

LIBERTY PLANNING AND ZONING COMMISSION

February 11, 2020

Meeting Summary

7:00 p.m.

I. Call to Order

The Liberty Planning and Zoning Commission met on Tuesday, February 11, 2020, in the Council Chambers, City Hall, 101 East Kansas Street. A quorum being present, Chairman Rosekrans called the meeting to order at 7:00 p.m.

II. Roll Call

Commission members in attendance were: Rick Boswell, Judy Dilts, Walt Holt, Amy Howard, Dee Rosekrans and Ann Waterman. Patricia Evans, Tom Reinier and Ken Personett were absent. Representing staff were Katherine Sharp, Director of Planning and Development; Michael Peterman, City Planner; and John Findlay, Development Review Engineer. 6 members of the public were in attendance.

III. Approval of Minutes

Chairman Rosekrans asked if there were any questions or comments related to the minutes from the January meeting.

Commissioner Holt moved to approve the regular session minutes from the January 14, 2020 meeting and Commissioner Howard seconded the motion. The minutes were approved 6-0-0.

IV. **20-02FDP: Final Development Plan for Liberty Parkway Plaza, Phase I, south of South Liberty Parkway between US 69 and Flintlock with a variance request. [Public Hearing]**

Ms. Sharp presented the proposal as described in the staff report.

Chairman Rosekrans asked the commissioners if they had any questions of staff.

Commissioner Holt asked if staff had an opinion on the requested variance.

Ms. Sharp stated that staff generally does not provide an opinion on a variance. The Unified Development Code is designed to address many types of standard development but provides the opportunity for variances if warranted. This is a nonstandard development because of its overall size. Staff feels that the proposed payment for the tree fee is reasonable.

Commissioner Holt stated that it all should be relevant regardless of size.

Commissioner Boswell asked if the trees required for the site could be planted off site.

Ms. Sharp stated that the previous code allowed that alternative, but it became a problem when the trees were planted but not maintained. That provision was removed from the code and the fee-in lieu was added.

Commissioner Holt asked if there was still a large balance in the tree fund.

Ms. Sharp said that the tree board has recently been approved to start a project of tree planting that will utilize the funds.

Commissioner Dilts asked what the rationale for the 2:1 ratio for replacement trees.

Ms. Sharp stated that the intent is for 2 smaller trees to replace 1 large tree that is removed. The rationale being the ecological benefit of a large tree can't be replaced with just one small tree. The code also wants to incentivize keeping large established trees by providing extra credit for every large tree saved.

Commissioner Dilts asked about the tree survey.

Ms. Sharp described the process of a tree survey as required by the code.

Commissioner Boswell asked if the developers were aware of the existing ordinance.

Ms. Sharp stated that she would defer to the developers to answer that question.

Commissioner Holt asked if the Tree board had any comments on this variance.

Ms. Sharp stated that the code does not provide a path for the tree board to make comments on projects. The Planning and Zoning Commission and City Council meetings and public hearings are open to the public to attend and anyone can provide comments at those times as well.

Chairman Rosekrans asked if the applicant would like to speak.

Hunter Harris, Lane 4, the applicant, gave an update the current status of the project. He also stated that the developers are in discussions with multiple users for the site.

Chris Hafner, Davidson Arch., 4301 Indian Creek Parkway, Overland Park, KS 66207, presented a PowerPoint update of changes to the project since the Preliminary Development Plan approval.

Marc Abbott, Polsinelli, 900 W. 48th Place, Suite 900, Kansas City, MO 64112 representing the applicant clarified the variance request and stated that the design of the site required a large grading and that the removal of the trees was necessary. The site design also precludes the replanting of all the required replacement trees. The developer would like to take advantage of the fee-in-lieu of trees option and asks for a variance to reduce the amount required based on that they have budgeted over \$500,000 on the landscaping for the site and they feel that another \$347,000 above that is unreasonable.

Mr. Hafner stated that based on the survey that was taken, they came up with the number of trees that met the code requirements to be counted. They then came up with a landscape plan that meets all current requirements of the code and then added as many trees as possible to that to make up for the trees removed (over 200 extra trees above the landscaping requirements). They then decided to pay the fee-in-lieu for the remaining trees. Feeling that amount was out of the range of their budget, they asked for a variance to reduce the fee-in-lieu for the remaining trees. Mr. Hafner said that they know about the tree preservation ordinance but believed the tree fee-in lieu allowed a 1:1 replacement instead of a 2:1 replacement.

Mr. Abbott said that they did know about the tree preservation ordinance but did not fully understand it. They did not agree with the interpretation of staff that the tree in lieu fee requires the same amount of trees as if you were to plant replacement trees on site. He said staff clarified the code to them.

Commissioner Holt asked if the developer has encountered this situation on other projects.

Mr. Harris stated that in Leawood, Kansas they had a similar situation with a multi-family project and that the resolution in Liberty seemed to be a lot smoother so far.

Commissioner Dilts asked how the \$100,000 figure was settled upon.

Mr. Harris stated that they have paid other fees to Army Corps of Engineers and Missouri Department of Natural Resources for environmental permits on this land and this seemed to be a fair number based on their budget and discussions with staff.

Commissioner Dilts stated that she appreciated the attention paid to the landscaping. She said that trees are important to consider and that the city values trees. She also stated she was concerned with the language in letter "J" in the variance request and did not agree with the determination.

Chairman Rosekrans asked the commissioners if they had any questions for the applicant.

Chairman Rosekrans opened the public hearing portion for this case. He asked if anyone in the audience wished to speak seeing none, he closed the public hearing.

Chairman Rosekrans asked the commissioners if they had any questions.

Commissioner Boswell asked for clarification on landscaping requirements.

Ms. Sharp explained the portion of the landscaping ordinance that deals with specific landscaping requirements for building size, parking lots, and street trees and that the requested variance did not deal with the required landscaping, only the reduction of the fee-in-lieu for replacement trees of those removed that cannot be planted on the site.

Commissioner Boswell asked if the number of trees that could not be planted is 734 and are part of the fee calculation.

Ms. Sharp stated that the variance request is to pay \$100,000 as the fee-in-lieu. The 734 is the number of trees that are being removed that are not yet replaced. The fee calculation would be at a 2:1 replacement ratio and a fee of \$250 per tree ($734 * 2 = 1468 * \$250 = \$367,000$ required fee-in-lieu).

Commissioner Dilts discussed research she conducted regarding cost of trees and said she felt the tree fee per tree (\$250) was fair.

Chairman Rosekrans asked the commissioners if they had any questions, seeing none he asked for a motion.

Action: Commissioner Holt moved to approve the case as presented in the staff report with the variance and the stipulation regarding right of way and grading for a future right turn lane at Flintlock. Commissioner Waterman seconded the motion.

Commissioner Holt asked for clarification on the stipulation.

Ms. Sharp stated that the stipulation is a temporary measure to add right of way and any site work, including grading and utility work in this plan in case in the future a right turn lane is warranted based on actual traffic flow and accurate traffic counts at Flintlock and southeast bound South Liberty Parkway. She is hoping to have the updated plans and plat prior to Council and if so, the stipulation will be removed.

Mr. Findlay said the Traffic Impact Study showed that the right turn lane at Flintlock is not warranted at this time. However staff has concerns about large, slow moving trucks and the variables associated with a Traffic Study that does not have actual numbers, only assumptions. Allocating the right of way and amending the grading at this time will make the potential future improvement easier to accommodate, if warranted, in the future.

Ms. Sharp clarified that this could be required at any future phase of development including the commercial sites.

Commissioner Dilts stated that she will vote against this application if the variance remains unchanged based on the value that the community places on trees. She said she would vote for the plan but she feels the proposed \$100,000 fee is too low.

Commissioner Holt stated he has concerns with setting a precedent of allowing a lesser fee to be paid.

Commissioner Howard stated she will vote no, because the requested fee is too low.

Vote: Motion failed 0-6-0

Yes: None

No: Boswell, Dilts, Holt, Howard, Rosekrans, and Waterman

Recusal: None

Mr. Harris stated that if the proposed fee was raised to \$183,500 ($734 * \$250 = \$183,500$), would that be an acceptable compromise to get a positive recommendation.

Action: Commissioner Boswell moved to approve the case as presented in the staff report with the modified variance for a fee of \$183,500 and the stipulation regarding right of way and grading for a future right turn lane at Flintlock. Commissioner Howard seconded the motion.

Vote: Motion passed 6-0-0

Yes: Boswell, Dilts, Holt, Howard, Rosekrans, and Waterman

No: None

Recusal: None

Chairman Rosekrans said this case would be heard in front of the City Council on Monday, February 24, 2020 at 7:00 p.m. in the Council Chambers.

V. 20-03FP: Final Plat for Liberty Parkway Plaza, 2 lots & 4 Tracts on 70 +/- acres south of South Liberty Parkway between US 69 and Flintlock.

Ms. Sharp presented the proposal as described in the staff report.

Chairman Rosekrans asked the applicant if they had any comments.

Mr. Hafner stated that he believed there was enough space for a future right turn lane at Flintlock and southeast bound South Liberty Parkway. He would verify with his engineers and city staff.

Chairman Rosekrans asked the Commissioners if they had any questions of staff, seeing none he asked for a motion.

Action: Commissioner Waterman moved to approve the case as presented. Commissioner Dilts seconded the motion.

Vote: Motion passed 6-0-0

Yes: Boswell, Dilts, Holt, Howard, Rosekrans, and Waterman

No: None

Recusal: None

Chairman Rosekrans said this case would be heard in front of the City Council on Monday, February 24, 2020 at 7:00 p.m. in the Council Chambers.

VI. 20-04FDP: Final Development Plan for The Wellington, a 153 unit, senior living community on S. Withers & Kent.

Mr. Peterman presented the proposal as described in the staff report.

Chairman Rosekrans asked the Commissioners if they had any questions of staff.

Chairman Rosekrans asked for clarification regarding the conservation easement along Withers Rd.

Mr. Findlay stated that utility work will be performed and the entrance crossing constructed and when construction is finished that the open channel will remain untouched and remain in its natural state.

Chairman Rosekrans asked the applicant if they had any comments.

Scott Auman, SWD Architects, KCMO, representing the applicant, stated he was excited to move forward and is available for questions.

Chairman Rosekrans asked the Commissioners if they had any questions of the applicant.

Chairman Rosekrans asked the Commissioners if they had any questions of staff, seeing none he asked for a motion.

Action: Commissioner Holt moved to approve the case as presented. Commissioner Howard seconded the motion.

Vote: Motion passed 6-0-0

Yes: Boswell, Dilts, Holt, Howard, Rosekrans, and Waterman

No: None

Recusal: None

Chairman Rosekrans said this case would be heard in front of the City Council on Monday, February 24, 2020 at 7:00 p.m. in the Council Chambers.

VII. 20-05FP: Final Plat for 1 Lot, The Wellington, a senior living community on S. Withers & Kent

Mr. Peterman presented the proposal as described in the staff report.

Chairman Rosekrans asked the Commissioners if they had any questions of staff.

Chairman Rosekrans asked the applicant if they had any comments.

Chairman Rosekrans asked the Commissioners if they had any questions of staff or the applicant, seeing none he asked for a motion.

Action: Commissioner Dilts moved to approve the case as presented. Commissioner Waterman seconded the motion.

Vote: Motion passed 6-0-0

Yes: Boswell, Dilts, Holt, Howard, Rosekrans, and Waterman

No: None

Recusal: None

Chairman Rosekrans said this case would be heard in front of the City Council on Monday, February 24, 2020

at 7:00 p.m. in the Council Chambers.

VIII. Public Comments

There was no public comment.

IX. Other Business

Ms. Sharp updated the commission on the upcoming Comprehensive Plan Update.

X. Future Meeting Schedule

The next regular session is scheduled for Tuesday, March 10, 2020 at 7:00 p.m.

XI. Adjournment

Commissioner Boswell moved to adjourn, Commissioner Waterman seconded. Chairman Rosekrans adjourned the meeting at 8:40 p.m.