

LIBERTY PLANNING AND ZONING COMMISSION

July 14, 2015

Meeting Summary

7:00 p.m.

I. Call to Order

The Liberty Planning and Zoning Commission met on Tuesday, July 14, 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: Walt Holt, Amy Howard Dee Rosekrans, Tom Reinier, Ann Waterman and Larry Wepler. Commissioners Gary Armstrong and Ken Personett were absent. Representing staff were Katherine Sharp, Planning and Zoning Manager; David Jones, Planner; John Findlay, Development Review Engineer; Andy Noll, Assistant Public Works Director; Brian Hess, Utilities Director; and Janet Bartnik, Parks and Recreation Director. Kellie Houx with the Liberty Tribune and 18 members of the public were in attendance.

III. Approval of Minutes

Commissioner Holt moved to approve the minutes from the June 9, 2015 meeting and Commissioner Reinier seconded the motion. The minutes were approved 5-0-1. Commissioner Howard abstained.

IV. Case 15-26R&PDP: Rezone of 52.7 acres west of Withers Road and north of Old Withers Road from R-1A, Suburban Residential District to R-1C, Standard Single-Family Residential [Public Hearing]

Ms. Sharp presented the Rezone and Preliminary Development Plan application as described in the staff report, along with requested variances.

Chairman Rosekrans asked if there were any questions of staff.

Commissioner Holt asked why Liberty has a maximum cul-de-sac length.

Ms. Sharp said many communities allow 700 foot cul-de-sac lengths, and that staff believes that the City's shorter maximum derives from an inclination toward Traditional Neighborhood Development style. She added there is also a concern on the part of citizens regarding school buses not driving down cul-de-sacs and parents not wanting kids to walk so far to a bus stop.

Commissioner Holt said he's concerned many drivers would get lost in an unfamiliar subdivision with long cul-de-sacs.

Ms. Sharp said the UDO encourages connectivity and that the site does not lend itself to that with its existing conditions, such as the creek and forested areas. She said because of the narrow shape of the property, there is some justification for longer cul-de-sacs.

Commissioner Holt asked if there was some reason why it wasn't possible to establish a connection between certain cul-de-sacs shown in the plan.

Ms. Sharp said she would defer to the applicant's engineer on the specifics of the design.

Commissioner Holt asked if a trail connection would be established between the proposed subdivision and Withersfield

Ms. Sharp said that the parkland dedication requirements would be considered at the plat phase. She added that the developer is aware of the indicated trail on the Parks and Open Space Master Plan, but that staff hasn't had discussions of exact connections. She said Preliminary Plat is next phase for the project.

Commissioner Holt asked why the requirement for residential buffering from an arterial road is 100 feet.

Ms. Sharp said staff assumed the need arose due to the higher traffic, speeds and noise present on arterial roadways.

Commissioner Holt said that makes sense. He asked if staff supported reducing the 50' stormwater buffer.

Mr. Findlay said the riparian buffer consists of two layers, one being a streamside buffer of 25', plus a riparian corridor buffer of 50'. He said the buffers allow for limited uses and the allowance increases the further development is from the creek.

Mr. Findlay explained that, under current codes, whenever the 100 year floodplain falls outside the 75' riparian buffer, an additional 50' floodplain buffer is also applied. He added that the requirement is sometimes relaxed because the buffer requirements become excessively restrictive to the use of property. He said that, in those cases, no floodplain buffer is required as long as the area falls outside the 75' riparian buffer.

Commissioner Holt asked if staff considered the floodplain requirement excessive in this case.

Mr. Findlay said yes.

Commissioner Holt asked staff to explain the conservation easement.

Ms. Sharp said the easement (CE) would show an area of non-encroachment and clarifies to property owners which portions of their lot were buildable. She said the CE protected the riparian corridor and 100 year floodplain.

Mr. Findlay added that the intent of the CE was to preserve natural vegetation and bank stability.

Commissioner Reinier asked if school buses would travel down the cul-de-sacs to pick up children.

Ms. Sharp said she didn't know.

Commissioner Reinier asked how much separation would be established between the proposed property lines on north next to Blackberry. He asked if any trees would be removed.

Ms. Sharp said the exact area to be removed has not been determined at this time as the design is only conceptual. It appears by overlaying the concept design over aerials that trees will be removed, and that any trees over 8" caliper which were removed on the site must be replaced. She added that a developer can't remove trees on neighboring properties.

Commissioner Reinier asked if a 50' buffer would also apply to the north side.

Ms. Sharp said that no buffer would be required between the proposed development and Blackberry since it Mixed Use zoning.

Commissioner Wepler said he doesn't believe there is a standard setback from Withers for subdivision to the north. He asked if the proposal included lots with boundaries inside the 100 year floodplain. He warned that the 100 year floodplain is merely a statistical measure and that the creek comes up more than people think in a year like 2015. He asked how the floodplain would impact the lots shown within its boundaries.

Mr. Findlay said that no property owner can develop in the floodplain without a permit or the necessary credentials, such as a letter of map amendment. He added that a property owner could fill the affected area to bring it out of the floodplain.

Ms. Sharp said the plan may be confusing because of its level of detail and specificity. She emphasized that engineering and stormwater studies had not been completed and that the current application was only for the purpose of gaining zoning entitlement to move forward.

Commissioner Wepler clarified that the purpose of the Commission was to decide if the piece of ground merited R-1C zoning rather than R-1A.

Ms. Sharp said that was the Commission's role, along with considering the four variances.

Commissioner Wepler asked if the plan would change in subsequent phases.

Ms. Sharp said that this is not a PD rezoning. And that there are things staff doesn't feel comfortable with, of which the developers were aware, such as having floodplain in the build area of the lot. But, she added, there were other questions like stormwater and flood impacts that couldn't be answered until preliminary engineering phase.

Commissioner Wepler said he was concerned about the lack of connectivity with Blackberry. He said that for those who wanted to go up to the commercial buildings along Withers Rd, they would have to exit the subdivision and take Withers Rd all the way up. He asked whether it would be simpler to have a connection within the subdivision.

Ms. Sharp said the applicant didn't want intermingling of Commercial/Mixed Use in Blackberry with the proposed subdivision, and compromised by showing a pedestrian connector between the developments. She said staff was not especially concerned about a road connecting to Blackberry since it is a Mixed Use development and is intended to be pedestrian, not automobile, oriented.

Commissioner Wepler said it was illogical to require longer car trips when such a connection would be relatively simple. He added that his other concern with the project would be stream erosion, which was an added reason for maintaining buffers around the floodplain.

Hearing no other questions from Commissioners, Chairman Rosekrans asked if the applicant had comments.

Ron Cowger, AGC Engineers, 405 S Leonard Street (applicant's representative) said he appreciated the Commission's feedback. He said the proposal presented was the result of meeting a month and a half prior. He said that, as a result of the meeting, the applicant found that some parameters were necessary, such as longer cul-de-sacs longer and the reduced buffer to Withers Rd. He added that once the applicant gets to the final documents, significant cost is accrued, and

that the applicant's team had come to the Commission to get feedback. He said the formal application was for the R-1C rezone, and that what was presented was just a concept, with the understanding that both minor and major aspects could change before final approval.

Mr. Cowger addressed cul-de-sac length by noting that many cities in the Kansas City metro allow 500, 600, or 1000 foot max lengths. He said one City allowed a 1,320 foot maximum, or 20 houses. He added that emergency services have no problems with the longer streets, but that buses will not go down them because they have set pick-up areas. He noted the longest shown on the proposal was 720 feet, with the others in 600 foot range.

Mr. Cowger addressed connectivity by saying that the applicant's team looked at extending into Blackberry, but felt the connection created too much of a commercial feel. He mentioned that the plan provides a pedestrian connection, along with connections through two of the cul-de-sacs onto the existing Withers Rd sidewalk.

Mr. Cowger addressed buffering from Withers Rd by showing several slides of neighboring subdivisions on the east side of the road, saying that the setbacks, if there are any, are inconsistent in terms of fences and landscaping. As a contrast, he pointed to the subdivision on the west side of Withers, north of the Community Center. He said the fencing in this subdivision is more uniform and appealing, even though it is closer to the street than the neighborhoods on the east side. He mentioned that the applicant's proposal has mostly side yards instead of back yards along the Withers frontage, but that the developer will control fencing along the street to preserve the uniformity of appearance. He concluded this point by stating that the UDO requires a 100 foot separation, but since setbacks are not consistently implemented along Withers Rd, the applicant wishes to seek a variance to allow 50 feet.

Mr. Cowger addressed the requested floodplain variance by noting that mapping techniques, CAD, Lidar, and other technology had exponentially increased the accuracy of maps. He pointed out that the current floodplain maps are three decades old, largely done using outdated technology. He said Lidar and high definition aerial photography make floodplains much more defined and accurate compared to old USGS quad maps.

Mr. Cowger continued by saying there are instances where a setback from a floodplain is much needed, such as tight bends in the watercourse, but in other places the data is much more accurate than before, minimizing the need for additional buffering. He added that the proposal used new, not yet adopted, floodplain data to inform the plan. He said the plan would continue to be vetted, but that the preliminary goal was to make sure zoning was appropriate and the four variances were reasonable.

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

Commissioner Wepler said he understood the setback problem but was still concerned about where the stormwater would go. He asked Mr. Cowger if consideration was given for detention or retention to stem the overland flow from the development.

Mr. Cowger responded that detention can be a disadvantage in a watershed, because it can compound the water discharge situation. He said that offsetting peaks allow water to be released appropriately.

Commissioner Wepler clarified whether Mr. Cowger was referring to detention or retention.

Mr. Cowger said it could refer to either dry bottom detention or water surface elevation with retention, and that either still provides detention of stormwater.

Commissioner Holt asked whether the applicant could obviate one of the variances by connecting the longer cul-de-sacs with short streets. He added that this solution would take some traffic off of the main road in front of the most desirable lots.

Kyle Knecht with Lorax Design Group, 8021 Santa Fe Drive, Overland Park (applicant's representative) said cul-de-sacs are generally preferred over corner lots because they involve fewer intersections and linear feet of street. He added that these metrics were preferred even by city's public works departments.

Joe Duffey, 1730 S Withers Road, Liberty (the applicant) said they considered taking cul-de-sacs to Withers Road but decided they didn't want four cuts. He said they also believed the proposal was a better design. He mentioned their discussions with staff, during which they determined a contained development would be preferable to the more connected approach envisioned in the UDO.

Commissioner Holt said he agreed that the cul-de-sacs shouldn't cut through to Withers, but reiterated that he believed the issue could be solved rather simply by connecting the cul-de-sacs to each other within the development.

Chairman Rosekrans said it was important that these questions be raised in considering the variance requests with the rezone.

Hearing no further questions, Chairman Rosekrans opened the public hearing.

Lindsay Forsee, 1261 Blackberry, said she understood the proposal is just to rezone the property. She said that, in considered of the variances, she is not in favor of encroachment into the existing treeline on the northeast portion of the property. She referred to May 2013 Planet Geo tree inventory study which designated the "floodplain" area for saving. She referred to the document as saying these areas should not be developed. Ms. Forsee reiterated that the areas behind Blackberry should be preserved.

Cathy Stilfield, 1257 Blackberry said she is also not in favor of building homes on the northwest portion of property. She said she bought her property thinking the floodplain would not be developed. She added that there are many old trees and associated wildlife which would be removed or displaced, along with scenic views from her back yard.

Daniel Vlamis 1536 Smiley, asked if a connection to Old Withers Road and improvements to Old Withers had been contemplated. He said that Old Withers Road is in substandard condition at present.

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

Ms. Sharp said the variance does not allow encroachment into the floodplain, but the 50' area beyond the floodplain. The area of trees south of Blackberry are not in or near the floodplain- it runs along the west side of Blackberry. She then referred to the forest assessment and tree protection ordinance as hierarchical, with the ordinance allowing for tree removal and the assessment being for information and recommendations, but not carrying the weight of law.

Mr. Findlay said that the riparian corridor protection applies only to streams with a tributary area of 40 acres or more and the small stream south of Blackberry does not qualify.

Mr. Findlay said Old Withers Road will be addressed at next level of review. He explained that road improvements are required under certain circumstances and thresholds.

Commissioner Wepler asked if road improvements would be considered once the subdivision evolved.

Mr. Findlay said they would be considered at some point if development warranted. He added that the road itself is in city right of way, but separated from the proposed area by another strip of private property.

Commissioner Reinier pointed out that, between Blackberry and proposed site, there are many trees that should be preserved. He said that if those trees were to be cleared, increased flooding would likely result.

Commissioner Wepler asked if the line of sight between the Withers Road and Old Withers Road intersection was acceptable.

Mr. Findlay said that intersection would be looked at with further phases of the development.

Commissioner Holt said that the residential task force, in which he participated, identified the 52.7 acre subject property as “low-hanging fruit”, because of its access to infrastructure and the improved Withers Road. He said the zoning change was important and that he was very supportive. He said it had been over ten years since the last significant single-family residential development in Liberty, and that times had changed since then. He said that the area and those areas to the south made up the future of Liberty, and that it was important to him that the city gets it right when it comes to developing those areas.

Commissioner Holt continued by saying that the reasons for UDO standards may not be clear at first glance, but they exist for a reason and shouldn't be thrown out. He explained that he personally needed more information about why cities allow longer cul-de-sac length. He said that he has a problem with the 100 foot buffering variance because the traffic moves faster along the southern portions of Withers Road, which requires a longer buffer. He said he's fine with not having a drive into Blackberry, and that the riparian edge buffer variance was based on engineering and that it makes sense on that basis.

Commissioner Howard asked for clarification about tree replacement rules.

Ms. Sharp clarified that the 75 foot riparian corridor buffer and the floodplain require that all vegetation to be kept intact, and that these areas would be protected by a conservation easement. Outside of the buffer, she said a tree survey was required to be submitted and verified if any trees were planned for removal, and those removed must be replaced at a rate of two new trees per each tree removed. She added that any trees saved from clearing on the site would also be put in a conservation easement, with credit given at a rate of two trees per 8" saved. She said the ordinance has worked well, by leaving pockets of valuable trees rather than the clear cutting that was going on previously.

Commissioner Wepler said he thinks the area should be rezoned to R-1C. He added that development by exceptions is a slippery slope because it implicitly encourages further exceptions for future developments. He said he didn't have a problem with the setbacks from Withers, but did have a problem with the floodplain variance. He explained that so much erosion has occurred in Little Shoal Creek, healthy trees were dying and the stream bank had widened 20 feet. Commissioner Wepler also said he saw no reason to omit the connection to Blackberry if only one lot would be lost.

Chairman Rosekrans clarified that if a variance was omitted from the motion, it would not be

forwarded to City Council as recommended.

Ms. Sharp said yes.

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

Commissioner Holt made a motion to approve the application for rezone but to exclude all four variances. Commissioner Wepler seconded the motion for the purposes of discussion.

Chairman Rosekrans asked if Commissioners cared to share how they would vote.

Commissioner Wepler said that even though he seconded the motion, he would be voting against it. He was concerned about the buffer and explained that if all the houses from the rezone area to 291 Highway were 100 feet, the precedent for requiring a 100 foot buffer for the applicant's property would be stronger. He said he believed precedence existed for 50 feet. He added that he understood about the length of cul-de-sacs and connecting them to other streets, but that he didn't have a problem with them either. He said he wanted connectivity to Blackberry. He said he wanted to see the developer massage the floodplain variance before he would vote in favor.

Commissioner Holt reiterated that he was not against the rezoning, but that he didn't want to set variance precedent based on a lack of understanding the current UDO.

The motion to approve the application for rezone but to exclude all four variances tied 3-3.

Opposed: Wepler, Rosekrans, Waterman

In Favor: Reinier, Holt, Howard

Chairman Rosekrans informed the audience this case will be heard by City Council on Monday, July 27, 2015, at 7:00 p.m. in the Council Chambers.

V. Case 15-27FDP: Final Development Plan for the Liberty Utilities Operation Center and waste water treatment plant

Mr. Jones presented the Final Development Plan 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. Brian Hess, Utilities Director for the City of Liberty (applicant representative) said he was available for questions.

Chairman Rosekrans asked if the City currently owned the property for the treatment plant.

Mr. Hess said the City had owned the property for about a month. He described the design build process and explained that the connection to South Liberty Parkway and the water line extension would not only enable construction of the treatment plan, it would also create a developable area around the Parkway. He added that the Parkway project is also in a design-build, and that both projects were scheduled for completion in late 2016 or early 2017. He concluded by saying the treatment plant itself is expandable, as proposed it is designed to accommodate 40 years of growth in Liberty.

Commissioner Wepler asked if Birmingham Road would be improved.

Mr. Hess said that Birmingham was being used as a construction access road during construction. He said that the contractor had added gravel, so the road was in better shape than previously. Mr. Hess said a locked gate current restricted access to the unimproved portion of Birmingham, and that the gate would remain in place after construction.

Commissioner Wepler asked what would happen to the well fields.

Mr. Hess said the fields would remain, and that portions of the property operated as a lime sludge yard, brush and tree limb site, and a farm lease.

Chairman Rosekrans asked if there were any 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 Monday, July 27, 2015, at 7:00 p.m. in the Council Chambers.

VI. Case 15-28A: Amendment to Section 30-100 of the Unified Development Ordinance pertaining to floodplain regulations [Public Hearing]

Mr. Noll presented the Amendment application as described in the staff report.

Chairman Rosekrans asked if there were any questions of staff.

Mr. Noll said the maps would become effective Aug 3rd, whether or not they were adopted by the City. He explained that the benefit of the City adopting them is continued participation in the National Flood Insurance Program. He said the maps which would be adopted identify hazard areas that could prove devastating to homeowners. Without insurance, he added, these flood events can be catastrophic and the affected properties would be very difficult, if not impossible, to sell or finance through banks which participate in NFIP.

Mr. Noll explained that NFIP incurred huge losses with Hurricane Katrina and Super Storm Sandy, and was forced to rely on better technology to delineate more accurate boundaries in the updated floodplain maps.

Commissioner Wepler left the meeting.

Mr. Noll reviewed the number of structures in Liberty which would be affected and reviewed the largest concentrations on a GIS map. He said that many of the areas are shown in the floodplain as a result of existing culverts and associated fill. He added that FEMA's analysis might not take into account water storage areas upstream of a culvert, and might overestimate the level of risk. He said these factors are under further analysis by the City.

Mr. Noll said the City will send registered letters to all properties either negatively or positively affected by the changes in the FEMA maps. He added the UDO is being amended along with the adoption of the map to reflect changes requested or required by FEMA for floodplain regulations.

Chairman Rosekrans asked about those homes now in the floodplain and whether they would need insurance.

Mr. Noll said the City will notify those homeowners so they can make those decisions.

Chairman Rosekrans asked if insurance was provided through a city program.

Mr. Noll said NFIP was a national program to provide subsidized insurance for homeowners in a floodplain.

Hearing no other questions from Commissioners, Chairman Rosekrans opened the public hearing.

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

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

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

The motion carried 5-0

Chairman Rosekrans informed the audience this case will be heard by City Council on Monday, July 27, 2015, at 7:00 p.m. in the Council Chambers.

IX. Public Comments

There were no public comments.

X. Other Business

Janet Bartnik, Parks & Recreation Director went over the two options developed for each of the three redesigned parks, Bennett, City and Ruth Moore. The Planning Commission gave staff their opinion on each park design and commended staff and consultants on the project.

Ms. Sharp asked the Commission for their thoughts on Fireworks.

Chairman Rosekrans referred to the four options suggested by staff.

Commissioner Holt said that option four was his preference, the banning of fireworks sales from Liberty. He said his reasons included the excessive time staff time invested in review, approval, and inspection of the sites versus the benefit received by the City, the negative image from tents, and that focus on fireworks takes away from a focus from more important amenities.

Chairman Rosekrans and Commissioners Reinier, Waterman, and Howard also agreed on option four as their preference.

Commissioner Reinier said that use of fireworks would still go on in the city regardless of sales, but suggested that banning sales might move the focus to the William Jewell event or other sanctioned July 4th celebrations.

Ms. Sharp updated the Planning & Zoning Commission on items which had been approved since the last meeting, including a Standard Final Development Plan for a 3,600 square foot addition to the existing MetalsUSA building at 2840 E Heartland Drive, along with parking lot expansion and sidewalk improvements. And a Standard Final Development Plan for a 3,950 square foot addition to an existing building, along with parking lot reconfiguration and site improvements at 203 N 291 Highway (former Liberty Auto Plaza). She went over upcoming planning cases which may come forward for the next meeting, which include a new Quiktrip plat and development plan, a residential rezoning application on Conistor, and a SUP for a small event use in a home in the Historic District.

XI. Adjournment

Chairman Rosekrans adjourned the meeting at 9:38 pm.

XII. Future Meeting Schedule

The next regular session is scheduled for Tuesday, August 11, 2015 at 7:00 p.m.