

FILED

JUL 14 2021

**JOAN M. GILMER
CIRCUIT CLERK, ST LOUIS COUNTY**

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI**

BG OLIVE & GRAESER LLC, et al.,)	
)	
Plaintiffs,)	Cause No. 20SL-CC04674
)	
v.)	Division 21
)	
CITY OF CRÈVE COEUR, MISSOURI,)	
)	
Defendant.)	

ORDER IN MANDAMUS

Based upon the judgment entered in this case on July 14, 2021, the undersigned hereby directs the City of Creve Coeur, Missouri to issue a Conditional Use Permit to QuikTrip Corporation with the same conditions and terms as set forth in the proposed ordinance (Bill #5831), attached hereto as Exhibit 1, on or before the 13th day of August, 2021.

SO ORDERED:


Hon. Nancy Watkins McLaughlin

Dated: 7/14/2021

ORGANIZATION OF THE COMPANY

1000 10 5051

LTD

BILL NO. 5831

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING A NEW CONDITIONAL USE PERMIT WITH
BOUNDARY ADJUSTMENT AND SITE DEVELOPMENT PLAN APPROVAL FOR A
QUIKTRIP GAS STATION WITH CONVENIENCE STORE AT 11004, 11026, AND
11032 OLIVE BOULEVARD AND 825 AND 827 GRAESER ROAD,
AND THE REDEVELOPMENT OF THE ADJACENT RETAIL CENTER
AT 11032 AND 11056 OLIVE BOULEVARD**

WHEREAS, Gasoline Stations with Convenience Stores (NAICS #447110) are conditional uses in the GC-General Commercial District; and

WHEREAS, Gwen Keen, Real Estate Project Manager, QuikTrip Corporation, has submitted an application for a Conditional Use Permit and Site Development Plan at 11004, 11026, 11032 and 11056 Olive Boulevard and 825-827 Graeser Road, for a new gas station with convenience store, that includes the redevelopment of the adjacent retail center at 11032 and 11056 Olive Boulevard; and

WHEREAS, a public hearing was held by the Creve Coeur Planning and Zoning Commission on Monday, June 1, 2016, beginning at 6:00 p.m., and continued to June 3, 2020, beginning at 6:00 p.m., on said application for the conditional use permit as provided by Section 405.1070(D)(2) and continued the review and discussion of the proposal to the June 15, and July 6, 2020 Planning and Zoning Commission Meetings; and

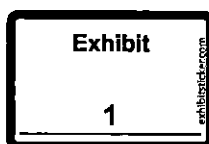
WHEREAS, notice of publication for said public hearing had been previously published at least 15 days prior to the hearing, in the St. Louis Countian, a newspaper of general circulation in the City of Creve Coeur; and

WHEREAS, the Planning and Zoning Commission reviewed and, by a 1-7vote, recommended denial of the conditional use permit and site plans, subject to the conditions contained herein, and a 7-0 vote recommending approval of the boundary adjustment at its meeting on July 6, 2020; and

WHEREAS, all parties desiring to be heard, either for or against said application, were given an opportunity to be heard, and a copy of the proposed ordinance has been made available for public inspection prior to its consideration by the Council; and this Bill having been read by title in open meeting two times before final passage by the City Council, and

WHEREAS, the City Council finds that the application and evidence presented clearly indicate that the proposed rezoning is in the public interest and the proposed conditional use, when subject to certain conditions set forth herein:

1. Will contribute to and promote the community welfare and convenience at the specific location.
2. Will not cause substantial injury to the value of neighboring property.
3. Meets the applicable provisions of the City's Comprehensive Plan and any applicable neighborhood or sector plans and complies with other applicable zoning district regulations and provisions of this Chapter, unless good cause exists for deviation therefrom.
4. Will be compatible with the surrounding area and thus will not impose an excessive burden or have a substantial negative impact on surrounding or adjacent users or on community facilities or services.



BILL NO. 5831

ORDINANCE NO. _____

NOW, THEREFORE, be it ordained by the City Council of the City of Creve Coeur, St. Louis County, Missouri, as follows:

Section 1: A Conditional Use Permit is authorized to be issued pursuant to Section 3 hereof for the operation of a QuikTrip Gas Station with Convenience Store at 11004, 11026, 11032 and 11056 Olive Boulevard and 825-827 Graeser Road, with such property being described as follows:

LOT "A" DESCRIPTION without proposed MODOT Dedication Strip:

A tract of land located in Section 2, Township 45 North, Range 5 East, said tracts being conveyed to BG Olive & Graeser LLC by Deed Book 23202 at page 119 and Deed Book 23466 at page 2128 of the St Louis County Records, St Louis County, Missouri and being described as follows:

Beginning at the point of intersection of the South line of a tract conveyed to BG Olive & Graeser LLC as recorded in Book 23466 at page 2128, and the West right of way line of Graeser Road (width varies) being the North line of Lot 1 of MARTIN GROVE, a subdivision filed for record in Plat Book 299 at page 20 of the St Louis County Records; thence leaving said West right of way line of Graeser Road North 89 degrees 03 minutes 57 seconds West along the North line of said subdivision a distance of 410.71 feet to a point, said point being in the East line of Lot 3 of MARY MEADOWS, a subdivision filed for record in Plat Book 72 at page 25; thence leaving said MARTIN GROVE North 00 degrees 10 minutes 47 seconds East along the East line of MARY MEADOWS a distance of 159.54 feet to a point in the North line of Lot 1 of said MARY MEADOWS; thence leaving said MARY MEADOWS South 89 degrees 12 minutes 29 seconds East a distance of 151.03 feet to a point; thence North 05 degrees 39 minutes 39 seconds East a distance of 249.45 feet to a point in the Southern right of way line of Olive Boulevard (width varies); thence along said right of way South 84 degrees 15 minutes 15 seconds East a distance of 9.01 feet to a point; thence leaving said right of way South 73 degrees 33 minutes 59 seconds East a distance of 221.01 feet to a point; thence South 36 degrees 40 minutes 14 seconds East a distance of 16.71 feet to a point in the Western right of way line of Graeser Road (width varies); thence leaving Olive Boulevard South 00 degrees 36 minutes 57 seconds East along said Graeser Road a distance of 335.57 feet to the point of beginning and containing 2.7 acres, more or less.

Subject to easements, restrictions, reservations and covenants of record, if any.

Section 2: The Conditional Use Permit granted shall be subject to all applicable statutes, ordinances, rules and regulations, and the following conditions:

1. The Conditional Use Permit shall be for the operation of a 4,993 square foot, 24-Hour, QuikTrip Convenience Store located at 11004 and 11026, and a portion of 11032 Olive Boulevard, and of 825 and 827 Graeser Road, with 16 vehicle fueling positions gas station.
2. Site Development Plans for the Gas Station with Convenience Store, and for the adjacent retail center shall include site improvements for shared access, a new façade to the existing building, and landscaping and other site improvements, as proposed with the Application #20-002 submitted by QuikTrip on the remaining portion of 11032, and 11056 Olive Boulevard.
3. The Applicant is required to submit Grading and Site Improvement Plans, showing all exterior improvements, for all new construction to the Department of Community Development for review, as required by Section 410.390 of the Subdivision and Land

BILL NO. 5831

ORDINANCE NO. _____

Development Regulations (Subdivision Code). The Grading and Site Improvement Plans shall be in substantial conformance with the Site Development Plans and the Landscape Plan submitted on May 11, 2020, as bound together and submitted in conjunction with Application #20-002 by QuikTrip and as amended below.

4. The Applicant is required to submit a Building Permit application, as required by Article II of the Building Code. Exterior elevations shall be in substantial conformance with the "Exterior Elevations" submitted on May 11, 2020 and the revised retail building elevations received June 12, 2020, on as bound together and submitted in conjunction with Application #20-002 by QuikTrip and as amended below.
5. The improvements to the retail building shall be substantially completed prior to the issuance of a final occupancy permit for the Gas Station and C-Store.
6. All plans shall be updated to provide for consistency prior to final action by City Council. The sale of retail items customary to gas station convenience stores including food, beverages including intoxicating beer and liquor, personal care, or other convenience items is hereby granted.
7. The stacked stone and cornice detail design elements on the convenience store shall be carried around on all elevations of the side tower elements as discussed in the Staff Report for June 1st Planning and Zoning Commission meeting to meet with the recommendations of the Design Guidelines
8. The Landscape Plan shall be revised to provide additional plantings adjacent to the buildings and at the corner of Olive Boulevard, and Graeser Road for the Zoning Administrator's approval to meet with the City's Comprehensive Plan and Design Guidelines as well as Sections 405.540 and 405.810 of the Zoning Ordinance. Further, the Landscape Plan and Site Development Plans shall be revised to maintain the pre-existing landscaped area at the northwest corner of the site along Olive Boulevard. Landscape plantings shall include an appropriate variety, subject to approval of the Zoning Administrator.
9. An underground irrigation system shall be installed and maintained to serve all new landscaped areas. Vegetation that is totally or predominantly dead and/or disfigured due to disease or injury shall be replaced as needed and in a prompt manner.
10. The proposed 8-foot tall shadowbox wood fence shall be stained with a compatible color and placed interior to the proposed landscaping adjacent to the residential zoning districts to create a condition where plantings are placed on both sides of the fence subject to final approval by the Zoning Administrator.
11. If required by the Building Code, a four-foot tall, safety barrier on top of the retaining wall shall be approved by Staff, provided it is an open slatted, black wrought-iron style.
12. All existing surface parking areas of the retail building site shall be resurfaced and re-stripped to present a consistent, neat appearance with the adjacent gas station and convenience store component.
13. The Applicant shall provide reciprocal parking, access, and drainage agreements for review and approval by the City Attorney with a copy of the recorded agreements provided to the City prior to the issuance of a building permit.
14. The applicant shall comply with all off-site roadway improvements as directed by MoDOT. Copies of MoDOT approvals based on the approved plans shall be provided to the City prior to the issuance of a Site Improvement Permit or Building Permits, including a maintenance and use agreement for the plantings within MoDOT right-of-way. New signals shall be black powder coated and lighted street name signs shall be utilized, at Applicant's expense subject to approval by the City's Public Works Department.
15. The right turn lane on northbound Graeser Road shall be extended in further mitigation of the anticipated traffic impacts at the Olive and Graeser intersection in substantially similar form as shown in the "Graeser Road Right-Turn Lane Extension Exhibit", subject to final

BILL NO. 5831

ORDINANCE NO. _____

- review and approval by the Department of Public Works as a component of the Site Improvement Permit application.
16. The Applicant shall post a sign and direct deliveries of the larger fuel trucks to only utilize north bound Graeser Road, and not drive south on Graeser Road. Applicant shall prevent use of Graeser Road (either direction) south of the property line by fuel trucks and its company delivery trucks.
 17. Employee parking, delivery and company vehicles shall be parked interior to the site behind the building and as far from the public right-of-way as possible. There shall always be a minimum of two employees on duty.
 18. Copies of the approval of the Underground Storage Tanks by the Missouri Department of Natural Resources shall be provided to the City prior to approval of a final inspection and occupancy permit.
 19. Outdoor displays of merchandise shall be located against the convenience store building underneath the overhangs as depicted on a revised site development plan for the Zoning Administrator's approval. Merchandise displayed outdoors shall be arranged in an orderly fashion and not on pallets. A walkway of 6 feet shall be provided at all times. The cash registers and all points of sale related to the gas station and convenience store shall be located and maintained within the established boundaries of the Olive-Graeser Transportation Development District.
 20. All signs and banners shall be in conformance with Article VIII, Sign Regulations, of the Zoning Code.
 21. All lighting shall comply with Section 405.680 Lighting of the Zoning Ordinance, and with the lighting levels as shown on the photometric plans for the canopy structure, as submitted on May 11, 2020.
 22. Any mechanical equipment installed for the site shall be properly screened with approved materials.
 23. Proof of recording of the approved boundary adjustment consolidation plat and copies of MoDOT approval based on the approved plans shall be provided prior to the issuance of a Site Improvement Permit or Building Permits from the City. All conditions of such approval shall be met by the applicant, except any inconsistency herewith shall require resolution with all applicable authorities
 24. Any future enlargement, extension, expansion or alteration in the use of the structures or site must be approved by the City Council upon receipt of the recommendation of the Planning and Zoning Commission as an amendment to the Conditional Use Permit before a Building Permit for the enlargement, expansion or alteration may be issued.
 25. Failure to comply with any one or all of the conditions of this permit shall be adequate cause for the revocation of said permit by the City Council, provided, however, no permit shall be revoked without prior notice to the owner of the intention of the City Council to revoke this permit and reasonable time granted to the owner to correct or remedy any such breach of conditions, except for repeated breaches or violations.
 26. The site development plan approval covering all components of the proposed site improvements as a whole, shall be valid for a period not longer than twelve (12) months from the date it is approved, unless within such period a building permit is obtained and substantial construction is commenced. Substantial construction shall be deemed to consist of clearing the site, completion of footings, basement or building slab and inspection of such work. The Planning and Zoning Commission and the City Council, when required, may grant extensions not exceeding twelve (12) months each upon written request of the original applicant prior to the expiration of such period and resubmission of the application if the application as resubmitted is substantially the same as the initially approved application. However, the Commission and the Council, as applicable, have the power in such cases to attach new conditions to their re-approval or to disapprove the reapplication. Where the application for re-approval contains changes which the Zoning

BILL NO. 5831

ORDINANCE NO. _____

Administrator concludes materially alter the initial application, the Zoning Administrator shall initiate a new site development plan review procedure as stated in Section 405.1080 or a new minor site plan review procedure as stated in Section 405.1080.

- 27. No conditional use permit granted by the City Council shall be valid for a period longer than one year from the date it grants the conditional use permit, unless within such period: (1) a building permit is obtained and construction is begun; or (2) if a building permit is not required, an occupancy permit is obtained and the use of the building commenced. The City Council may grant extensions to the one (1) year period of not more than one hundred and eighty (180) days each, without notice or hearing, provided that a written request for such extension is filed by the original applicant and approved by the City Council prior to the date the conditional use permit is scheduled to expire.
- 28. Any transfer of ownership or lease of the property shall include in the transfer or lease agreement a provision that the purchaser or lessee agrees to be bound by the approved Site Development Plan for the property and the conditions herein set forth, and written confirmation thereof signed by the new owner or lessee shall be filed with the City at the time of such transfer or lease. Failure to comply with this provision shall not excuse anyone from these conditions.

Section 3: The City Administrator of the City of Creve Coeur is hereby authorized and directed to issue a Conditional Use Permit in accordance with the provisions of this ordinance, said permit to expressly provide for the conditions and stipulations hereinabove set out in Section 2 of this ordinance. Exercise of the rights granted pursuant to the issued permit shall constitute acceptance of all conditions and stipulations set forth herein.

Section 4: This ordinance shall become effective in accordance with Section 3.11 (g) of the City Charter.

ADOPTED THIS ____ DAY OF _____, 2020.

HEATHER SILVERMAN
PRESIDENT OF CITY COUNCIL

APPROVED THIS ____ DAY OF _____, 2020.

BARRY GLANTZ
MAYOR

ATTEST:

BILL NO. 5831

ORDINANCE NO. _____

DEBORAH RYAN, MPCC
CITY CLERK