of Lots 5-8 of Tuscan valley Subdivision at 720-732 Tuscan Valley Ct. The property is zones R-4 Single Family Residential.

- **CJM Investments LLC**  
Mike Lawless  
10333 Schuessler Road  
St. Louis, MO 63028  
314 920 7076

**#12-TXT-001**

A proposed amendment to the Municipal Code to repeal the sections concerning roof signs in the City of Manchester.

- **Franz Kraintz**  
Director, Planning and Zoning

**#12-TXT-002**

A proposed amendment to the Municipal Code to add a new definition for “financial institution”.

- **Franz Kraintz**  
Director, Planning and Zoning
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**1. CALL TO ORDER**

Commissioner Truesdell called the Planning and Zoning meeting of September 10, 2012 to order at 7:00 p.m.

2. ROLL CALL

Commissioner Truesdell asked the Recording Secretary to take roll.

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

3. APPROVAL OF MINUTES

Commissioner Labit made the motion to approve the minutes of June 25, 2012. Motion seconded by Commissioner Fluchel; motion approved by voice vote. The vote taken was recorded as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Excused</u>
7	0	0	0

4. APPROVAL OF AGENDA

Commissioner Truesdell asked if there were any changes to the agenda. Commissioner Brown made the motion to approve the agenda as presented. Commissioner Fluchel seconded; motion approved by voice vote. The vote taken was recorded as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Excused</u>
7	0	0	0

5. OLD BUSINESS

No New Business.

6. NEW BUSINESS

A. **CASE #12-SP-004** – A Site Approval is being sought by Mike Lawless of CJM Investments LLC for the modification of #11-SP-006 to add a retaining wall on the rear yards of Lots 5-8 of Tuscan Valley Subdivision at 720-732 Tuscan Valley Ct. The property is zoned R-4 Single Family Residential.

Mr. Mike Lawless said he represented CJM Investments LLC. He said he has developed the property at 740 Sulphur Spring Road which will have eight single family lots. He explained that Lots 5 through 8 start at the cul-de-sac with Lot 5 and run to Lot 8 which is against Sulphur Spring Road. He said those lots have fairly limited backyards with a 3:1 slopes behind them.

Mr. Lawless said trees along the property have been approved as part of the original site plan. He said these trees could be planted as the lots are currently, but it was decided it would be nicer if a 30” wall was erected in the back of these lots. He then described the wall as block masonry with a stone veneer and how, after it is installed and filled in, would create a lesser slope in the rear yards of these lots. He said from the neighboring Town and Country South standpoint, there will be a decorative 30” tall stone face wall and on the top at the edge of this wall will be a 6 to 10 ft. mulched planting bed. Trees will be planted in front of the wall as well. He said the lawns would stop about 6-10 ft. before the wall.

Mr. Lawless said this is a good improvement to the development. He said he’d spoken to St. Louis County who said a permit would not be required for the proposed wall because the wall will be below

36 inches. He said he told St. Louis County that the wall would be contiguous and would be crossing property lines, but the County said it didn't matter. He said even though the County does not require a permit, staff felt the wall addition was enough of a change to present it to the Commission.

Mr. Lawless also added that the water flow system would remain in place and there will be no change in the drainage management.

Mr. Lawless said this wall is being done as an aesthetic part of the subdivision even though it is not mandatory and there will be no change to the water flow or water disturbance to the nearby subdivision. He also said that the developer has already added steel fencing, pillars and plantings in front of the development to make a more appealing appearance to the streetscape along Sulphur Spring.

Franz Kraintz, Planning and Zoning Director, said as Mr. Lawless mentioned, the County does not require a permit for the wall because it is below 36" tall. However, as pointed out, staff felt that this was a significant change from the original site plan, that it required an additional review by the Commission. Staff has had extensive review of the application, materials, and of the unchanged drainage system. He said being a low impact wall, staff did not have much issue with it, except a concern about possible safety issues with people falling off the 30" wall into the adjacent concrete drainage channel. He said since the wall does not require a permit, there is no mandate that there be any type of retaining device, but suggested the installation of possibly a decorative split rail fence or some dense planting be considered.

Commissioner Truesdell confirmed with Mr. Lawless that there would be a large section of mulch as well as a considerable number of trees in front of the wall which would provide more than adequate protection. Mr. Lawless also said he'd prefer not to put a fence, especially a split rail fence at the top of the wall because as done in the front of the subdivision and stated in the indentures, a steel fence only would be allowed. He added that as residents move in, it would be acceptable for them to add fencing around their yards of different materials.

Director Kraintz commented that the trees would probably be deciduous and the caliber of the trees would be rather thin and the canopy will be fairly tall so the proposed planting will not act as a sufficient barrier to prevent falling off the edge of the proposed wall. Mr. Lawless confirmed that the caliber of the trees would be about 2" to 2 1/2" as planted but added that the combination of evergreens would be mixed with the deciduous trees and would provide enough of a barrier as the other trees filled out.

Commissioner Labit commented that the first house is very beautiful and that his wife admires it quite a bit. He said he didn't have any questions and understood Mr. Lawless's proposal, but had some information he wanted to share with the Commission.

Commissioner Labit asked the Commission if they knew what induced flooding was and then explained it was the alternations of the natural terrain where flooding occurs as opposed to natural flooding when rivers rise and overflow their banks. In this case, he felt, the changes made over the years have made a negative impact on the existing homeowners along the east side of the drainage ditch.

Commissioner Labit referred to a drawing he'd made and handed out to the Commission. He showed where the end of the pipes feeding from the County storm collection system run along and underneath Sulphur Spring Road to a concrete flume that emptied into Fishpot Creek. He ran some calculations for different times resulting in different effects than what was expected.

Commissioner Labit gave a historical review of the original Sulphur Spring Road and its method of water conveyance which did not address the flooding the residents were experiencing by being in the flood plain. He said to help the situation, the County converted the earthen ditch into the current concrete flume which seemed to make a positive difference in the way the flooding was managed particularly upstream. However he found it odd that the flume appeared to have no velocity retarding features in it and it had a very steep slope. He said Sulphur Spring Road was rebuilt with pipes and

curbs, but the flume was designed for the road as it was. He said he'd observed the area during a very heavy rain and explained how he arrived at his calculations and his conclusions about the negative effects the proposed 30" wall would have on the neighboring residents in Town and Country South.

Mr. Lawless commented that Commissioner Labit made it sound like we (developers) had haphazardly walked in and started filling in that ground. The developers were put through rather stringent requirements by the City of Manchester and FEMA. The reason why the people to the east are flooding is because they are located in a flood plain. Mr. Lawless said the developers had done nothing to the ground and according to FEMA and several engineers this subdivision is out of the flood plain and will not get flooded. He said there is a detention basin and the design of this basin only effects two lots where water would flow about midway from the houses.

Commissioner Labit said none of his discussion had anything to do with the 100 year flood plain as related to the Creek.

Mr. Lawless stated that he would like to move ahead with the wall and believe it will not affect anything but instead will add to the aesthetics of the subdivision.

Mr. Blattner, City Engineer, said it was his intention via emails and phone calls to discuss the wall with Commissioner Labit prior to the meeting and these issues could have been worked out before the Commission meeting tonight. He told Commissioner Labit that his drawing was wrong and inaccurate. He said total flow from those pipes at full flow condition is only about 500 cfs. The channel itself can carry about 1435 cfs so it's almost a 3:1 capacity over the pipe discharge.

Mr. Blattner said in 2004, the Animal Health Foundation owned the property and that area was totally in the flood plain. At that time, a total flood plain analysis was done by Wind Engineering and it was submitted to and approved by MSD. Later it was discovered that the Fishpot Creek channel had eroded, widened and deepened over the years, so the flood plains were found to be less than what the original 1978 FEMA map showed. Yet in 2012, everyone is still working off of 1978 data. A new map was done but is currently held up until the Federal government resolves all the levee system issues throughout the St. Louis metropolitan area. However, a flood plain study for the project site was completed, FEMA has approved it and Tuscan Valley's basements are one foot above the flood elevation and this subdivision is totally out of the flood plain. But the backyards of the homes in the neighboring area are in the 100 year flood plain and the homeowners have been given letters from MSD suggesting they get flood insurance.

Mr. Blattner stated that nothing was altered by the developers of Tuscan Valley; the water flow issue was evident before Tuscan Valley was developed and it is there now. He said the proposed wall has absolutely no impact on drainage with the exception of the 3:1 slope will now be a little bit flatter. He said that his one concern is the 30" drop off above the wall and could potentially be a mowing safety hazard. He suggested that a densely planted growth of evergreens and/or a fence be added.

Alderman Clement addressed Mr. Blattner's concern about the wall's drop off by saying that the plans show there will be an 8' to 10' mulch barrier which would disallow anyone coming within this distance of the wall to mow.

Mr. Blattner said of course once the home is purchased the owner can change his yard, but explained that this was a long term plan and he and Mr. Kraintz felt it was enough of change to have the Commission review it. However, it is up to the Commission to accept or reject this change, but it is something that should be looked at.

Commissioner Labit said he respects Mr. Blattner but explained that his study was his observation of physically watching the flow of water in the ditch from the pipes, filling up the ditch and running over and, then confirming that it is possible from a calculative viewpoint.

Mayor Willson asked Mr. Blattner if the Tuscan Valley was an improvement of the property versus when the Saddle Club owned it. Mr. Blattner said Tuscan Valley made absolutely no changes to the area. This subdivision is upstream of the neighbors to the east in relation to the Fishpot Creek. Mr.

Blattner said what Commissioner Labit may have been referring to is when the channel is under a flood situation, it will backup into that concrete swale all the way to the pipes which means the water is forced to back up in the pipes all the way on the other side of Sulphur Spring and those people would have flooding, but only under the 100 year flood situation. He added the last time we had a 100 yr situation was September 28, 1993, when there was flooding down Manchester Road and flooding occurred in this area as well.

Mayor Willson asked if there had been any flooding issues after the torrential rains on Friday, September 7, 2012. Mr. Blattner said from his visual observation today, he saw no evidence of flooding of any kind.

Commissioner Truesdell asked in terms of drainage and flooding, does it make any difference if the wall is there or if the slope remains as it currently is. Mr. Blattner said absolutely not.

Commissioner Fluchel said he used the scale on the plan then measured the tree line and got 450 ft. With approximately 44 trees scheduled for planting, there would be about 10 ft between trees and this would not be much of a screen. He suggested that evergreen trees be planted between these trees as well as building a fence on the other side to protect the residents. Mr. Lawless said he would not be building a fence. He said he'll be spending about \$12,000 just to beautify the subdivision and if need be, trees will be planted at the bottom of the 3:1 slope, but he would rather level it up a bit and make it nicer and more usable. He said he had to get St. Louis County Water Company's approval because Tuscan Valley was in their 20 ft easement. The Water company was all for it because it will make any repairs easier with the leveling of the area. He said they had to get a variance to put the fence of stone pillars at the front of the subdivision at the cost of \$27,000, which was not mandatory. He said he would be willing to put up the wall and to plant more trees, but he doesn't want to spend money needlessly and this wall doesn't have anything to do with what is on the other side of the creek.

Commissioner Fluchel said he appreciated what Mr. Lawless has done but said part of the Commission's responsibility is to protect its residents. He asked Mr. Lawless if there was a need to bench the soil against the wall. Mr. Lawless said the blocks will be gravity blocks and will be buried about 18" with a rock base and assured the Commission it would be professionally done.

Commissioner Korte said she is an engineer and it was her experience that any kind of wall with a drop off, even if there is a grassy area below, can be a safety hazard. She said, in this case, at the bottom of the wall is a concrete swale and she feels it warrants a fence at the top of it. Mr. Lawless said if it comes down to a fence then he would forego the wall. He reiterated that the wall wasn't mandatory but rather something the developers thought would look nice and help level out the yards. He said if the residents of Tuscan Valley are concerned about the wall, then they can choose to fence it. He said he's built other subdivisions and some of them had 50 ft walls that had no fences on them.

Commissioner Truesdell confirmed that Mr. Lawless would not be willing to consider a moderation to incorporate a fence on the site plan. Mr. Lawless pointed out that the fences currently being erected are expensive steel fencing; the one at the front of the subdivision was about \$4,000. He said this would triple the cost of the wall to put a steel fence on it.

Commissioner Korte commented that the drainage would currently come sheet flowing across the front side of the wall with no guttering to direct the flow. Mr. Lawless said the water will only sheet across the back of lots 7 and 8 and part of lot 6, which is picked up by the earthen swale and taken down to the detention basin. This was approved in the original plans and again the drainage is not changing.

Commissioner Brown had no questions.

Mayor Willson commented that he's hiked in many areas where there were 500 ft or more drop offs and no fences so why do we think these people are going to fall off this short 30 inch wall.

Commissioner Smith commented that having an engineering background, he feels the Commission should rely on the opinions of the engineers about the drainage. And if there is a fall issue the homeowner will recognize it and deal with it as they see fit.

Alderman Clement said in the staff report there was a concern expressed about the drop off. He said the alternatives proposed were: a split rail fence which Mr. Lawless said was not in keeping with the indentures or current design of the subdivision, and; additional plantings to fill in between the young trees. Mr. Lawless suggested that the trees be of the evergreen variety such as spruces, white pines, Cleveland pines, and the like. Alderman Clement also asked that ash trees not be used because of the known ash borers which this species of trees has succumbed to. Mr. Lawless said he would not plant ash trees, but probably oak or whatever is disease resistant.

Commissioner Truesdell confirmed that Mr. Lawless would work with city staff to determine reasonably appropriate plantings by the wall. Mr. Lawless pointed out that the landscape plan had been approved originally with a discussion about the ash tree and was again presented to the Commission tonight. He again stated he would plant however many and whatever plant is required within reason.

Commissioner Truesdell said it was stated that the homeowners could do whatever they see fit in terms of fencing their respective backyards, but the area by the wall is not common ground. Mr. Lawless said that is correct, but added that there is a planting easement on the back of the lots. Commissioner Truesdell then said that he had installed a retaining wall just under 36” between his yard and the neighbor’s and neither of his two young children nor anyone else has fallen off that wall.

Commissioner Truesdell said the issue tonight is not flood remediation or flood control unless it had been proven that the installation of this wall would cause serious water issues, but rather whether or not Tuscan Valley can build a 30” wall. He said he is in favor of the wall with the additional planting of 8 to 10 trees of the evergreen variety.

Commissioner Labit commented that there is a city engineer whose job it is to give this Commission guidance, which he has done. Mr. Blattner was made aware of my concerns some time ago and has addressed those concerns and he accepts his guidance.

Commissioner Brown made the motion to approve CASE #12-SP-004 as submitted with the inclusion of 8 to 10 additional evergreen variety plantings. Commissioner Truesdell seconded the motion. A poll of the Commission showed:

Commissioner/Secretary James Labit	No	Mayor David Willson	Yes
Commissioner Jack Fluchel	Yes	Chairman Jason Truesdell	Yes
Commissioner Joni Korte	Yes	Commissioner Mark Smith	Yes
Commissioner Tom Brown	Yes		

Chairman Truesdell announced that the result of the votes showed Case #12-SP-004 passed:

<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Excused</u>
6	1	0	0

**B. CASE #12-TXT-001** – A proposed amendment to the Municipal Code to repeal the sections concerning roof signs in the City of Manchester.

Director Krantz said in the City codes there are regulations for roof signs. He said the way the codes are written, if any signs were proposed, they would be unsightly and inappropriate for a suburban community. For instance, they require a six foot clearance between the bottom of the sign and the roof meaning they would be rather tall and gaudy. He said with the number of businesses that have opened recently there was concern that perhaps some might request to have a roof sign. Because of these concerns, staff felt the provision for roof signs should be completely expunged from the codes. He said there currently are no roof signs in the City, although the code does allow for signs to be attached to a mansard roof. This will not affect that.

Commissioner Truesdell asked if it was the intention of staff to make a recommendation tonight. Director Kraitz said this would be a recommendation to the Board to amend the code.

Alderman Clement referred to the section of code under the general requirement subset letter “g”, and asked about the “wind pressures.” Director Kraitz said that these sections of code referred to roof signs so they are included if roof signs are eliminated from the code. Alderman Clement asked what brought this code up for discussion. Commissioner Truesdell commented that several years ago there had been a “horse” sign on top of the roof of a tack business on Manchester Road which now is Trotters Photography.

Commissioner Fluchel confirmed that the Commission is going to recommend to the Board that this code and all references to it are to be removed from the City’s Code.

Commissioner Truesdell asked what would happen if someone applied for a roof sign and could they apply for a variance. Director Kraitz said they could not apply for a sign or a variance for the sign if it is not listed or allowed.

Commissioner Labit made the motion to make a favorable recommendation to the Board of Aldermen on CASE #12-TXT-001. Commissioner Fluchel seconded the motion; it was passed by voice vote. The vote taken was recorded as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Excused</u>
7	0	0	0

C. **CASE #12-TXT-002** – A proposed amendment to the Municipal Code to add a new definition for “financial institution”.

Director Kraitz said it was felt by legal staff that there should be a specific and official definition for financial institutions. He said the proposed definition has been pulled from various codes from across the country. He said with this definition, it would be clearer about exactly what type of financial institutions the City would permit.

Commissioner Truesdell said his concern with the definition is “Investment Company” or “other business associations.” Director Kraitz said he would have to seek further clarification, but personally doesn’t view them the same way as a bank, credit union or savings and loan. Commissioner Truesdell said an “investment company” could be any small business or could include the Federal government.

Alderman Clement confirmed if the City Attorney had reviewed this definition and agreed that Director Kraitz get further clarification from the City Attorney.

Commissioner Labit commented that investment companies receive money from their clients to invest and that “other business associations” is too broad a definition.

Commissioner Truesdell added “other business associations” could also include auto title businesses because the definition states, “. . . accepts money or its equivalent.” Mayor Willson commented that “deposit” isn’t clear. And other commissioners brought up “other business associations” like Edward Jones, etc. Commissioner Labit said if assumptions are being made from the definition, then it needs more clarification.

Commissioner Truesdell suggested that Director Kraitz seek further clarification from the City Attorney on this code. Director Kraitz stated he would.

Commissioner Fluchel made the motion to table CASE #12-TXT-002 pending further discussion between staff and the City Attorney on some of the entities defined and listed within the definition. Commissioner Labit seconded the motion; it was tabled by voice vote. The vote taken was recorded as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Excused</u>
7	0	0	0

**7. PLANNING AND ZONING DIRECTOR’S REPORT**

Planning and Zoning Director Krantz said in two weeks the Commission will meet to discuss a McBride and Son proposed subdivision at 812 Hanna Road. McBride and Son has been meeting with the residents and elected officials over the summer to discuss any issues. He said they have refined their presentation and are prepared to come before the Commission. He said what the Commission should expect to see is McBride and Son’s record plat for the subdivision, subdivision improvements as well as the renderings and floors plans of the various house models they intend to offer.

Director Krantz said the Nordstrom Rack had a busy and successful grand opening.

**8. EX-OFFICIO’S REPORT**

Alderman Clement introduced Andy Hixson, the new City Administrator. He said the Board will begin to review 2013 budgets in October.

**9. COMMENTS FROM THE PLANNING AND ZONING COMMISSION**

Commissioner Brown commented that at the last Board meeting one of the City’s aldermen was rather harsh toward one of our residents and he felt that if any member of the Board has an issue with someone that it should be discussed privately.

Mayor Willson stated Mr. Hixson is well liked by the staff and is a highly qualified City Administrator and suggested that the Commission introduce themselves to him.

Commissioner Truesdell commented that once again the City had a great homecoming this weekend. He also thanked Commissioner Labit for his presentation. Commissioner Labit said it wasn’t to challenge the City Engineer but to encourage him to render his opinion to the Commission tonight.

**10. ADJOURNMENT**

Commissioner Brown made the motion to adjourn the Planning and Zoning Commission meeting of September 10, 2012, at 8:15 p.m. Motion seconded by Commissioner Smith; motion approved by voice vote. The vote taken was recorded as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Excused</u>
7	0	0	0

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