

LIBERTY PLANNING AND ZONING COMMISSION

May 12, 2015

Meeting Summary

7:00 p.m.

I. Call to Order

The Liberty Planning and Zoning Commission met on Tuesday, May 12, 2015 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 answering roll call were: Gary Armstrong, Amy Howard, Ken Personett, Dee Rosekrans, Tom Reinier, and Larry Wepler. Commissioners Walt Holt and Ann Waterman were absent. Representing staff were Katherine Sharp, Planning and Zoning Manager; David Jones, Planner; and John Findlay, Development Review Engineer. Kellie Houx with the Liberty Tribune and 23 members of the public were in attendance.

III. Approval of Minutes

Commissioner Personett moved to approve the minutes from the April 14, 2015 meeting and Commissioner Howard seconded the motion. The minutes were approved 5-0-1. Commissioner Reinier abstained.

IV. Case 15-03SUP: Special Use Permit to allow an event center with (up to 150 people) at the old St. James Church, 342 N. Water Street.

Ms. Sharp presented the Special Use Permit application as described in the staff report and introduced into the record those exhibits presented in support of the application.

Chairman Rosekrans asked if there were any questions of staff. Seeing none, Chairman Rosekrans asked if the applicant had comments.

Salt Catering Owners, John and Carey Weir, (the applicants) said that the recommended change of limiting events to 10pm Sunday through Thursday would be acceptable. Mr. Weir said that the reduction in maximum number of guests to 100 would not be financially viable. He added that four different businesses had failed in the St. James building over the past decade. Because of this, he said they originally wanted 200, and that they were willing to go down to 150, but with the business wouldn't work with only 100.

Mr. Weir said that the anticipated clientele would be upscale parties and receptions, and that the prices on food alone ensure that events would be very exclusive. Mr. Weir said he doesn't understand concerns with the parking, since the Woople group across Water Street has on street parking which seems to work. He said there will be no guests walking to Garrison school because valets will be taking vehicles to that location.

Chairman Rosekrans asked if Commissioners had any questions for the applicant.

Commissioner Personett asked the Weirs if they had considered shuttle service.

Mr. Weir said they did consider such a service and would further consider if the Commission

suggested it. He added that a shuttle might not be well received by their clientele, who would expect valet service.

Mrs. Weir said they would be open to any suggestions that would allow them to cater to 150 people.

Mr. Personett said he had concerns about people on N Water near the Garrison School, because it is practically a one lane road there.

Mr. Weir said they could have a car following the valets so that walking along Water Street north of the church wasn't an issue. He added that there had never been issues with any of their parties before, and that a police officer would always be on location during parties.

Commissioner Armstrong asked how many stalls were on located on the Garrison property.

Mr. Weir said there were 33 stalls on the main campus, but that he wasn't sure about the west lot.

Commissioner Armstrong asked whether 150 persons would require 50 stalls.

Ms. Sharp said yes but that those stalls and any shared parking must be within a certain distance from the building and the parking at Garrison is twice the allowable distance. She added that if there were a way of ensuring valets wouldn't walk along Water Street that they valet option could help with distance concerns.

Commissioner Rosekrans asked if an allowance of parking further away than the maximum distance, such as the Garrison lot, meant that the Commission would have to approve a variance.

Ms. Sharp said there were no variances considered with a Special Use Permit, which requires that all six findings in the UDO be met for approval in each case. She said that staff does not feel the Garrison property works, primarily for safety reasons. The valet option could be utilized to help meet the intent of the code. She added that staff looked at on street parking, but found it somewhat limited and regularly used by neighbors who don't have garages or, in some cases, driveways. However, she said, there are also multiple vacant homes in the area that don't have any occupants using on street parking.

Chairman Rosekrans asked how staff arrived at the recommendation to limit the number of guests to 100.

Ms. Sharp said that the two adjacent lots allow for 100-105 persons based on the 1 stall per 3 seats assembly use requirement. She added that if the Commission felt comfortable with valets, shuttles or on street parking, they could vote to recommend approval of the original request for 150 guests, but the staff recommendation of 100 person maximum is based on the code requirement for parking. She said the primary concern was distance between the St. James building and the Garrison parking lots.

Mr. Weir said they agreed with staff's assessment, and didn't want to cause trouble for the neighbors with excessive noise or traffic. He said potential solutions to these problems were the added services they would offer such as valet. Mr. Weir said he grew up in Liberty and went to church at St. James, and that he doesn't want to fight with the neighbors. He reiterated that he agreed with staff about not wanting parking on the street.

Commissioner Personett affirmed that the code specifies how many parking spots must be provided per guest and the distance to parking, but asked whether the Commission could consider

additional parking options.

Ms. Sharp said valet was one of those discretionary considerations.

Commissioner Personett asked whether on-street parking could be considered.

Ms. Sharp said that on-street parking isn't generally included in parking calculations, though it has been with some isolated developments with no other competing users. She said that in this situation where on-street parking is utilized already, staff usually doesn't include it in parking calculations for new uses.

Mr. Weir said they wanted to keep the cars in one place off-street in order to manage security considerations, since they would be responsible for the vehicles they parked.

Commissioner Reinier asked if the applicant could include a shuttle for valets.

Commissioner Armstrong asked whether the valets might use a golf cart.

Mr. Weir said they would likely do an enclosed vehicle for weather considerations.

Chairman Rosekrans said he believed the safety concern would be neutralized if a vehicle were used.

Chairman Rosekrans asked if there were any further questions of the applicant or staff. Seeing none, he reminded citizens to keep comments brief and concise, that the staff would be responding to comments at the end, and to avoid repetition of previous comments.

Chairman Rosekrans opened the public hearing.

Deanne Pritchett, 400 N Water, said she lives adjacent to the St. James parking lot. She said it was wonderful that the applicants wanted to restore the building, but her concerns had to do with the impact of an events center use to the long-established residential district. She expressed concern that the area would be travelled by those with no vested interest as many as 7 days a week.

Ms. Pritchard said the plan to employ security suggested potential behavioral problems by the guests. She said that the plan to soundproof the building indicated that excessive noise would be generated. She added that the building is structurally sound but that noise does often leak through the large windows.

Ms. Pritchard noted that she saw no plans to monitor those who hang out in parking lot or street smoking or doing other things. She said Water Street was not equipped to handle additional traffic. She added that she didn't think safety was an issue but that increased foot traffic would congest an already difficult-to-navigate area, as staff also noted, she said.

Ms. Pritchard concluded by saying that she didn't think city would gain from another event center since there are already so many in the area.

Paul Follette, 338 N Water, said parking is a concern for him and that there are many times when he couldn't get his car out of the driveway because of cars parked on the street. He asked how quickly an issue such as that could be taken care of by the applicant. Mr. Follette said he had come home twice from Fall Festival and seen police officers writing tickets for parking on the wrong side of the street.

Mr. Follette asked if there would be a designated area for smoking at the proposed events center. He requested that it be toward the back of the building, and that he had a pool which guests would be overlooking and didn't want people hanging around it.

Mr. Follette said that noise is also a concern, and that the brick building and large windows would leak sound despite attempts to insulate. He said he spoke with his realtor who said he would lose 10% of his home value if the event center is permitted. He said he doesn't want to see the building sit empty but is concerned about parking for so many guests. He asked if parking could be provided to the south, possibly in the Presbyterian lot. He asked when the noise would actually end, and said he thought event center staff would still make noise long after the event was over.

Mario Usera, 1871 Bent Oaks, identified himself as President of Clay County Savings Bank, the property owner. He said the bank had foreclosed on the property and had owned it since May 2007. He said there had been marketing efforts but that the bank had had difficulty with various tenants, including a Bed & Breakfast, a church and daycare, and other limited uses.

Mr. Usera said that a church is permissible but parking will be worse with any size congregation than it would be with the proposed event center. He said that his main concern as lender is that he doesn't want a prospective business to be doomed to failure. He said that the Weirs planned to buy the building from the bank, so he wanted to make sure they could obtain the SUP.

Mr. Usera concluded by saying that parking is a problem in general in downtown. He said there might be other options they could explore but he believed parking and safety concerns were addressed with the valet, which also fit the upscale business. He said that image considerations will also drive upkeep and management of the property and how the site will be presented.

Margaret Abbot, 407 N Main, said that parking downtown is at a premium but that downtown is not residential, while the neighborhood in question is residential. She said she wants to keep the community quiet and keep undesirables out. Ms. Abbott says she owns rental property in the area, and that part of the selling point is that the neighborhood is crime-free and peaceful.

Ms. Abbott said she didn't believe the city code requirement of 3 persons per stall is doable, and that she didn't think it was normal for three guests to ride together to a wedding. She said there were going to be a lot of extra cars.

Ms. Abbott asked how the applicants could guarantee that events would be upscale. She said there was no guarantee that events wouldn't go past hours, that there wouldn't be fighting, or other problems brought on by the combination of families and alcohol. Ms. Abbott said she lives behind the St. James building and had seen other businesses fail. She said she would appreciate another type of business there.

Lorilyn Mohr 410 N Water, said she and her husband had lived at the address for 10 years. She said that in winter the snow is not plowed well, and that they don't have a garage, so they park three vehicles on gravel in front of their house. She said that during Fall Festival patrons park on the street next to the gravel and block them in. She said people from the nearby apartment also park on their private property.

Ms. Mohr said there was a problem with vandalism and broken windows, and that she has called police before because there skateboarders making noise at 11:30. She said Woople wouldn't allow neighbors to park on their property. She said most neighbors are renters, and that an upscale business didn't appeal to them. She said parking and noise are issues, including dogs barking at guests.

Ms. Mohr said she had problems when Woople moved in and installed flood lights. She said they turned them down but that it took six months and that the anxiety cost Ms. Mohr her job. She added that the streets and alleyways are not safe and that people will get hurt walking back and forth. She asked if Woople was willing to accept liability for those who will park on their property.

Ms. Mohr concluded by saying she is concerned about noise, and that she and her husband go to bed at 8pm. She said small children live in the area who need their sleep, and that a 10pm curfew is too late.

Mary Ann Pfeiffer, 420 N Water, said that since 1981, when the church moved, there hasn't been a profitable venture in the St. James building and it has largely sat vacant and unused. She said she sold her catering company to the Weirs three years ago, and she knows that in order to maintain the building there has to be a way to make money to invest in it. She said the Historic area needs buildings to be maintained properly, which takes money and flexibility. She said the St. James building would fall in on itself with no maintenance.

Seeing that no one else wished to speak, Chairman Rosekrans closed the public hearing.

Commissioner Wepler asked how the number of guests would be enforced. He asked if it would be considered an aggregate number or if the Weirs were limited merely to 100 at any one time. He said he agreed with Ms. Pfeiffer, and that when the building housed a church and school, he thought the neighborhood welcomed the activity. He said he didn't understand why the neighbors would now think it's a bad deal. He said the building wouldn't last without activity.

Commissioner Wepler continued by saying he thought it was significant that the applicants weren't considering a new building, but rather the new use of an existing building. He said that concerns about parking and traffic had existed from the beginning, and would always be issues. He said he didn't think vandalism would be an issue under the current proposal.

Ms. Sharp answered the questions posed. She said the noise ordinance goes into effect at 10pm each day of the week, and that a citation would be issued if noise goes past the property boundary. She added that the SUP wouldn't supersede the citywide noise ordinance, but that a police officer has to determine whether a noise can be considered disturbing.

Ms. Sharp said she would allow the applicant to address the smoking issue.

She said that it's hard not to know if a person or a company is doing something illegal because their website will oftentimes advertise the illegal activity, such as soliciting more than the maximum number of guests. She added that it takes staff time to follow through in those instances, and that the process in those cases is to remind applicants what they were approved for. She said an operator can ask for a modification to the SUP to allow more than what was originally approved.

Ms. Sharp said that renters did call with concerns, and that state statute allows property owners to sign petitions but not renters. She added that renters can come out and present concerns like any resident, but the statute is very specific on which stakeholders can bind the Council to a supermajority vote to approve.

Commissioner Personett said that it was brought up several times that parking was an issue in the past. He said the house at 400 N Water was once a parking lot.

Ms. Sharp said staff considered whether the event center was functionally different than a church use, and found that the only difference is frequency of use and lateness.

Commissioner Personett asked if the petition had met the 30% threshold.

Ms. Sharp said she wasn't sure but that a completed petition wouldn't be required until prior to the City Council meeting.

Chairman Rosekrans asked for clarification about what the protest petition would imply.

Ms. Sharp said that the owners of 30% of land located within 185 feet of the subject property, exclusive of right-of-way, have to sign the petition for it to be binding. She said that in the event 30% sign the petition, a supermajority (6 members) of Council must approve the application.

Mr. Weir said that last call on events ending at midnight would occur at 11pm, and that everyone would have to be out by midnight including staff. He said there wouldn't be people lingering, and that the Weirs would have complete control by locking the door.

In regard to parking, Mr. Weir said they would have ultimate control over where vehicles are parked. He said that a church use would be a greater hazard to residents getting their driveways blocked because there would be no control mechanism like valet parking. He said he doesn't want guests parking on the street or negative impacts on neighbors, which was the impetus for the shared parking agreement.

On limiting the number of guests to 100 or 150, Mr. Weir said that unlike a restaurant or church, guests to the event center have to book with exact numbers over six months in advance. He said that no extras would or could sneak in, because there would be plated seating arrangements. He said that most customers wouldn't want over 150 people because they would be charged an additional \$60-\$80 per person.

Mr. Weir said that they don't want to lose the SUP once it is granted, and that City staff had made it clear that the SUP could be revoked if violations occur. He said they would own the building and didn't want to be stuck with the building and no permit to operate. He said that ownership also guaranteed that they would have a vested interest in upkeep of the property and managing the business successfully.

Mr. Weir added that vagrants and vandalism are a greater risk when a building is sitting empty, and that vibrant businesses keep away riffraff. He said that a police officer is present at all functions and will also keep vagrants away. He said that Salt Catering would be liable for parked vehicles.

To the question about smoking, Mr. Weir said he had no problem designating an on-site smoking area, which could be fenced if needed. He added that the police officer on site would hopefully be an off-duty Liberty police officer who could also assist in enforcing the smoking area.

Commissioner Armstrong asked if 3 guests per parking stall would be reasonable.

Ms. Sharp said she thought 3 persons carpooling to a wedding was reasonable and realistic. She added that the requirement was not from staff but from the code.

Commissioner Wepler said that while there was additional parking when St. James was an active church, there were also more than 150 persons going to mass each week. He said that churchgoers parked all over the neighborhood at that time.

Commissioner Wepler added that he understood where the neighbors were coming from, and that he would feel the same way if a new building were being proposed. He said that since the building is historic with historic traffic issues and parking issues and noise issues, that the proposed use

was not a significant change or added impact from what was felt for a majority of the building's existence. He said he empathized with the neighbors, but believed that the building already existing made the difference in this case.

Commissioner Armstrong said he agreed with Commissioner Wepler, and added that the community has an interest in saving the building. He asked about limiting the number of guests to 100 or 150.

Commissioner Wepler said he believed the distinction was academic, and that the integrity of owners would determine how well the event center would function.

Commissioner Armstrong said he thought that noise and parking were the key issues, more so than the size of the parties.

Commissioner Wepler added that SUPs can be revoked, and that this was not a by-right situation that could conceivably last forever. He said that the owners would have to maintain the good will of the City and do what they said they'll do. He said that the strict standards in the code ensure that an owner won't do something outside of the approved SUP for very long.

Chairman Rosekrans asked if the Commissioners had further questions of staff. Hearing none he asked for a motion. He added that stipulations recommended in a motion do not have to match staff recommendations.

Commissioner Wepler made a motion to approve the application as proposed with 150 guests, with the stipulation that valet and shuttle is set up for all events, and to maintain a 10pm curfew Sunday through Thursday. Commissioner Reinier seconded the motion.

Commissioner Personett said that for the past 35 years the St. James building had been a white elephant searching for a future. He said that in the course of businesses having come and gone, the building had entered a very distressed state, to the point that there was now a tree growing out of the steeple.

Commissioner Personett added that the Weirs had a four year track record of successful experience. He said that Mr. Weir was a talented carpenter and handyman who could improve the condition of the building. He said that concerns about the impact of the use on the neighborhood had been thought through and addressed to best extent possible with police, limiting hours, and providing shuttles. As to the off-site parking lots, Commissioner Personett said that these were proposed in bad locations, and that he believed parking lots to south were better alternatives than Garrison school.

In conclusion, Commissioner Personett said he would vote in favor of motion but encouraged the applicant to explore other alternatives for parking and to explore the provision of smoking areas.

Commissioner Reinier said he agreed with Commissioner Personett and would be voting in favor.

Chairman Rosekrans said he would vote in favor because an SUP is narrowly regulated and subject to revocation if standards of performance are not met.

The motion carried 6-0.

Chairman Rosekrans informed the audience this case will be heard by City Council on Tuesday, May 26, 2015, at 7:00 p.m. in the Council Chambers.

V. Case 15-13R&PDP: Rezone and Preliminary Development Plan for Liberty Hospital Healthy Living Community at Glenn Hendren Drive and Stockwell Drive [Public Hearing]

Chairman Rosekrans stated that this application would be postponed to the next meeting, Tuesday, June 9.

VI. Case 15-17PP: Preliminary Plat for Liberty Hospital Healthy Living Community

Chairman Rosekrans stated that this application would be postponed to the next meeting, Tuesday, June 9.

VII. Case 15-16SUP: Special Use Permit for fireworks sales north of Dick's Sporting Goods in the Liberty Triangle [Public Hearing]

Mr. Jones presented the Special Use Permit application as described in the staff report. Special Use Permit hearings being an evidentiary quasi-judicial process, Mr. Jones introduced into the record the exhibits presented in support of the application.

Chairman Rosekrans asked if there were any questions for staff. Seeing none, he asked if the applicant had comments.

Commissioner Armstrong asked what the distance was between the proposed tent and the Hy-Vee gas station.

Mr. Jones said that when staff measured the tent which operated on the site last year, the distance was well in excess of 300 feet, possibly as much as 400 feet.

Ms. Sharp added that the State Fire Marshall only requires a 50 foot separation.

Commissioner Armstrong said he believed that regulation was inadequate to address safety concerns around a gas station. He asked how the City came to require 300 feet.

Ms. Sharp said the number was based on scholarly research which determined a 250 foot safe distance was adequate for aerial fireworks. She said the City adopted an additional 50 foot buffer and was far more stringent than the State requirements.

Commissioner Personett asked if there was a minimum separation distance from a highway.

Mr. Jones said there was no such regulation.

Mr. Vito Brancato, 7720 N Kansas Street, Kansas City (the applicant) said the state only requires 50 foot of separation and that they exceed the State and City regulations.

Chairman Rosekrans asked if there were any further questions. Seeing none, he opened the public hearing. Chairman Rosekrans asked if any members of the public wished to speak.

Seeing none, he closed the public hearing.

Chairman Rosekrans asked if the Commissioners had further questions of staff. Hearing none he asked for a motion.

Commissioner Reinier made a motion to approve the application. Commissioner Howard seconded the motion.

Vote: Motion passed 5-1

Yes: Commissioners Howard, Personett, Reinier, Rosekrans, Wepler

No: Commissioner Armstrong

Abstain: None

Chairman Rosekrans informed the audience this case will be heard by City Council on Tuesday, May 26, 2015, at 7:00 p.m. in the Council Chambers.

VIII. Case 15-18FDP: Final Development Plan for 48,000 square foot expansion of Attic Storage

Mr. Jones presented the Final Development Plan application as described in the staff report.

Chairman Rosekrans asked if there were any questions for staff.

Commissioner Wepler asked if previous storage units have received variances for parking.

Ms. Sharp said previous developments were probably approved before the current code requiring parking for business uses.

Commissioner Wepler asked for staff's recommendation on the variance.

Ms. Sharp said staff was silent on the variance but recommended approval of the proposal otherwise.

Chairman Rosekrans asked if there were any further questions for staff. Seeing none, he asked if the applicant had comments.

Art Aiken, 405 S Leonard (applicant's representative) said he was available for engineering questions, that Holly Mills was available for any questions regarding the property marketing, and that Nathan Strickland was available if there were any questions on required parking.

Chairman Rosekrans asked if there were any questions for the applicant or staff.

Commissioner Wepler said he believed it was reasonable to waive the parking restriction in this instance.

Chairman Rosekrans asked if the Commissioners had further questions for the applicant or staff. Hearing none he asked for a motion.

Commissioner Wepler made a motion to approve the application with the variance to waive the parking requirements for this expansion. Commissioner Armstrong seconded the motion.

The motion carried 6-0.

Chairman Rosekrans informed the audience this case will be heard by City Council on Tuesday, May 26, 2015, at 7:00 p.m. in the Council Chambers.

IX. Case 15-19FP: Final Plat for North Haven Center, 421 N 291 Highway

Mr. Jones presented the Final Plat application as described in the staff report.

Chairman Rosekrans asked if there were any questions for staff. Seeing none, he asked if the applicant had comments.

Mr. Art Aiken, AGC Engineers, 405 S Leonard (applicant representative) said he was available for questions.

Chairman Rosekrans asked if there were any questions for the applicant or staff. Hearing none he asked for a motion.

Commissioner Armstrong made a motion to approve the application. Commissioner Personett seconded the motion.

The motion carried 6-0.

Chairman Rosekrans informed the audience this case will be heard by City Council on Tuesday, May 26, 2015, at 7:00 p.m. in the Council Chambers.

X. Addendum to PZ Case 15-08PDP-A Request to allow an investment in public art in lieu of tree replacement required for the North Haven Development [Public Hearing]

Ms. Sharp introduced the request to allow the use of tree funds for public art as outlined in Section 30-97.4 of the Unified Development Ordinance.

Chairman Rosekrans asked if the Commission was allowing the fee-in-lieu requirement to be fulfilled by investment in public art and whether the proposal was a legitimate use of that provision.

Ms. Sharp said that was correct.

Commissioner Reinier asked what would happen to the money if the plan never transpired.

Ms. Sharp said that the money would be earmarked for the park project and would stay in the City through the fund raising arm of the Liberty Arts Foundation.

Chairman Rosekrans asked if there were any questions for staff. Seeing none, he asked if the applicant had comments.

Ms. Heather Brown Wolesky, 2112 Kara Ct, Liberty (the applicant) said she came to the Commission in several roles, including her role with the Liberty Arts Foundation and the committee for China Slaughter Park. She added that she is the Chair of the Liberty School District Foundation and a part owner of Brownfig Development Company. She said many groups want the park to happen but that fundraising has been difficult. Brownfig, she said, originally wanted to construct the infrastructure and landscaping in fulfillment of the fee-in-lieu requirement, but conversations with city staff brought out the allowance in the code for investment in public art.

Ms. Wolesky said that the artwork itself will cost \$40,000-\$80,000, but that it can't be installed without the park being built. She said that they had devised and the Arts Commission had recommended a plan for \$25,000 to go into the art fund for the China Slaughter statue, with \$25,000 going into the park itself. She said that Brownfig would put the money into an escrow

account or otherwise earmark for future construction of the park. She added that this would address the fundraising problem and also encourage further donation of money by demonstrating material progress toward the completed park.

Chairman Rosekrans asked if there were any questions. Seeing none, he opened the public hearing. Chairman Rosekrans asked if any members of the public wished to speak.

Bob Steinkamp, President of the Liberty Arts Foundation, said that Silvia Willoughby donated property to the School District in honor of China Slaughter. He said Slaughter was a crossing guard for Franklin Elementary. Mr. Steinkamp said that in talking to people about China Slaughter, he found that Mr. Slaughter taught humility, respect, and how to be human to everyone else.

Mr. Steinkamp continued by saying that, other than Garrison School which was developed by the African-American Legacy, no school or park in Liberty had been named after an African-American. He said it would be great to have the park and sculpture for students to look at and ponder.

Mr. Steinkamp said that using the ordinance to enhance and enrich the area will in turn enhance and enrich the City of Liberty. He added that the 291 site will have sufficient trees and that this excess will be put to better use than it otherwise would under the fee-in-lieu structure.

Mr. Steinkamp informed the Commission that \$15,000-\$16,000 had currently been raised, and that the \$25,000 contributed by Brownfig would bring the Foundation close to meeting its target for the sculpture. He said that the Foundation had identified various artists in KC area in an effort to keep the money and work local. He said that with the Brownfig donation, it would be time to go talk to those on the list and that the public could now visualize what the statue might look like.

Mr. Steinkamp concluded by calling the proposal a laudatory project which would bring together various public entities in a joint effort.

Adam Brown, 529 Taylor Drive, Liberty, said he is part-owner of Brownfig. He said one issue not already addressed is that Brownfig is a sister company to Larry Brown Excavating (LBE). He said that LBE's expertise is excavation and site development, and that it has developed trade relationships with a variety of companies who could be employed to build the park, fencing, sod, landscaping, lighting, and anything else required to complete the park. Mr. Brown said this was a unique opportunity to bring this vision together with the expertise of LBE and Brownfig.

Commissioner Personett clarified that \$50,000 was required to be paid by Brownfig under the fee-in-lieu of planting structure, and that of the \$50,000 now being diverted to public art, half would go toward the sculpture, and half to develop the park.

Mr. Brown said that was correct.

Commissioner Personett asked if the \$25,000 figure reflected the anticipated cost of building the park or from some other consideration.

Mr. Brown said that Brownfig originally wanted to take the money and build the park, but the landscaping ordinance and the needs of the Arts Foundation necessitated that a portion of the money go directly into the art budget. He said Brownfig worked with the School District and its planning committee, and with Brownfig's input they will stage the best use of resources and the infrastructure possible with the \$25,000.

Commissioner Armstrong asked if the contribution would be 50% cash and 50% in kind services in construction of the park.

Mr. Brown said half would be a direct contribution to the Arts Foundation and the remainder would be in-kind services.

Ms. Wolesky said that a minimum amount of infrastructure would need to be built before the School District will accept the park. She said the District wants a fence or hedge to buffer between the park and Mill Street. She said the particulars of the contribution came as the result of talks with the District, with the initial \$50,000 to be split between the Arts Foundation and the District who will then write the check for park construction. She said the arraignment provides their company with work, and that the public would see \$25,000 worth of work at the site.

Commissioner Personett said he would be surprised if the public didn't get more than \$25,000 worth of results from Brownfig and its vendors.

Commissioner Wepler clarified that the Commission was being asked to approve a variance for public art and whether the request complies with the intent of the code. He said any matters or concerns above and beyond this are between Brownfig and the School District.

Commissioner Armstrong said he believed the park would be a stronger value to the City than a typical payment under the fee-in-lieu structure.

Commissioner Wepler agreed that this was the principal issue.

Commissioner Armstrong said he thought the proposal met all the criteria for the public art allowance, including permanence and public benefit.

Chairman Rosekrans said it was reasonable to wonder what end product would look like. He said the Commission should determine whether exercising this variance was an appropriate tool as it related to the 291 development plan.

Ms. Wolesky said Brownfig and the District would not leave the park in an unfinished state. She said \$25,000 will cover phasing to get to some level of completion, with final completion to come soon thereafter, perhaps in a year.

Chairman Rosekrans said that failure to finish the park would reflect poorly on a number of entities, both public and private.

Chairman Rosekrans asked if there was anyone else who wished to speak. Seeing none, he closed the public hearing.

Chairman Rosekrans asked if the Commissioners had further questions for the applicant or staff. Hearing none he asked for a motion.

Commissioner Wepler made a motion to approve the application. Commissioner Reinier seconded the motion.

The motion carried 6-0.

Chairman Rosekrans informed the audience this case will be heard by City Council on Tuesday, May 26, 2015, at 7:00 p.m. in the Council Chambers.

IX. Public Comments

There were no public comments.

X. Other Business

Ms. Sharp thanked the Planning & Zoning Commission for attending the joint Study Session with City Council last Monday where they discussed a large potential development near Liberty North. She said another study session would be arranged when the zoning component was brought forward. She said that the City Council would be discussing storage facilities, thrift stores, and car washes at the June 1st City Council study session and then those items would be brought forward to Planning and Zoning Commission for review at an upcoming planning meeting. She went over upcoming planning cases which may come forward for the next meeting, which include the Healthy Living Community at Liberty Hospital, the preliminary plat in anticipation of the redevelopment of Quik Trip.

XI. Adjournment

Chairman Rosekrans adjourned the meeting at 9:21 pm.

XII. Future Meeting Schedule

The next regular session is scheduled for Tuesday, June 9, 2015 at 7:00 p.m.