

MINUTES OF THE PLANNING COMMISSION MEETING

April 24, 2017

The regular meeting of the Mission Planning Commission was called to order by Chairman Mike Lee at 7:00 PM Monday, April 24, 2017. Members also present: Jim Brown, Scott Babcock, Robin Dukelow, Brad Davidson, Charlie Troppito and Frank Bruce. Absent were Stuart Braden and Dana Buford. Also in attendance: Danielle Sitzman, City Planner; and Nora Tripp, Secretary to the Planning Commission.

Approval of Minutes from the March 27, 2017, Meeting

Mr. Babcock moved and Ms. Dukelow seconded a motion to approve the minutes of the March 27, 2017, meeting, as corrected. [Mr. Braden made the motion on Case #17-01, not Mr. Lee.]

The vote was taken (7-0). The **motion carried**.

Case #17-03 Zoning Code Text Changes – Public Hearing

Ms. Sitzman: This is before you tonight on advice of our land use attorney, Pete Heaven. He helps us prepare for upcoming applications. We expect several development applications in the next year that are going to ask for deviations from conventional zoning district standards, which they are allowed to do as part of the planned district designation. The land these developments would occupy are already zoned and already have a plan designation.

In reviewing current ordinances, his comment was that the criteria by which we would evaluate those deviations in our current code are the exact same standards that are applied to variances, which is not the correct sub-standards to be using. For whatever reason, when we set up our planned district language back in 2001, we just copied and pasted and used the same five criteria that a variance gets evaluated against. Mr. Heaven's advises that that is the wrong standard to be using because that is a very specific standard just for variances. So, he's helped us craft an alternate set of criteria, which were included under Section G. There are four standards now instead of five, to capture the intent of the district to be a district in which a little bit of negotiation happens, wherein deviations from those current measurement standards can be development of higher quality. Planned districts are intended to be districts that are somewhat different than a conventional zoning or development situation. They might be infill, they might be mixed use. So, deviations from conventional standards are a good thing in those situations in order to encourage innovative and appropriate development in those circumstances. Mr. Heaven helped us draft sub-standards that still allows the Planning Commission to evaluate an application against the kinds of things we want to think about when we look at an application, such as how it affects adjacent properties, is it in the general spirit and intent of the zoning title, etc. The difference is that a variance is, by state statute, a very prescribed kind of process of variance findings, dealing with the physical aspects of the land. So, the BZA folks know those five criteria that have to be evaluated every time. Those are not the standards you should use to evaluate a zoning request for deviation. So, the changes are pretty minimal, other than that section there.

The other thing that was changed was to update the list to include all planning zoning districts, so it was clear that the planning districts that were developed as part of the 2006-2007 master rezoning – which would be the Main Street District and the Downtown Neighborhood District and the Mixed-Use District – those were all intended to be planned districts, as well. So, it

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clarifies things and ensures that we have a legally-defensible standard by which to make determinations if we were to grant deviations in the future.

There are a couple applications coming where they are dealing with some height limitations, and they'll be asking for deviation for height. This section would come into play there. There was another development that kind of kicked tires a while back and asked about height and use deviation, as well. So, it's a pretty common thing to evaluate. We just haven't had to do it yet for any of our major developments. Some other developments headed your way are more infill in nature, trying to achieve our goals of mixed use and infill, a circumstance where you'd have limited [*inaudible*]. That's why you would see deviation requests in the future.

[Chairman Lee opened the public hearing. There being no one wishing to speak, he closed the public hearing.]

Mr. Troppito: I have a question. I'd like staff to, when looking at infill areas and deviations, and sometimes height and parking requirements, one of the things UMKC has done to improve its parking situation is to dedicate so many spaces for Zipcars. I would be surprised if you would get the same net benefit as UMKC or KU, for example, but I wondered if you could take a look at that and see what other cities area doing, the benefit ratios, etc.

Ms. Sitzman: Are you interested in the City enticing Zipcar to operate in Mission?

Mr. Troppito: No. For instance, Target. They have X number of spaces, but they're limited in what they could do. Could they be given credit for doing something like that, which would result in a net reduction of parking spaces that they would actually need? Zipcar isn't the only company. There are other ones around. That might be a benefit. If other cities are doing it, maybe we need to do it, too, just to see.

Ms. Dukelow: Would that be a reduction to the code-required parking maximum?

Mr. Troppito: Well, I don't see that as a – By formula, you have to have 52 parking spaces, but you only came in to us with 50, but five of those were dedicated for Zipcars. Would that make up for the two?

Ms. Sitzman: Currently, there is a way for an applicant who does not have enough parking to make an argument for shared parking in some circumstances, to make up that difference. We rarely see an applicant not have enough parking on their own site. They could perhaps propose that car sharing was a way to make up for that difference. I don't know if we need a code change.

Mr. Troppito: No, I don't think they'd need a code change. I wasn't asking about that. I'd like staff to look at this and see if you can come up with some guidelines the Planning Commission can use so we're not just making arbitrary decisions.

Mr. Davidson: And see what other cities are doing, as well. But then, you're going to want to say, "Well, we can make our building a larger footprint and not have our spaces, and use the Zipcar."

Mr. Troppito: Part of this is to recognize that, yes, there's a change that's taking place in society. Less detail in demand and more internet sales, for instance. It's reduced stores [*inaudible*] traffic. So, I think we should start looking at that kind of thing.

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Mr. Davidson: I'm not familiar with Zipcars. This is the first I've heard of it.

Mr. Troppito: Go to Zipcar.com.

Mr. Brown: I don't have any issues with any of the proposed changes. I would like to initiate a discussion about requiring the exterior of the buildings to be broken up a little more than what we approved last month. When you look at the right angle of that wall at the corner of Roeland Drive and Johnson Drive, you're going to see 39-foot-tall corrugated stainless steel, 562 feet long. With all the balconies inset. So, there weren't any balconies projecting out of it to break up that façade, or anything. I'd like to see more variation in in-steps and out-steps of the building façade, balconies that project from the face of the building, and things like that. I don't think we're going to like it once it's done. This would be the west wall, the one that runs down Roeland Drive. When you look at it from the corner of Roeland Drive and Johnson Drive, you're looking right past the one gap that's in the middle and see that wall. And when you scale it out, it's really, you know, starting at the second floor level to the top of the parapet, it is 39 foot tall.

Mr. Babcock: Aren't windows required? I think there's a percentage of the space that is required to be windowed.

Mr. Brown: Yes, but what I'm saying is that it's a straight wall. There's no variation in and out, no balconies that project off of it. You drive by those projects going in in downtown Overland Park and you see a lot of variation in the exterior of the building. At the ground floors, the upper floors, balconies projecting off of them. They're using different materials. You've got insets and outlets in the building, not just a straight long wall. That's what I'm talking about. I don't want to necessarily overregulate the materials as much as the format that they're applied in.

Mr. Babcock: You're not talking about just the ground floor.

Mr. Brown: Yes. Inset parts of the building –

Mr. Babcock: They inset in. I don't know –You go right past that when you're looking –

[Multiple overlapping comments.]

Mr. Brown: And you won't see that when you're standing, looking down the length of the wall. It's 526 feet long. That's almost two football fields long.

Mr. Davidson: Danielle, is there anything in the design guidelines as far as a plane of a building, you know, needing multiple materials or projections, or anything like that?

Ms. Sitzman: It's a very subjective measure and the design guidelines is going to say creates a pattern or an interesting shadow. It's not going to say you must have X percentage of your wall face be offset by X number of feet from the rest of your wall face. It's going to be more subjective.

Mr. Brown: And they tried to do that with the color changes.

Mr. Davidson: When you look at it 2D and you look straight at it in a 2D drawing, you see it broke up. But when you see it at that particular angle, you're just going to see a big wall that's all corrugated steel.

Mr. Brown: How would we go about crafting that?

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Ms. Sitzman: You want to have something more objective and measurable, if you're going to have discussion about the legitimacy of one architectural design over another, I mean, I think others might find that appealing from a modern architectural standard. But, if that's not the standard you want to allow, you need to probably find some criteria that are objective, where you can say it must have 75 percent glazing, it must have the 8-foot setback offset, etc. Those are things you could have discussed when you reviewed it. You just would have come to a consensus opinion on whether you wanted that architecture.

Mr. Brown: We came to a consensus opinion about that. I'm not arguing that. I just don't like it.

Ms. Sitzman: That is a composition of modern versus more traditional style, and this is a stylistic conversation.

Chairman Lee: Is it something we really want to set criteria down, or is it something we take case-by-case and discuss it?

Mr. Brown: Well, there seems to be some discussion about whether people felt comfortable with their position on whether or not they could influence the design on this panel. So, it's appropriate to have a discussion about what we think our influence and role is in that regard.

Mr. Babcock: I'm with you. I personally don't like the design. But, the problem that I see is what our role is, and our role is to make sure that the development fits the design guidelines. One of the things that was in that design guideline was they wanted a more modern facility built there. I mean, that's kind of a personal thing. I'm not a big modern guy.

Ms. Sitzman: There's a project headed your way using the same standards and coming out with a completely different design. So, your current standards allow for a good deal of flexibility. This is the EPC project that they just presented to City Council. They already have elevations mocked up for the project. So, you'll be faced with a whole different architectural style. It's also going to potentially be compliant with your design guidelines.

Mr. Babcock: I think what he's saying is, just by looking at that, is it's interesting. It's got different levels, different extensions, etc.

Ms. Sitzman: I can try to extrapolate the things that you think make it interesting, but keep in mind, it can still meet those qualifications, and modern architectural, you know, they just don't love it. So, it's kind of a balancing act. If you think there's some specific standard about projections and insets that would help, that might be a specific thing to consider.

Mr. Babcock: I think the most qualified to give us an idea [*inaudible*]. [*Laughter.*]

Ms. Dukelow: I understand. I hear what Jim is saying. And I see a lot of projects going up in Overland Park. I go through downtown Overland Park and I see that urban loft development at 83rd and Metcalf. I've been over to KU and I've seen the buildings going up there. I hear what you're saying, that they are undulating. The walls are moving. There's relief in that plane. How do we dictate that? What do we say? I mean, this is much more classical and traditional.

Mr. Brown: Every previous design that we saw on that project had it until this last one that was presented in front of us for final approval. Up to that point, all of the other ones had that variation on the façade.

Ms. Sitzman: And they had a new architect on their team.

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Mr. Babcock: The other thing is, I think this fits in Mission better, but I don't know how that came about, wanting it to be [*inaudible*]. I think what he is presenting is what somebody has communicated, if that's just what somebody has communicated in writing. But the problem is, I'm not a modern guy. I don't think this as modern. I think this is more traditional, like you were saying. I think Mediterranean when I see that.

Mr. Davidson: Danielle, could it be as simple as this? Sometimes we see a project and we tell the developer we would really like to see more of this, or more elevation changes on that big wall. And a lot of times, they would say, "Okay, we'll see what we can do," or something like that. There are no guidelines that are written up. But in our opinion – and in Jim's opinion, in this case – you say, "I would really like to see that wall broken up." Because you're right, the galvanized finish, I mean, you could get a gigantic, you know, reflection of a lot of wall right there. So, could we just ask the developer --?

Ms. Sitzman: I don't think it would be inappropriate to have those conversations. We've split out and you'll no longer have a preliminary site plan or final site plan at the same time. So, you need to make use of the opportunity of the preliminary site plan to get those preferences out there. Because by the time they've come to you with a final site plan, they're so far down the road.

Chairman Lee: That's not going to go as presented anyway, right?

Ms. Sitzman: The Gateway project? I have not heard anything.

Chairman Lee: I talked to him briefly on Wednesday, and he did say that one of the tenants had fallen through. But there were no changes to the building.

Mr. Brown: I really don't want this to be a conversation about the Gateway. That's moved off of the docket as far as I'm concerned. I just want to know if there is something that we can do better next time.

Mr. Davidson: Like what Danielle said, critique, you know, the very beginning. But again, they kind of changed that. Like you said, they got a new architect, and it was like – boom – it was in all at one time. Let them know our concerns as early as possible, or whatever.

Ms. Dukelow: Should we look at the Johnson Drive design guidelines and consider whether or not there's something we should change--?

Ms. Sitzman: Right. If you want to have something that's out there up front, that would be the best place to put it so an applicant has a better sense of what you mean by creating an interesting pattern of light and dark, or kind of more flexible, general terms around there. For example, specific amounts of something.

Mr. Brown: How do you put just the right amount in there so that you don't throttle somebody's creativity? That's the problem.

Mr. Babcock: Something that appears other than flat.

Mr. Brown: It's subjective. You like it, you don't like it. Some people like it, some don't.

Chairman Lee: But couldn't you have had a different material on that project? It would have given it a totally different look. So, if you put some criteria down that says you have to have a certain percentage of this or that, you may eliminate something that you really would like.

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Mr. Brown: If you could have just a flat panel of some kind on that wall, change the color, the same variation, would you guys like that?

Mr. Babcock: No.

Chairman Lee: To me, that's the problem with trying to set a criteria, that you can't look at all the ideas. I completely agree that we have the ability to discuss it, each project, and make our preferences known.

Mr. Brown: Because if it's in a planned district, we can exert some influence on the design, but we need to do it before they spend thousands of dollars.

Mr. Babcock: So, is it too late?

Mr. Brown: Yeah. That was a final plan. That's done. And I wouldn't want to influence that. That had a public hearing, it's been done. I just want to know if we want to perform in the same fashion moving forward, or if we want to try to have more influence. And the answer could be no, we're perfectly satisfied with the way things are going.

Mr. Troppito: Well, in this case, wasn't it really a question of the timing inhibiting that from being done effectively? In a normal course of events, when a preliminary plan comes through [*inaudible*]?

Mr. Brown: I think we also need to not be afraid to turn something down if we don't like it in preliminary planning. That's the time to exert your influence, I think. We don't have a great history of telling people no at preliminary plan approval, either.

Ms. Dukelow: With regards to the materials, the project that was just on the screen, they're using all the same materials. Now, I don't know what that is, but they're using all the same materials on the exterior, as well. So, I'm not sure that a variety of materials is what we're looking for. Do we have something in there about visual interest? Contrast? Projections?

Ms. Sitzman: Yes. That creates interesting patterns, etc. I don't have it in front of me, but it's going to be very general.

Ms. Dukelow: And that's very subjective. I mean, if we don't think it's interesting, I guess we can send them back.

Mr. Brown: That does have projections coming off at the roof level, and whatever that thing in the middle is. There are things that are broken up. There are levels that are inset from other levels.

Mr. Babcock: One of the things he communicated to us is that they wanted to carry over the architecture from the community center and Mission Square. This is EPC. This is going to be right across the parking lot.

Chairman Lee: Between The Bar and the Salvation Army.

Mr. Babcock: Didn't they say something like that, Danielle? Do you remember?

Ms. Sitzman: Yes.

Ms. Dukelow: I mean, personally, I would probably have been more shocked to have corrugated and perforated stainless steel in the middle of Johnson Drive than I am at Gateway. And it's simply because of the context. Context is different. It doesn't shock me as much in the Gateway

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as it would if it were landing between two brick buildings in our downtown. It has a much different scale and context.

Ms. Sitzman: And the Johnson Drive guidelines cover all those areas. That's why they're more general.

Mr. Brown: How are they going to fight a fire in that thing? I mean, there's no fire department access in that right side at all.

Ms. Dukelow: That's their job to figure it out.

Mr. Troppito: One of the statements on page 25, it says, "The granting of the deviation will not adversely affect the rights of adjacent property owners." What does that mean? What does "adjacent" mean? I'm asking because this is kind of like before. Why not use "adjoining" property owners? The difference is whether the property lines are touching or not. And if you say "adjoining," you need to specify some kind of radius.

Ms. Sitzman: Yes. And it's a matter of scope. Do you want to limit yourself to things that are only adjoining, or would you rather have the ability to consider things that are adjacent?

Mr. Troppito: It's not what I want to do. What I'm interested in – and I was hoping Pete would be here tonight – is understanding the legal framework behind this. Is there something in Kansas law that would require that? And if there isn't, we need to define it in some way, I would think. Otherwise, we're going to be arbitrary about what "adjacent" means. Is it within 50 feet? Or what?

Ms. Sitzman: If Pete had wanted a different words, he would have given us different words, since these are his revisions. So, he must be comfortable with adjacency being the criteria that you evaluated, having some flexibility depending on what the deviation requested is. You know, one kind of deviation, they have a very limited impact, and another kind of deviation, they have a broader impact. So, I think "adjacency" gives you the maximum flexibility to evaluate a project on its merits, regardless of whether it's something that's going to have a more immediate affect to something here, or also impacts to something farther away.

Mr. Troppito: Well, it says granting of the deviation will not "adversely affect the rights of..." So, it seems to me we need to know who's rights need to be considered. Property lines touching? In that case, it would be "adjoining." Or, are we supposed to be considering those 50 or 100 feet away, etc. Whose rights are we considering?

Ms. Sitzman: Again, I think it's going to depend on the deviation requested. So, when you have a deviation before you, we would try to provide you the analysis we thought was relevant to the deviation. And what the specific rights are, I mean, dependent on the deviation. So, if it were somebody asking for a height deviation, that would be a different impact than somebody who is asking for a deviation in uses. I think the idea is that you would not be allowing deviation that negatively impacted someone else's rights to their use and enjoyment of their property. And I can ask Pete, but I think he's going to tell you –

Mr. Troppito: No, I don't want to hold it up. But I think it's a question that maybe needs to be further designed. Should we actually have to do this?

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Mr. Babcock: My understanding is that these changes were made from Pete's standpoint to make him more comfortable in the defense of these going forth.

Ms. Sitzman: That's true.

Mr. Babcock: So, he's basically submitted these changes, saying he wants to change these documents because it's more defensible from his standpoint.

Ms. Sitzman: Right.

Mr. Troppito: I understand that, but the changes made, if you look at what's there, have nothing to do with the word "adjacent."

Ms. Sitzman: If you wanted to change "adjacent," I think he would be –

[*Overlapping comments.*]

Ms. Sitzman: He was comfortable with that wording.

Mr. Babcock: I look at it from the standpoint of him being our legal advisor, that he feels comfortable with the wording. I mean, I'm not a lawyer.

Mr. Troppito: I want clarification.

Mr. Bruce: I think you need flexibility, and Danielle has already pointed out that height is a factor, noise is a factor, and each one of those have different parameters that will be associated with it. So, if you say "adjoining," [*inaudible*], but if you say "adjacent," I think we're intelligent enough that when we look at something, we can look at it with some intellect and say, okay, this is going to block views, cause shadows, etc. I think we should have experts take a look at these different things. If you try to write too restrictive, you're going to ball yourself up.

Mr. Troppito: I'd still want an explanation.

Ms. Sitzman: I made a note.

Mr. Davidson: I've been trying to think of a situation where the City of Overland Park has dealt with someone coming to them and they didn't like the design of their structure. There was a White Castle on Metcalf. They did not approve that White Castle for many, many sessions. It was too wide, or whatever. My point is, of course, in this case, it's a franchise, but how did Overland Park's planning commission handle that?

Chairman Lee: They never approved it.

Mr. Davidson: Well, they finally built it, but did they change the color?

Mr. Babcock: Yes. They went with a more subtle color of white. Like with Pizza Hut. They wouldn't approve the red roof.

Mr. Davidson: All right. However, it was not the white that they asked for. Anyway, I just wanted to bring that up.

Chairman Lee: What do you want from us this evening?

Ms. Sitzman: I would like you to make a recommendation on this, if you're comfortable with it as it is. It needs to proceed on to City Council before it is enacted, so they need a recommendation from this board.

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Ms. Dukelow: I will make a motion that we make a recommendation to City Council to approve Case No. 17-03 Planned Zoning District changes, as written.

Mr. Troppito: Second.

The vote on the motion was taken, (7-0). **The motion carried.**

Ms. Dukelow: Mr. Chairman I would be interested to know what some of the other cities are doing, if that's something we could get. Maybe just an update at our next meeting about how Overland Park, Lenexa, just a couple of our peer cities.

Mr. Davidson: Maybe Danielle already knows that.

Ms. Sitzman: I don't off the top of my head. I can look at Overland Park and Lenexa and Shawnee.

Staff Update

Staff provided an update on current and upcoming projects and events.

ADJOURNMENT

With no other agenda items, **Ms. Dukelow moved and Mr. Troppito seconded a motion to adjourn.** (Vote was unanimous). The **motion carried.** The meeting adjourned at 7:44 P.M.

Mike Lee, Chair

ATTEST:

Nora Tripp, Secretary