

**MINUTES**  
**DES PERES BOARD OF ALDERMEN**  
**April 22, 2019**  
**DES PERES GOVERNMENT CENTER**

The regular meeting of the Board of Aldermen of the City of Des Peres, Missouri was held at the Des Peres Government Center, 12325 Manchester Road commencing at 7:00 PM on Monday, April 22, 2019.

**ROLL CALL**

The City Clerk took roll with the following board members present: Alderman Pound, Alderman Sansone, Alderman Kleinschmidt, Alderman Fitzpatrick, Alderman Concagh and Alderman Barrett. Mayor Becker was also present.

Staff members present included the City Administrator, Assistant City Administrator, City Clerk, Director of Finance, Director of Parks and Recreation, and Director of Public Works. Director of Public Safety was absent with excuse. At this time the Board of Aldermen, staff and citizens rose for the Pledge of Allegiance.

**PUBLIC HEARING – Blattner Farm Subdivision**

Mayor Becker called a Public Hearing to order at 7:02pm, to discuss the recommendation from the Planning & Zoning Commission to approve the rezoning of a 4.85 acre tract of land from D-Residential to Planned Development Residential, located at 641 N Ballas Road, and for approval of a Master Development Plan for the parcel, and for approval of a Preliminary Subdivision Plat for Blattner Farm Subdivision.

The City Clerk read the following exhibits:

1. Notice of Public Hearing posted March 19, 2019 on the City Website and at City Hall
2. Publication of Notice of Public Hearing in the St. Louis Countian, a newspaper of general circulation, on March 20, 2019
3. Application for Rezoning Dated October 12, 2018
4. Application for Subdivision Dated November 9, 2018
5. Staff Report as provided to the Planning & Zoning Commission dated November 6, 2018
6. Staff Report as provided to the P&Z Commission dated January 31, 2019
7. P&Z Sub Committee Meeting Summary dated February 6, 2019
8. P&Z Commission Minutes of the February 13, 2019 Meeting
9. P&Z Meeting Summary dated March 14, 2019
10. P&Z Commission Minutes of the March 13, 2019 Meeting

11. Preliminary Subdivision Plat dated April 17, 2019
12. Master Development Plan dated April 9, 2019
13. Bill 19-2854.2 An Ordinance Rezoning a 4.85 Acre Tract of Land located at 641 N Ballas Road from D Single Family Residential to Planned Development Residential, Approving a Master Development Plan for the Development, and approving a Preliminary Plat for Blattner Farm Subdivision
14. Power Point Presentation dated April 22, 2019 as presented by Thomas O'Toole Jr.
15. Statement and Picture provided for the record by Frank & Jane Melville
16. Municipal Code of the City of Des Peres and all files related

Mr. O'Toole, attorney, addressed the Board, and introduced Mr. Wolfner Jr, President of Pentrex Development, and Clay Vance, Engineer. Mr. O'Toole stated that Pentrex Development has submitted two petitions for approval by the Board of Aldermen, one for the Rezoning of property 641 N Ballas Road from D-Residential to Planned Development Residential, and a petition for subdivision to build eight homes.

Mr. O'Toole stated that in addition to attending a number of Planning & Zoning Commission, Commission Sub-Committee, and Board meetings, his client has also met several times with adjacent subdivision trustees and homeowners, and the original subdivision plan has been amended throughout the process to deal with some of the concerns that were raised.

Mr. O'Toole provided a power point presentation that outlined their subdivision plan that included density calculations, lot sizes, disturbance and setback configurations. Mr. O'Toole stated that their proposed plan creates a commonality amongst the neighborhood, and met the intent of the Planned Development District. Mr. O'Toole added that the site was 4.85 acres and that the Planned Development District required a minimum of 5 acres, however that restriction could be waived by the Board of Aldermen upon recommendation of the Planning & Zoning Commission, which they had received.

Mr. O'Toole stated that the plan also included a connection of Brook Valley Road, from Brook Bend to Ballas View, as required by the 2015 Comprehensive Plan for the City of Des Peres. Mr. O'Toole indicated that the zoning code prohibits dead-end streets, but states that the streets may terminate into a cul-de-sac. Mr. O'Toole added that the plan has been reviewed by the Department of Public Works and Public Safety and that the proposal meets the code requirements for emergency vehicles.

Mr. O'Toole stated that a concern with construction traffic and parking was raised during meetings with the Planning & Zoning Commission, and assured the Board that all construction vehicles will be limited to Pentrex lots and the Brook Valley extension once developed. Mr. O'Toole stated that Pentrex will take responsibility for any damage to existing streets that may occur.

Mr. O'Toole indicated that the development will be subject to subdivision restrictions and indentures, and expects comments by the City and their attorney regarding those indentures once they are submitted.

Mr. O'Toole stated that the utilization of rain gardens for storm water management will occur on all lots, and the each homeowner will be responsible for the maintenance of said garden on their lot. Mr. O'Toole added that rain gardens are common practice and that MSD has issued a preliminary approval.

Mr. O'Toole submitted the following items into the record:

1. Sample of an MSD Maintenance Agreement, indicating that the City will not issue a building permit until it receives MSD's final approval
2. Affidavit of Edwin M Blattner dated February 5, 2019
3. City of Des Peres vs. Blattner – Consent Order, Judgment and Injunction Relief
4. Brucker Engineering Work Plan dated April 22, 2019, indicating that once vegetation is removed the firm will perform a site walk-over and collect samples from each lot.

Mr. O'Toole stated that Lot #2 of the Blattner Farm Subdivision was approximately 63' away, measuring home to home, from Frank & Jane Melville's home, and has a 23' side setback as stipulated by the Planning & Zoning Commission. Mr. O'Toole provided pictures of homes in the adjacent Spring Valley Subdivision, that range from 31-49' in distance, when measuring home to home.

Mr. O'Toole stated that he and his client believe they met the purpose, spirit and intent of the Planned Development Residential code.

Not hearing any comments or questions from the Board, Mayor Becker opened the hearing to citizen comments.

Frank & Jane Melville, 2103 Trailcrest, provided a picture of their rear property looking out onto proposed Lot #2, they stated that the picture was taken in 2018 prior to the demolition of the existing home. Mr. Melville stated that due to the topography of the property, one home would be better for this location, and a ranch style home would be preferred. Ms. Melville stated that the slides provided by Mr. O'Toole didn't exhibit the same change in elevation between the two properties, and that their rear setback is less than 40'.

Ms. Melville asked that the record reflect that they are requesting that lot #2 be limited to a one story home and that the property maintain its current D-Residential zoning. Ms. Melville stated that at the previous meeting it was asked if one home would be more preferable, and to reiterate her statement, that one home would be much more preferable for them. Ms. Melville

added that she had privacy concerns, and believes that approving such subdivision would be a mistake and detrimental to them.

James McEnroe, 2158 Trailcrest, stated that he would like to have the City review and approve the proposed indentures and for the developer to receive final approval from MSD before granting approval of the subdivision. Mr. McEnroe stated that the City consider environmental concerns and require a Phase I Environmental Study.

Alderman Fitzpatrick asked Mr. McEnroe if the report submitted by Brucker Engineering regarding the soil testing was sufficient for him. Mr. McEnroe stated that according to the work plan provided by Brucker Engineering only the sites that were to be disturbed would be tested, and that he would like to see the whole lot studied.

Christopher Bennington, 2137 Ballas View, stated his concern with rising creek levels and overflow sewage.

Mr. O'Toole responded to Mr. & Mrs. Melville's statement stating that if the developer could sell a ranch style home on Lot #2 he would, but they do not see the development as hurtful or harmful to the adjacent properties.

Mr. O'Toole stated in response to Mr. McEnroe that it is the intent of the developer to preserve the natural state of the lot when possible.

Mr. O'Toole stated in response to Mr. Bennington, that the only storm water that'd enter would be coming from Manchester Road from the north.

In addition to the Exhibits entered earlier, Mayor Becker entered the following items as exhibits:

17. Sample Maintenance Agreement with MSD provided by applicant
18. Statement for the record with photo, proved by Frank & Jane Melville
19. Affidavit of Edwin M Blattner dated February 5, 2019
20. Consent Order, Judgment and Injunction Decree dated September 29, 1989
21. Work plan as provided by Brucker Engineering Company dated April 22, 2019
22. Power point presentation as provided by Mr. O'Toole

Alderman Barrett asked if two homes could be built on Ballas using the D-Residential Zoning District. Mr. Vance, engineer, stated that due to the minimum lot width requirements only one home could be built. Mr. Vance added that two homes could be built using D-Alternate Zoning.

Alderman Barrett asked if they had looked into any other screening options. Mr. O'Toole stated no, but indicated that the photographs showing the trees was taken during the winter and do not depict how full they are.

Alderman Fitzpatrick asked if there would be a return on the investment if only seven homes were built. Mr. O'Toole stated that limiting the developer to seven homes would prohibit them from selling their most valuable land.

Mayor Becker asked if there were any comments or questions from the audience or the Board of Aldermen. Hearing none, Mayor Becker closed the Public Hearing at 8:36pm.

### **AMENDMENT OF AGENDA – None**

### **CITIZEN COMMENTS - None**

### **REPORTS OF OFFICERS AND COMMITTEES**

#### Report of Committees

The Mayor acknowledged the following written reports submitted to the Board of Aldermen:

- a) Report of the Planning & Zoning Commission Meeting of April 10, 2019

#### Report of Mayor

Mayor Becker reported that the City has scheduled a Public Forum for discussion on the Better Together proposal at the Lodge Des Peres on Monday April 29, 2019 at 7:00PM.

### **CONSENT AGENDA**

Mayor Becker advised that the Consent Agenda consisted of six (6) items. Under the Board Rules, all items on the consent agenda can be approved by a single motion and any item on the warrant list may be removed prior to the vote at the request of any individual member of the Board of Aldermen. Items on the consent agenda included:

1. Minutes of The April 8, 2019 Board of Aldermen Meeting
2. Warrant list Dated April 18, 2019
3. R19-3298 Authorizing a Contract with Byrne & Jones in the amount of \$254,094.84 for Improvements to Vinetta Avenue and Tallie Drive and Authorizing a Contingency Allocation of \$30,000
4. R19-3299 Authorizing Write Off of \$35,921.12 in Uncollectible EMS Billings Debt for 1<sup>st</sup> Quarter 2019
5. R19-3300 Authorizing a Contract with Office Essentials in the amount of \$11,154.56 for Purchase of Office Chairs for The Lodge Utilizing a National Cooperative Procurement Contract

6. R19-3301 Authorizing a Unit Quantity Contract with Martin Brothers Distributing Company for Concession Stand Supplies at an Estimated Cost of \$24,955.72

Alderman Barrett moved to approve the Consent Agenda as amended, second by Alderman Fitzpatrick. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Concagh, AYE; Kleinschmidt, AYE; Fitzpatrick, AYE. Motion passed 6-0.

### **LEGISLATION (UNFINISHED)**

1. B19-2854.2 An Ordinance Rezoning a 4.85 Acre Tract of Land Located at 641 N. Ballas Road From "D" Single Family Residential to Planned Residential Development (PDR), Approving a Master Development Plan for the Development and Approving a Preliminary Plat for the Blattner Farm Subdivision  
(2<sup>nd</sup> Reading and Consideration for Final Passage and Approval)

City Administrator Harms indicated that supplemental Bill 19-2854.2 had been sent out replacing Bill 19-2854. Mr. Harms stated that the changes in the Bill were mostly grammatical, and included the separation of the originally submitted plan into a Master Development Plan and Preliminary Subdivision Plat as required by the zoning code.

Alderman Concagh moved to amend Bill 19-2854 by Bill 19-2854.2, second by Alderman Fitzpatrick. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Kleinschmidt, AYE; Concagh, AYE; Fitzpatrick, AYE. Motion passed 6-0.

Alderman Kleinschmidt moved to table Bill 19-2854.2, second by Alderman Concagh. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Kleinschmidt, AYE; Concagh, AYE; Fitzpatrick, AYE. Motion passed 6-0.

2. Certification of Election Results from the Election Held April 2, 2019

City Clerk Mann stated that the Certification of Elections Results were received from the St. Louis County Board of Elections, and then administered the Oaths of Office to Alderman Sansone, Alderman Kleinschmidt, and Alderman Concagh.

### **LEGISLATION (NEW)**

1. B19-2855 An Ordinance Approving a Master Development Plan for an 0.97 Acre Tract of Land at 12239-12247 Manchester Road; Approving a Conditional Use Permit for the Village BHR-LLC for Operation of a Restaurant; Approving a Conditional Use Permit for Operation of a Craft Distillery as

an Accessory Use; and Repealing Ordinance 2764 (Introduction Only – Hold for Public Hearing on May 13, 2019)

Alderman Concagh introduced Bill 19-2855, and read it for the first time.

2. B19-2856 An Ordinance Authorizing an STP-Urban Program Agreement with the Missouri Highway and Transportation Commission Relating to Improvements to Manchester Road, STP Project 5555-(614) (Introduction Only)

Alderman Sansone introduced Bill 19-2856, and read it for the first time.

3. R19-3302 Adopting the Forestry Policy

Alderman Kleinschmidt moved to approve R19-3302, second by Alderman Concagh. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Kleinschmidt, AYE; Concagh, AYE; Fitzpatrick, AYE. Motion passed 6-0.

#### **REPORTS OF STAFF - None**

#### **ADJOURNMENT**

There being no additional business to come before the regular session of the Board of Aldermen, Alderman Concagh moved to adjourn into executive session pursuant to Section 610.021(2) personnel.

Motion was seconded by Alderman Sansone at 8:51PM. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Kleinschmidt, AYE; Concagh, AYE; Fitzpatrick, AYE. Motion passed 6-0.

Minutes prepared by:

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Stacey Mann, City Clerk

These minutes have not yet been approved by the Board of Aldermen.

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Mark Becker, Mayor

**ATTEST:**

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Stacey Mann, City Clerk