

MINUTES
INDEPENDENCE CITY PLANNING COMMISSION
August 25, 2020

MEMBERS PRESENT

Cindy McClain, Chair
Bill Preston, Vice Chair
Virginia Ferguson
Joe Weir
Rick Dreher
Paul Michell
Heather Wiley

STAFF PRESENT

Brian Harker - Planner
Jordan Ellena – Development Manager
Rick Arroyo – Assistant Community Development Director
Mitch Langford – City Prosecutor

A meeting of the Independence City Planning Commission was held via GoToMeeting, due to the City of Independence State of Emergency, at 6:00 p.m. on August 25, 2020. The meeting was called to order.

PUBLIC HEARINGS

Case 20-810-02 – Preliminary Development Plan (PUD) – 3206 N. Spring Street

Commissioner Preston made a motion to limit each speaker five minutes during the public hearing. Commissioner Weir seconded the motion. The motion passed with seven affirmative votes.

Staff Presentation

Brian Harker presented the case. Mr. Harker presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses.

Commissioner Preston asked if the applicant has been informed of the deficiencies of this application. Mr. Harker stated the applicant was provided the staff report last week. He noted they were also given a letter of 13 items that needed to be met. Mr. Harker advised the neighborhood meeting took place last Wednesday, and some supplement information on that meeting was provided today. Mr. Ellena stated the email sent in the afternoon was a forward from the applicant's attorney.

In response to Commissioner Preston's question, Mr. Ellena stated the only deficiency addressed in the email received this afternoon was a draft of the covenants. Mr. Ellena stated the applicant or applicant's attorney will be going through the documents that were provided.

Applicant Comments

John Roe, Roe Law Firm, 4444 S. Belleview, Kansas City, MO stated he represents the property owner, Isosceles Properties, LLC. He stated Ryan Rader is representing Isosceles Properties tonight. Mr. Roe stated the 2.54 acres that is zoned R-30/PUD would be subdivided into 11 lots. There would be 22 living units and each would be one story. Each unit would have a one car garage and one parking spot in the driveway. Mr. Row reviewed several items in the Unified Development Ordinance, including the definition of a two-unit home, the definition of R-30/PUD, and the permitted uses allowed in R-30/PUD. Mr. Roe stated technically R-30/PUD would allow 75 units under the existing zoning, but they are only suggesting 22. Mr. Roe stated a two-unit house is permitted with no use standards, per the Unified Development Ordinance. He further stated a single-family house is not allowed in this zoning.

Mr. Roe reviewed several quotes and provisions in the Comprehensive Plan. Mr. Roe stated this applicant is consistent with the Comprehensive Plan because it provides housing options for all. He said one of the guiding principles is to provide a diversity of housing options in all neighborhoods. Mr. Roe stated it suggests to identify areas in established neighborhoods for infill development, which this applicant meets. He stated the Comprehensive Plan wants to promote mixed housing in each neighborhood, which this application also meets. Mr. Roe stated the applicant will promote this housing development to those 65 and older, which is also a goal of the Comprehensive Plan.

Mr. Roe stated this property was already zoned by the City as R-30/PUD. He stated this property is consistent with the PUD standards because the City already has it zoned as R-30/PUD. Mr. Roe suggested this criteria is only for new development that has not already been zoned as PUD. The PUD is already in place by the City, therefore, it meets the PUD criteria.

Mr. Roe stated one of the lots will be left a greenspace with a gazebo. He said the City staff suggested the lot have amenities; however, Mr. Roe stated staff told the applicant a gazebo is not enough. Mr. Roe reviewed a letter to the applicant from the City, where a gazebo was suggested as a possible amenity. Mr. Roe stated there will be an HOA for this development and reviewed the draft Declaration of Covenants. Mr. Roe said the detention basin would address the storm water drainage issues.

Mr. Roe stated there would be no parking issues because there is adequate parking, per the City Code. He said the City Code only requires two off-street parking spots, which is met in this application. Mr. Roe stated the City needs to change their ordinance if they don't believe two off-street parking spots are enough. Mr. Roe stated on street parking is also allowed on the surrounding streets. He stated the zoning would allow 75 units, so the street network would not be impacted with 22 units.

In response to Commissioner Preston's question, Mr. Roe stated he doesn't believe there are any other R-30/PUD zoned properties in this neighborhood. Mr. Roe suggested since the Planning Commission and City Council already zoned this R-30/PUD, this type of development fits in the character of the neighborhood.

Mr. Roe requested Janelle Clayton address the traffic impact. Janelle Clayton, Merge Midwest Engineering, 2668 W. Calalpa Street, Olathe, KS, stated she was approached to do trip generations for this project. Ms. Clayton said the trip generation shows an increase in the am peak hour of 20 cars and in the pm peak hour of 24 cars. She stated those volumes would not create significant impact in a residential area. Mr. Roe noted this project has less driveways than the single family homes facing this development.

Mr. Roe stated this neighborhood is residential and this development would not change that. He stated this would fit the neighborhoods character. Mr. Roe stated those property owners in the surrounding area have known this property was zoned R-30/PUD when they purchased their homes. Mr. Roe reviewed a copy of the recorded plat from June, 2003. He stated this property was carved out of Kentucky Hills and was made its own subdivision.

Mr. Roe requested a realtor, Amy Corn, speak about the area. Amy Corn, 1 Dakota Circle, Lake Winnebago, MO, stated she looked at the real estate in the area. She said this development would actually help the property values of the single family homes in the area. Ms. Corn stated this type of development is needed in the area, especially since it will have outside maintenance provided through the HOA. She noted there hasn't been any new development in the last 30 years. Ms.

Corn stated the average price for a home in the area is \$120,000. She said those 65 and older are looking for outside maintenance free living in this area.

Commissioner Preston asked what the projected value of each unit of this development is. Ryan Raeder, 1308 NE Windsor Drive, Lee's Summit, MO, stated the market value of each unit will be \$150,000 to \$175,000.

In response to Commissioner Preston's question, Mr. Raeder stated the HOA would be turned over to the new owners at some point. Mr. Roe stated the developer is the driving force at the beginning and as the units are sold, the HOA gradually turns over control to the new owners. Commissioner Preston noted the new owners could decide to dissolve the HOA.

Mr. Roe stated when Isosceles Properties, LLC had previously submitted an application, the City's Public Works Department submitted a letter stating this type of development would be within the pump stations operating range. Mr. Roe noted they had previously suggested 38 units.

Commissioner Michell stated he believes this letter states the development is within the pump stations operating range, not the capacity limits. Mr. Roe stated during the pre-application meeting, they were not told of any issues. Mr. Roe said the applicant is aware that a plumber will need to conduct a sewer capacity analysis.

Mr. Roe stated this development complies with the lot standards, setbacks, height standards and building width.

Chairwoman McClain advised the Commission would take a three-minute break and would reconvene at 7:45 p.m.

Commissioner Weir stated he understands the applicant plans to market this development to those over 65. Commissioner Weir asked what would happen if a 40-year old wanted to purchase one of the units. Mr. Roe stated they would entertain selling the unit to a 40-year old. Mr. Roe said he would not want to be accused of discriminatory housing practices. Commissioner Weir stated he did not see anything in the application about this being maintenance free housing. Commissioner Michell noted it's not mentioned in the covenants that the exterior maintenance of the structures would be covered by the HOA.

Commissioner Wiley asked for clarification on if this development is for 65 and older, or if it's not. Mr. Roe stated the intent is to sell these units to those 65 and older. Mr. Roe stated if someone else wants to purchase a unit, they do not want to be accused of discriminatory housing practices, and would entertain selling to those under 65. In response to Commissioner Preston's question, Mr. Roe stated they cannot deny selling to those under 65 because that person could claim discrimination. Ms. Corn noted it would not be considered discrimination to only sell to those over 65 years old.

Mr. Harker noted the plat that was submitted does not have demising walls. He stated this means each duplex will be sold separately and whoever purchases the property will own both sides. Mr. Harker noted that person would be a landlord. Mr. Raeder stated after they're built, they plan to divide the properties into 22 parcels. Commissioner Michell questioned why the 22 parcels are not notated on the plat that was turned in. Shawn Caton, Caton Architectural Design, 6320 Marion Ave, Kansas City, MO, stated they were in the preliminary stages when the plat was designed, but the intent is to have 22 parcels.

Public Comments

Jana Evans stated she believed this development would change the character of the neighborhood. Ms. Evans said she is very familiar with the Comprehensive Plan. She noted infill development is intended for peripheral properties, not those in the middle of an established neighborhood. Ms. Evans stated this plan will not reduce decay or increase affordable housing in the neighborhood. She said the Comprehensive Plan also intends to maintain greenspace to retain residents. Ms. Evans noted nearly 50% of all respondents in the Comprehensive Plan feel public input is not sought or taken into account by City decision makers. She stated residents want more greenspace, parks and entertainment opportunities.

Dr. Dale Herl, Superintendent of the Independence School District, 201 N. Forest Ave, stated he would like to testify against this development. Dr. Herl stated this development would have a negative impact on the school district, especially Mill Creek Elementary School. He noted both the architecture and the land area would make it difficult to add on to this school. Dr. Herl stated Mill Creek Elementary is at or near capacity every year. He said if at capacity, the school district has to transfer students to other elementary schools. Dr. Herl questioned why the 65 and older requirement couldn't be in the restrictions and covenants. Dr. Herl noted, while the applicant said they could not refuse selling to a 40-year old because of discrimination, that in order to be considered discrimination, it would have to be against a protected class. He said unless a requirement for 65 and older is added to the restrictions and covenants, whoever purchases these duplexes could still sell their unit at a later date to someone under 65. He stated this development would have a negative impact to the local schools, so the Independence School District is not in favor of this project.

In response to Commissioner Michell's question, Dr. Herl stated if this development had covenants and restrictions that only allowed those 65 and older to purchase and live on the property, it would take away the negative impact to the Independence School District.

Commissioner Weir stated this development would provide some financial benefit to the Independence School District. Dr. Herl stated when an additional student comes into the school, funding from the state is approximately \$6,736 dollars per student. He stated an addition to a school would cost over \$300 per square foot. Dr. Herl stated the revenue from the property tax would not make significant impact for the school.

Lori Wilson, 3608 N. Osage St, stated the sewers are a major issue for the neighborhood. She stated she is concerned about overcrowding at Mill Creek Elementary. Ms. Wilson noted even with those 65 and older, a lot of grandparents take care of their grandchildren. She stated there is no bus line or doctor's offices nearby that would be appealing to those 65 and older. Ms. Wilson said traffic is a concern for the neighborhood. She stated the property owner doesn't take care of the property currently, so she doesn't know how that would change. Ms. Wilson stated it takes away the greenspace from the neighborhood. She said she believes it was zoned R-30/PUD because there was a church on the property. Ms. Wilson stated her family has lived in the neighborhood for many years and is against this development.

Commissioner Wiley asked Ms. Wilson what she would like to see happen with that space. Ms. Wilson stated the neighborhood would like to purchase this property so they can keep it as a greenspace.

Commissioner Preston asked what the original land use was. Ms. Wilson stated there used to be a swimming pool and community center. She said within the covenants and restrictions from the original neighborhood, that land was supposed to be a community area.

In response to Commissioner Preston's question, Ms. Evans stated the original neighborhood was in Jackson County's jurisdiction and later annexed to Independence. She stated the developer had the swimming pool filled in because of water issues with the natural spring. Ms. Evans said there were covenants and restrictions with the original HOA that this lot was to be used for recreational use only. When the original developer got in financial trouble, he ended the HOA and never held a vote with the property owners. Ms. Evans stated the developer deeded the property to the RLDS church. The RLDS used the property as long as they could, but later sold it to another church. The second church owner had the lot replatted and no one in the neighborhood was notified about the replat. Ms. Evans stated the second church owner then sold it to Isosceles Properties.

Evelyn Bray, 500 W. Colonel Drive, stated during the neighborhood meeting last week, Mr. Raeder stated he would sell each building, not the separate units. Ms. Bray stated that Mr. Raeder also suggested he would keep some of the units and rent them out. She said she believes this is a smoke screen to get the plans approved. Ms. Bray stated she moved in the neighborhood in 1977 and there was a church on the property. She said the neighborhood has already collected protest petitions. Ms. Bray noted the owner of this property has been a poor neighbor and has not maintained the property.

Diana DeWitt, 306 W. 28th St N, stated she is not in favor of this development. Due to connection issues, Ms. DeWitt was unable to provide additional information.

Paula Frazee, 3201 N. Union, stated she moved in this neighborhood in 1979. Ms. Frazee stated the neighborhood has used this greenspace since it was a country club in the 1970s. She said most that purchase houses in the neighborhood do invest time and money into the properties to fix them up. Ms. Frazee reiterated that the neighborhood would like a chance to purchase the property, but the owner has given them an astronomical price, over what he paid. She stated she is also concerned about the detention basin and the water issues that the development creates.

In response to Commissioner Preston's question, Ms. Frazee would like to see the area become a City park or for the developer to sell the property to the neighborhood for the HOA to maintain.

Daniel Frazee, 7908 NE 75th Terrace, stated he is Ms. Frazee's son. He stated the common area is right in the middle of the subdivision. Mr. Frazee stated he is a commercial real estate expert and stated he agrees with Ms. Corn, that the new development would not have a negative impact on property values; however, the lack of greenspace would have a negative impact on property values. Mr. Frazee stated this property has always been a community area and the neighborhood would like to see it stay a greenspace.

Michael Pittman, 3209 N. Spring St, stated there would be four driveways in front of his house and would create more of a traffic problem in front of his house. Mr. Pittman stated he has lived in the neighborhood for 40 plus years. Mr. Pittman said he has talked to the property owner and requested they consider single family houses. He stated the applicant has said that there is no money in single family homes. Mr. Pittman expressed concerns that the HOA suggested would not be viable. He stated this development would not be good for their neighborhood.

Brian Welch, 3301 N. Spring St, stated he is also concerned about the increased traffic in the neighborhood. He stated the intersection frequently backed up with cars, waiting for other traffic to clear.

Mr. Roe stated this development meets the off street parking requirements. He said if the residents don't feel that's enough, then the City Council needs to revise their City Code. Mr. Roe stated Martha Pittman submitted a letter that she is in favor of a development for seniors. He stated the real reason the neighborhood is upset with this development is because they're losing their free greenspace that they use but don't pay taxes or maintenance on. He stated the neighborhood didn't purchase the property when it was for sale. Mr. Roe stated this use is allowed within the already approved zoning district. He said the Kentucky Hills HOA formed for the sole purpose of stopping this development. Mr. Roe stated the neighborhood has used the property for free for so many years, that they're only upset because the owner of this property wants to build on it. He said this is a preliminary plan is only preliminary and there may be modifications on the detention basin. Mr. Roe stated any covenants and restrictions are private and not enforceable by the City. Mr. Roe noted that the difference in students from single-family houses, what the neighborhood wants, to duplexes is only 4 students. He said it is the job of the Independence School District to educate the children that are sent to them to be educated.

Commissioner Comments

Commissioner Preston stated he would like to see this case continued to the next Planning Commission meeting. Commissioner Weir and Commissioner Ferguson both stated they do not feel the need for a continuance. In response to Commissioner Michell's question, Commissioner Preston stated Mr. Roe presented a significant amount of information and would like to have time to process the information and ask staff additional questions.

Motions

Commissioner Preston made a motion to continue Case 20-810-02 – Preliminary Development Plan (PUD) – 3206 N. Spring Street, to the September 15, 2020 Planning Commission meeting. Commissioner Dreher seconded the motion. The motion passed with five affirmative votes.

APPROVAL OF MINUTES

The minutes of the August 11, 2020 Planning Commission meetings were approved as presented.

ADJOURNMENT

The meeting was adjourned at 9:09 p.m.