



CITY OF TOPEKA
TOPEKA PLANNING COMMISSION

MINUTES

Monday, May 15, 2017

6:00PM – Municipal Building, 214 SE 8th Street, 2nd floor Council Chambers

Members present: Wiley Kannarr, Brian Armstrong, Ariane Messina, Dennis Haugh, Carole Jordan, Rosa Cavazos (6)

Members Absent: Katrina Ringler, Scott Gales, Patrick Woods (3)

Staff Present: Bill Fiander, Planning Director; Mike Hall, Planner III; John Neunuebel, Planner II; Kris Wagers, Administrative Officer; Mary Feighny, Legal

Roll Call – Eight members present for a quorum.

Approval of Minutes from April 17, 2017

Motion to approve as typed; moved by Ms. Jordan, **second** by Mr. Armstrong. **APPROVED** (5-0-1 with Ms. Cavazos abstaining)

Communications to the Commission

Mr. Fiander noted Mrs. Messina's recent wedding and name change from Burson.

Mr. Fiander invited all to the May 17 Bike with the Mayor/City Manager event.

Mr. Fiander reported that the Governing Body had approved the Reser's annexation and PUD that was before the Planning Commission at their April meeting.

Declaration of conflict of interest/exparte communications by members of the commission or staff

Mr. Armstrong stated he would be stepping out for P17/06 McFarland Farm Subdivision.

Public Hearings

Z17/01 101 N Kansas Avenue, by 101 N Kansas Avenue, LLC, requesting to amend the Zoning District for the subject property (16,500 sq.ft.) located at 101 N Kansas Avenue from "I-1" Light Industrial to "D-3" Downtown District to provide for use of an existing vacant building as residential apartments. (Hall)

Mr. Hall presented the staff report, noting the staff recommendation of approval. He noted that the developer had held a Neighborhood Information Meeting (NIM) which was well attended. Issues raised had to do with

APPROVED 7-17-2017

parking concerns and intensified use of the alley behind the building. He added that these issues were addressed in the staff report.

Ms. Jordan asked if the alley is currently gravel and if the city will need to pave it. Mr. Hall explained that necessary alley improvements would be the responsibility of the developer; necessary improvements would be determined during the permitting process of the building renovation.

The applicant, Mr. Mike Wilson, Managing Partner for 101 N Kansas LLC, came forward to speak. He elaborated on the number of planned units and parking spaces, as well as planned improvements for the alley. He noted that in addition to putting parking in the basement, 101 N Kansas LLC had also purchased another nearby building that they will use for resident parking, making a minimum of 49 available parking spaces, approximately 1.5 per unit.

Mr. Wilson stated that Downtown Topeka, Inc. (DTI) is in support of the project, having stated that they feel it will make a great improvement to the neighborhood. DTI has provided a grant for the project.

Mr. Kannarr declared the **Public Hearing open**. With none coming forward to speak, he declared the **Public Hearing closed**.

Ms. Cavazos noted an April 010 email that was included in the agenda packet. The email expressed concern about the condition or existence of a crosswalk and asked if that would be addressed. Mr. Hall stated that the City's traffic engineer would be responsible for determining whether a crosswalk is justified. He added that he would bring this location to the Traffic Engineer's attention.

Mr. Armstrong stated that he is familiar with the planned Polk-Quincy Viaduct project and assured all that he had reviewed this and found that it does not directly impact the location currently under consideration. He added that he believes the proposed project is a great re-use of the building.

Ms. Jordan stated that she had gone to the area and looked around. She believes it will add to the Downtown area and also the corridor between Downtown and NOTO.

Mr. Kannarr noted that the agenda packet included letters of support from surrounding businesses.

Motion by Ms. Jordan to recommend to the Governing Body approval of the reclassification of the property from I-2 Heavy Industrial District to D-3 Downtown District. **Second by Mr. Haugh. APPROVAL (6-0-0)**

Z69/44H Woodland Park at Soldier Creek, by Brick & Mortar Phase I Construction, LLC, requesting to amend the Planned Unit Development (PUD) land use group FROM PUD (M-2) Multiple Family dwellings TO PUD (M-1) Two-Family Dwelling District on Lot(s) 1 and 2 comprising 6.14 acres generally located at the southeast corner of NW Topeka Blvd. & NW Menninger Rd. (Neunuebel)

Mr. Neunuebel presented the staff report, noting the staff recommendation for approval along with conditions, noting a proposed, staff approved change to condition #3 that would include the option of wood fencing. He reviewed a handout / memo to Planning Commissioners regarding an additional condition about sidewalks.

Ms. Messina asked for clarification regarding sidewalks. Mr. Neunuebel stated they are required on both sides of the street.

Ms. Cavazos asked if the frontage road along Topeka Blvd is going to remain. Mr. Neunuebel explained that it will not.

Mark Boyd of Schmidt, Beck and Boyd came forward representing the applicant. He added that the frontage road will be removed for the extent of the property; anything beyond the property under consideration will remain.

Mr. Boyd stated that the applicant is not in full agreement with staff regarding all of the conditions. They have concerns about #2, believing there are other potentially better alternatives to an HOA.

Mr. Boyd expressed concern about condition #4, stating there's no policy in place to address concerns about the placement of duplexes and single family homes. He stated that if design standards are to be placed on PUDs, there should be a policy in place that has been hashed out through the public process and agreed to by the Planning Commission. He stated that he is concerned this will potentially create problems down the road for the owner and would like to have Condition #4 removed.

Mr. Boyd expressed concern about Condition #5. Following discussion, it was agreed by Mr. Boyd and staff that this could be amended as such: [two garage entries] "and having a width of greater than 24 feet" [each entry shall be...].

Mr. Wiley asked for clarification, stating that he heard the applicant say they are in agreement only with conditions 1, 3, 6 & 7. Mr. Boyd stated that having noted their exception, they would be willing to go along with Condition #2. Mr. Haugh asked for more information about their concerns with #2. Mr. Boyd suggested deed restrictions as an alternative to a Homeowners Association as a method of ensuring maintenance of private streets and other facilities hard by residents.

With no further questions from Commissioners, Mr. Boyd took his seat.

Mr. Kannarr declared the **public hearing open**.

None came forward to speak.

Mr. Kannarr asked staff if they had responses to Mr. Boyd's concerns about staff recommendations #4 and #5. Mr. Neunuebel stated that regarding #5, staff is agreeable to the proposed change in wording as typed above.

Mr. Neunuebel explained that staff's main concern and the reason for Condition #4 is the uncertainty it could potentially cause property owners later on. Staff explained that recently there had been concerns by property owners on Gemstone Lane who had single family homes and were opposed to duplexes being built across the street. Though the zoning allowed for duplexes, property owners had been assured by the developer that single family homes would be built. The property later changed hands and the new developer wished to exercise his option to building duplexes. Planning staff felt that Condition #4 would help ensure that something like this wouldn't happen in the future with the property currently under consideration, further noting that that Planning staff is responsible for trying to foresee potential compatibility issues and the fact that this is a PUD it allows for a condition that defines compatibility. Staff stressed that the condition is written so as not to be overly prescriptive.

Mr. Haugh asked what characteristics would make duplexes/single family home incompatible. Mr. Hall suggested that single-family homes directly across the street from duplexes might be deemed such, and

he suggested that staff would recommend grouping single family with and across from single family and duplexes with and across from duplexes.

Mr. Kannar asked if staff has a process for dealing with a request. Mr. Fiander stated that the Condition is actually "Plan B". He stated that "Plan A" would be to determine now which properties would be single family and which duplexes. The developer desires more flexibility based on the market, so what staff has suggested is "Plan B". He stated that if only duplexes are built, the applicant will not need planning's approval. If a single-family home is built, the applicant will need to have Planning review the plans for compatibility. He stated there are no design issues here; it's a matter of compatibility.

Mr. Kannarr invited Mr. Boyd to return to the podium. Mr. Boyd stated that the condition presumes the person buying the property won't know what they bought. He explained that this is a market driven development and the developer with a PUD to allow for flexibility of doing either single family or duplexes. He stated his main concern is the process and setting a precedent.

Mr. Armstrong asked if the developer would prefer "Plan A", determining on the PUD which properties would be single family homes or duplexes and Mr. Boyd stated he would not; he prefers the flexibility of allowing it to be market driven.

Ms. Messina asked if the developer has an idea of timeline for building the properties and Mr. Boyd suggested 12-18 month.

Mr. Haugh asked Mr. Boyd if he felt Planning should have the ability to have some oversight rather than allowing random placement of single family homes and duplexes and Mr. Boyd responded that yes, there could be oversight but the process is not yet in place.

Ms. Cavazos asked if the developer would move forward if Condition #4 is not removed. Mr. David Watson of Brick & Mortar Phase I Construction, LLC, came forward and responded that he believes things are being made more difficult than they need to be. He believes they'll go forward regardless, but stated it might have an impact on their desire to develop in the future.

With no more questions and none coming forward to speak, Mr. Kannarr declared the public hearing closed.

Mr. Kannarr stated that while he is in favor of allowing the PUD amendment, Condition #4 does cause concern as a pattern. With no process in place to avoid arbitrary and capricious approval/disapproval, there's nothing to protect against it.

Mr. Haugh stated that because it is a PUD, that gives the developer the flexibility they need to building based on the market, but it also gives Planning staff the ability to implement the modifications to make it more palatable from a planning standpoint. He stated that's the compromise that is being offered here and he believes it should move forward with the Conditions staff have requested.

Ms. Messina asked if this would be the only opportunity for Planning to have input on where single family vs. duplexes would be built and Mr. Fiander confirmed it is. He added that the Planning Commission could defer the vote for a month to allow time for staff and the applicant to come to agreement.

Ms. Cavazos asked if the zoning and potential for duplexes is made known to potential buyers. Mr. Fiander stated that zoning and the fact that it is a PUD is public record.

Ms. Feighny confirmed that Planning Commission could defer the vote for a month. The applicant returned to the podium and stated that they would prefer to move forward with Condition #4 in place rather than defer.

Mr. Haugh moved forward to the Governing Body a recommendation of approval of the proposed amendment to Woodland Park at Soldier Creek PUD Master Plan along with conditions.

Mr. Kannar asked for and received confirmation from Mr. Haugh that the motion includes: Condition #3 shall state "such as ~~vinyl-clad wood~~ wood, vinyl, wrought iron, or masonry." Condition #5: The text [two garage entries] "*and having a width of greater than 24 feet*" [each entry shall be...] shall be added.

Second by Ms. Jordan. APPROVAL (5-1-0 with Mr. Kannarr dissenting)

Subdivisions

P17/05 Woodland Park at Soldier Creek Subdivision No. 3 (Preliminary and Final Plat) by Brick & Mortar Phase I Construction, LLC on property located at NW Topeka Blvd & NW Menninger Rd (Neunuebel)

Mr. Neunuebel presented the staff report and staff recommendation for approval subject to conditions in staff report and included in the staff memo to Planning Commission dated 5/15/17.

Mr. Boyd came forward and stated he has nothing to add to the staff report.

Mr. Kannarr asked if anyone in the public would like to comment. None came forward.

Motion by Mr. Haugh to approve the preliminary plat and to forward a recommendation of approval to the Governing Body of the proposed final plat for Woodland Park at Soldier Creek Subdivision No. 3 including the conditions in the staff report. Includes the condition stated in the staff memo to Planning Commission dated 5/15/17. **Second by Ms. Messina. APPROVAL** (6-0-0)

P17/06 McFarland Farm Subdivision No. 5 (Preliminary and Final Plat) by McFarland Farm, LLC on property located East of SW Prairie Rd, South of SW 10th Ave, West of SW Steeplechase Ln (Driver)

Upon the calling of this case, Mr. Armstrong excused himself from the room.

Mr. Hall presented the staff report and staff recommendation for approval subject to conditions including that included in the staff memo to Planning Commission dated 5/15/17. He explained that the Planning Commission votes to approve the preliminary plat and makes a recommendation to the Governing Body regarding the final plat. It is the Governing Body who will vote on approval of the final plat.

Mr. Steve LaCosse of Bartlett & West Engineers came forward on behalf of the applicant. He explained that these lots will be part of what's known as McFarland Farm Estates and though it's a small reduction in lot size, lots are still around $\frac{3}{4}$ acres. He noted that a Neighborhood Information Meeting was held and nobody who attended felt strongly enough about the proposal to be present this evening. He noted that the road layout matches exactly what was laid out in 1998 and the length of the cul de sac is not changed.

Mr. LaCosse explained that previously homes had been built with 25' setbacks and the owners would prefer that, which would mean striking Condition #4, but they are open to the 30' setbacks required by the City.

Mr. Kannarr asked if there were anyone else who would like to address to the Commission. None came

forward.

Ms. Jordan asked Mr. Hall to explain the reason for Condition #4. Mr. Hall explained that the 30' is based on the City's design criteria for specific types of streets and the recommendation of the City's Engineering Department. It is unclear why previous homes were allowed to be built with 25' setbacks, but staff does not feel that asking for the additional 5' is particularly onerous. He added that if at some point the City wished to require sidewalks, that 5' additional would be important.

Mr. Kannarr asked if there was a change in ordinances at some point that would have changed the setback requirements. Mr. Fiander stated he doesn't believe so and is unclear as to why 25' was previously allowed.

Ms. Cavazos asked about the notification process for the Neighborhood Information Meeting and Mr. Hall explained that it's properties within 500' radius.

Mr. Kannarr asked the applicant if they knew why the 25' setback had been allowed in the past. Mr. Ron Lutz came forward as one of the developers and stated he does not know.

Mr. Kannarr stated he's inclined to go forward with the 30' requirement since it's the City's standard and nobody knows why 25' had been allowed in the past.

Mr. Haugh stated that he concurred with Mr. Kannarr's the comments about the easement. He added that based on overall lot size, he thinks the proposed change on the lot sizes is miniscule.

Motion by Ms. Jordan to forward a recommendation of approval to the Governing Body of the proposed final plat for McFarland Farm Subdivision No. 5. Includes the revision as stated in the staff memo to Planning Commission dated 5/15/17. "Areas are non-buildable and reserved for landscaping amenities such as , trees, shrubs, trails, berms, etc. Fencing owned or installed by individual lot owners shall be prohibited from being located within the landscape easement." **Second by Ms. Messina. APPROVAL (6-0-0)**

Adjourned at 7:35PM