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**FRANCIS G. SLAY**  
MAYOR

**To:** Mary Ellen Ponder  
**From:** Winston Calvert  
**Date:** June 5, 2015  
**Subject:** Reforms of the Conditional Use Permit Process

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Mayor Slay asked us to identify what reforms would be necessary for city laws and processes to be more accommodating to those opening and growing a business in the City of St. Louis. The Mayor set a clear goal: city laws should make it as easy as possible for people to open a business while ensuring that reasonable public health, safety, and quality of life protections remain in place.

One of the legal processes new businesses often undertake before opening is applying for a conditional use permit from the Board of Public Service. We have reviewed the conditional use permit process and have concluded that the conditional use process can be reformed in four key ways to serve the Mayor's goal, specifically:

1. allow businesses to open faster by quickening the pace of the conditional use permit process;
2. ensure that the process is fair to applicants by requesting that any comments from neighborhood representatives be shared with the applicant at least one week prior to the conditional use hearing;
3. ensure predictability for applicants by requiring hearing officers to provide written rationale for recommended conditions; and
4. ensure businesses have the breathing room to grow by not artificially limiting their expansion unless the public health, safety, or the neighborhood's quality of life are implicated.

## **I. Let Businesses Open Faster**

The current legal process for conditional use hearings and issuance of conditional use permits is set out in Board Order 766, which was adopted by the Board of Public Service on November 22, 1988. Pursuant to Board Order 766, the Board of Public Service relies upon the Zoning Administrator and hearing officers to recommend what conditions should be placed on permits.

Board Order 766 did not establish any goal for how quickly the conditional use permit process should move. As a result, the process often took much more than one month. We have prepared the attached order to replace Board Order 766, which establishes that the entire conditional use permit process within the Board of Public Service's control should, absent extraordinary circumstances, be completed in one month.

## **II. Ensure the Process is Fair to Businesses**

The customary practices followed in the conditional use process often result in a permit applicant appearing at the conditional use hearing with no prior notice of what objections neighborhood representatives may have to their proposed conditional use. Because the applicant sometimes does not know what those objections may be before the hearing, the applicant has no opportunity to address those concerns before the hearing or to provide an alternative perspective to the hearing officer.

The BPS order attached would require the hearing officer request that any neighborhood representative provide the hearing officer and the applicant the neighborhood's perspective on the proposed conditional use at least one week prior to the conditional use hearing.

## **III. Ensure the Process is Predictable for Businesses**

The customary practices followed in the conditional use process sometimes resulted in hearing officers recommending conditions be placed on permits without always articulating for the Board of Public Service the specific rationale for each condition. As a result, over time, conditions started to be placed on permits on an *ad hoc* basis, resulting in similar businesses having different conditions placed on their business.

The BPS order and the Building Commissioner's memorandum attached will require the hearing officers to only recommend conditions that serve identifiable public health, safety, or quality of life concerns, and to state those concerns and the rationale for the conditions in the report to the Board of Public Service. This process should make conditional use permits more predictable to the businesses and more uniform throughout the city.

## **IV. Provide Businesses Breathing Room to Grow**

The customary practices in the conditional use process also resulted in recommendations being made to the Board of Public Service that the operating hours be limited to the hours of operation the applicant planned to have when the applicant first opened for business. This effectively required a business to seek the City's permission if they wanted to change their hours

of operation at a later date. These artificial limitations on business operations sometimes gave the applicant the appearance of having little connection to the City's concerns about public health, safety, and quality of life. It also resulted in similar businesses being treated differently, with almost identical businesses limited to different hours of operation. As in other areas of the conditional use permit process, there is a delicate balance to be struck between eliminating artificial limitations on businesses and protecting the quality of life of the neighborhood in which the business plans to operate.

The Building Commissioner's memorandum directs that operating hours be limited only in extraordinary circumstances when limiting the permitted hours will protect the neighborhood quality of life or serve the public interest such as public health, safety, or quality of life.