

MINUTES OF THE PLANNING COMMISSION MEETING

November 25, 2019

The regular meeting of the Mission Planning Commission was called to order by Chairman Mike Lee at 7:00 PM Monday, November 25, 2019. Members also present: Robin Dukelow, Burton Taylor, Brad Davidson, Charlie Troppito and Frank Bruce. Pete Christiansen, Jami Casper and Stuart Braden were absent. Also in attendance: Brian Scott, Assistant City Administrator, and Audrey McClanahan, Secretary to the Planning Commission.

Approval of Minutes from the October 28, 2019 Meeting

Comm. Troppito moved and Comm. Dukelow seconded a motion to approve the minutes of the October 28, 2019, Planning Commission meeting, with two corrections noted by Comm. Bruce.

The vote was taken (6-0). The **motion carried**.

New Business

Application # 19-07: Preliminary and Final Plat – The Second Gateway Plat - 4801 Johnson Drive, Dick Eickman, Olsson Associates, Applicant.

Mr. Scott: This is Case 19-07, preliminary and final plat, the Gateway second plat, 4801 Johnson Drive, the Gateway site. We had a second plat that was submitted and approved by you all about a year ago. The first plat was just one lot that covered the entire site and is subdivided into two lots. Lot 2 was essentially this one right here for the apartment building, and Lot 3 is the rest of the site. The developer is going to come back at a later date and subdivide that. We had a comedy of errors, but we never actually got that recorded at the County level. So, we kind of set that aside, and as they worked through the rest of the project and defined those elements more precisely, such as the hotel and the Cinergy building, and the proposed food hall and the office building. It came back with a revised second plat, which is what you all have now before you. So, it's taken that Lot 1 and it has subdivided it into six different tracts of lots. Lot 3 is now the apartments. Lot 2 is the hotel, down here. Lot 4 is the garage. Lot 5 is the food hall. Lot 6 is Cinergy. Lot 7 is the proposed office building.

Furthermore, they have identified the right-of-way designations. Right-of-way #1 is that the traffic signal is roughly at the entrance to the development off of Roeland Drive. That's this section right here. There are two traffic signals, and we've requested those be placed in right-of-way. Right-of-way #2 is a sidewalk section along Johnson Drive. Right-of-way #3 dedication is the sidewalk along Roe Avenue. We do have a little cut-out right here. Potentially, a published access easement. And that section of sidewalk is very close to the building itself. It's almost where the doors open up. So, we didn't want to necessarily be responsible for maintaining that area. We thought that would be more appropriate for the property owner or the developer to maintain that, but we did want to be assured there would be a sidewalk area accessible for the public to cross. So, we've put in a public easement.

The question was raised by Mr. Troppito about the [inaudible] of that area. That's going to be on the developer, and that will primarily in accordance with our codes. We don't have anything specifically in writing that requires them to maintain that, but we do utilize

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our standard codes for them to maintain that area in terms of clearance of snow, keeping it off the sidewalk, in a passable condition.

Comm. Troppito: I have a question on that, and you may have answered it while I was discussing something with Frank here. If you did, I apologize. I asked you to look into how that's enforced and how that would be enforced in the future if the developer's tract should change title. Does that run with the land, is there a deed restriction? Or is this part of the development agreement?

Mr. Scott: The easement is going to run with the land as part of the plat. So, whoever owns the property will be obligated to provide that easement, public access easement. In terms of the maintenance of that sidewalk, we don't have anything particularly in writing in terms of a development, anything that stipulates the maintenance, so that would fall under our general property maintenance codes. We would rely on those to be sure that the developer, whoever owns that property in the future, is maintaining the sidewalks around that property.

Comm. Troppito: It says in the staff report, pretty unequivocally, it will be maintained by the developer.

Mr. Scott: Right.

Comm. Troppito: It doesn't sound to me like it enforces it, the way you describe it. I think I would like to see something about enforcement.

Mr. Scott: The development agreement [inaudible] say that is a mechanism to enforce it. Again, we're kind of relying on our code. We have property maintenance codes that are applicable to commercial property, residential property, all over the city. And whenever we see any violations of that in terms of a sidewalk that's not in an appropriate condition, or snow that's not being cleared off, then we rely on those codes to enforce that back to the property owner.

Comm. Troppito: That's City property, when you boil it down, right? It's under the City's control because it's in the City's right-of-way, right?

Mr. Scott: That particular section right there would be the owner's property, not the City's property. All [inaudible] is an access easement across it. Now, the right-of-way that's being designated, Right-of-Way 1, 2 and 3, that would be controlled property of the City. It would be our responsibility to maintain that.

Comm. Troppito: Well, I'm referring to your entire statement that says a pedestrian access and utility easement has been provided along Johnson Drive in front of the apartment building that fronts Johnson Drive. Then it says it will be maintained by the developer.

Mr. Scott: Yeah. So, the developer is providing the access easement to the City for pedestrian use, but they're going to be maintaining it.

Comm. Troppito: That would beg the question then, how are you going to enforce it? Because that's still, your answer still isn't clear to me. Maybe it is to everybody else, but isn't to me.

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Mr. Scott: What's your definition of "maintaining?"

Comm. Troppito: Well, what's your definition? You're the one that used the word "maintaining?"

Mr. Scott: My definition of "maintaining" is to make sure that the snow is cleared, that there's no obstructions, that if the sidewalk is broken up, it's repaired. Physical maintenance of that.

Comm. Troppito: Well, let's be sure that's highlighted in the record, it's meaning. I don't particularly expect it to become an issue with this developer. Again, should title ever be transferred, that's what I'm concerned might be an issue. So I think in the future, that needs to be very clear in the records of this meeting. Thank you.

Comm. Dukelow: Is this a unique incident? Or do we have this condition on other, similar properties?

Mr. Scott: Not that I'm aware of.

Comm. Dukelow: So this is a unique...

Mr. Scott: I'm not familiar with all the plats in the city, so I can't say they have public access easement. That concludes my report. The civil engineer from Olsson who prepared the plat is here, if you have any questions for him.

Comm. Troppito: When I was looking at the plat, I saw no signatures on the Certificate of Survey. The surveyors, it's blank where the surveyors sign. So, is that just because of what was copied for us to review as part of the pdf file? Or has this actually been certified by a professional surveyor?

David Eickman, Olsson Associates, Applicant, appeared before the Planning Commission and made the following comments:

Mr. Eickman: We will be signing it before it gets recorded. This was just a version that was for review and approval to kind of move through the process. We just haven't gotten it formally signed because we actually do that by hard copy, and then, send it around for everyone's signatures.

Comm. Troppito: So you'll just take it on faith that the description is accurate?

Mr. Eickman: Yeah, I mean, we've run it, our certified engineers did make this plat, and we will be signing it before anything gets recorded or provided.

Comm. Troppito: And you're willing to certify by your presence here that it's accurate, as an engineer?

Mr. Eickman: Well, yeah, I mean, I believe it is accurate, yes.

[crosstalk]

Comm. Troppito: ... That's all I want to hear, thank you.

Comm. Davidson: I have a question for the engineer. I'm just curious. Brian touched base about the pedestrian easement access, that this was the only situation that Brian knows

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of in the City where this exists, so to speak. But I'm just curious. Is that the reason of the developer to still own that, or that sidewalk, that easement area, but has to maintain it? But the City wants to have some power of code enforcement upon that piece of property...? I'm just asking, why was that not City property all the way across? Because the City doesn't want to maintain that sidewalk as far as most cities do with most city sidewalks? I'm kind of confused with what Charlie was talking about and what Brian mentioned about this strip of property.

Mr. Eickman: Part of this came from a discussion we had with Brian. We originally had it as just a sidewalk easement that was going to be dedicated to the City, and that would be your ownership and maintenance. But in discussion, because it is right in front of the storefronts of the retail space that's underneath the residential, that area actually makes more sense to have them maintain as the property owner, versus the City maintain it. So, they wanted to retain rights of the access, but didn't want the maintenance requirements. That's why we created the access easement here, and that was agreed by the ownership and them to provide this. Because, ultimately, you wanted a wider trail that was along there than just the five-foot sidewalk. That was to maintain that [inaudible].

Comm. Davidson: Okay. That makes it perfectly clear, the logic. Now I understand. It was just because of the logistics of the setbacks of the building and door swings, and all of that. That was the only question.

Comm. Dukelow: I'm just curious. Is it customary to have a plat with all these lots and no number 1?

Mr. Eickman: Yes, because ultimately, Lot 1 was actually identified in the first plat, so they had to, they started the numbering anew for the second plat.

Comm. Dukelow: So if we had rescinded the previously-approved plat before replatting, there wouldn't be a [inaudible]?

Mr. Eickman: No, you'd have to get rid of the original plat that was recorded.

Comm. Dukelow: I have a question for staff. Do we need to do two separate motions, one to rescind the previously-approved Gateway Second Plat? Or...?

Mr. Scott: Yes. [inaudible]

Comm. Dukelow: Point of order on me. My apologies. Nevertheless, I'll continue my question. Do we need to do separate motions this evening?

Mr. Scott: One motion will suffice.

Comm. Dukelow: Okay, thank you.

Chair Lee: Any other questions at this point? I'll open the public hearing at this point. Anyone who would like to step forward and speak, now would be the time. Seeing no one, we will close the public hearing. Additional comments?

Comm. Dukelow: I have none. If there is no further discussion, I'll make a motion. I make a motion that we recommend rescinding the previously-approved Gateway Second Plat,

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and approve the newly-submitted preliminary and final plat for Case No. 19-07, to be known as the Gateway Second Plat.

Comm. Dukelow moved and Comm. Bruce and Troppito seconded a motion to approve Case #19-07 as presented by staff.

The vote was taken (6-0). The **motion carried**.

Old Business – None

PC Comments/CIP Committee Update

Mr. Scott: We selected a firm to go with for the Comprehensive Plan. We selected Confluence. Nine firms submitted a response to our Request for Proposal. We had a subcommittee made up of Comm. Dukelow, Mayor Appletoft, Councilman Rothrock, City Administrator Smith, myself, and Assistant to the City administrator, Emily Randel. We reviewed all nine, scored them, and selected five to interview. Had the interviews the beginning of this month. We struggled a little bit. Two rose to the top, so we did another scoring of that, and Confluence was the selected firm. I reached out to them today and formally offered them the project. They accepted, so we will work on a contract and take that to our community development committee. That will be December 11th. If they accept the proposed contract by the city staff, it will go to City Council on December 18th. We'll get started after the new year.

Comm. Troppito: You know, I had proposed an amendment to the RFP, and you issued it. I just want to know if the final contract included that as part of the scope of the work.

Mr. Scott: Yep.

Comm. Troppito: [inaudible] technical infrastructure is [inaudible] Comprehensive Plan.

Mr. Scott: That was part of their proposal to us, and that was one of the things that we reviewed. That is part of the work that's approved in the contract.

Chair Lee: Are there any updates on the carwash?

Mr. Scott: No. I've been meaning to call them. That's on my to-do list. I should have done that today, before the meeting.

Comm. Dukelow: Any updates on that Mission mall?

Mr. Scott: The City Council, at their last meeting, adopted a resolution, declaring it a dangerous structure. They essentially have given the owner 10 days to present a plan of action to the City. Something to reinforce the structure of that building so that it's secure, close the roof and windows, etc., or tear it down. We're waiting for them to submit something to us. After that, they've got 30 days to execute that plan. If they don't accomplish any of that in a 30-day period, we will proceed with demolition. I think we're probably going to present a draft demolition bid to the City Council at the community development committee meeting on the 11th.

Comm. Troppito: At the last meeting, I brought up again about the City requiring a Phase 1 environmental site assessment for development projects that come before this

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Commission for approval, in instances where a sophisticated financial institution is not involved, the reason for that being, if the developer/applicant can provide the Phase 1 environmental assessment that's adequate and within the timeframe to be recent enough to be considered under ANSI standards as being sufficient, then we should require one ourselves. I'd like you to look into that, get with the city attorney, and discuss it with Laura Smith, the city administrator, and come back with a recommendation on how to proceed with that. You know, at our next meeting.

Mr. Scott: Okay. It may be a while before we meet again, but, yeah. We'll put that on the agenda for next time.

Staff Updates

Mr. Scott stated that there are no pending applications, so there will be no meeting in December. The Board of Zoning Appeals will be convening for a meeting in December.

Comm. Dukelow asked if there is plan in place for inspection of the columns at the Gateway. Mr. Scott deferred the question to the civil engineer. Mr. Eickman said a structural engineer has reviewed it and provided a report. They are currently working on remediations.

Comm. Dukelow asked if the northeast corner of Martway and Nall will be addressed. Mr. Scott said yes.

ADJOURNMENT

With no other agenda items, **Comm. Dukelow moved and Comm. Troppito seconded a motion to adjourn.** (Vote was unanimous). The **motion carried.** The meeting adjourned at 7:26 P.M.

Mike Lee, Chair

ATTEST:

Audrey McClanahan, Secretary