

**MINUTES OF PLANNING COMMISSION MEETING
OF THE CITY OF FAIRWAY, KANSAS**

The Planning Commission of the City of Fairway, Kansas (the "Commission") conducted a meeting on Monday, April 24, 2023. The meeting was called to order at 6:00 P.M.

Present: Commissioners Shae Pelkowski, Ben Zwick, Jeremy Deeken, Rorric Pfalzgraf, Michael Hoelscher, Ron Denton.

Absent: None.

Presiding: Chair Wendy Bailey.

Staff Present: City Clerk Kim Young; Zoning Counsel Anna Krstulic; Community Development Director Basil Alani; Recording Secretary Barb Fox.

Visitors: Kevin Klassen, Klassen Construction LLC, 5540 Maple, Mission, Kansas; Steve Bass, Ryan Construction, 6129 Granada Street; Sally Dannov, 6000 Sunrise Drive; Phillip Crum, Phill Crum Designs, 8204 Rosewood Lane, Prairie Village, Kansas; Todd Higgins, Backyard by Design, 9130 Flint, Overland Park.

1. APPROVAL OF MINUTES

Chair Bailey asked for a motion to approve the minutes from the March 27, 2023 meeting.

MOTION: Motion was made by Commissioner Denton to approve the March 27, 2023 minutes. Commissioner Hoelscher seconded the motion.

The motion carried unanimously.

2. OLD BUSINESS

None.

3. NEW BUSINESS

a. SITE PLAN – 5518 NORWOOD, FAIRWAY, KANSAS, AS SUBMITTED BY KEVIN KLASSEN OF KLASSEN CONSTRUCTION, PROPERTY OWNER, REQUEST FOR NEW SINGLE-FAMILY RESIDENCE.

Chair Bailey requested the staff report.

Director Alani reported that the applicant submitted plans for a new single-family residence. The height of the structure is 29 feet from the existing 918.8-foot elevation. The watershed analysis shows the proposed hardscape will increase from 32.5 percent to 39.6 percent, which will increase the runoff. An infiltration trench is proposed to reduce the discharge. The project meets all requirements of Code Sections 15-296 (Dimension Standards) and 15-297 (Site Design Standards).

Staff recommends approval of the Project, subject to the following conditions:

1. One electronic set of plans must be submitted for plan review and approval.
2. Building permit must be obtained and fees paid, as required by City Code.
3. Project must comply with all City Ordinances, the 2012 International Building Code and other incorporated technical codes.
4. Application and approval are void if the building permit is not obtained within one year of the date of Planning Commission approval.

Chair Bailey asked if there were other questions for staff.

Discussion followed concerning the tree located next to the driveway. Commissioner Denton pointed out that the site plan shows that the driveway width is increasing by about three feet and he is concerned about the tree. Director Alani noted that there are likely tree roots under the existing driveway. When that driveway is removed, Public Works will have an arborist review the situation and typically, they will cut the roots to accommodate the driveway.

City Clerk Young explained that the tree is a 13-inch caliper tree and if the property owner has to remove the tree, they will need to apply to the Public Works Director for approval, pay into the Tree Fund and be responsible for removal of the tree. The property owner could receive a credit if they plant a replacement tree.

Councilman Denton noted that he is concerned about the health of the tree when heavy equipment is in the area that can compress the soil. He suggested that the tree be removed and replaced with another tree.

Chair Bailey noted that the greenspace is currently at 60.4 percent and the required greenspace is 60 percent, leaving only .4 percent of hardscape allowed. She pointed out to the applicant that there will be no additional room to expand the patio or walking surface based on the greenspace requirements in the Code.

Chair Bailey asked if there were further questions for staff. Hearing none, she asked the applicant to address the Commission.

Kevin Klassen, Klassen Construction LLC, 5540 Maple, Mission, Kansas, stated that he is the property owner. He indicated there is a large oak tree on the lot that is staying and they will take adequate measures to protect that tree. With regard to the tree nearest the driveway, he stated the tree is not in good shape and his preference is to remove it and plant a replacement on the south side of the lot.

Responding to Commissioner Denton's question, City Clerk Young stated that the property owner would have to pay \$100 per caliper inch into the Tree Fund. Thus, if the tree is 13 inches in diameter, the applicant would be required to pay \$1,300 into the Tree Fund. If the applicant planted a replacement tree, they would be given a credit of \$100 per caliper inch for the replacement tree, i.e., a \$300 credit if a 3-inch caliper tree was planted.

Chair Bailey asked if there were additional questions for the applicant. Hearing none, she asked for further discussion from the Commission or a motion.

MOTION: Motion was made by Commissioner Denton to approve the site plan for 5518 Norwood, Fairway, Kansas, as submitted by Kevin Klassen of Klassen Construction, property owner, request for new single-family residence, subject to staff recommendations and an additional requirement that the property owner protect the oak tree in accordance with Code regulations for protection of street trees during construction. Commissioner Zwick seconded the motion.

The motion carried unanimously.

b. SITE PLAN – 5928 ALHAMBRA STREET, FAIRWAY, KANSAS, AS SUBMITTED BY CALEB GEORGE OF CHRIS GEORGE HOMES, PROPERTY OWNER, REQUEST FOR NEW SINGLE-FAMILY RESIDENCE.

Chair Bailey requested the staff report.

Director Alani reported that the applicant submitted plans for a new single-family residence. The plans show the height of the structure is 29 feet 3 1/8 inches from the existing 960.9-foot elevation. The watershed analysis shows the proposed hardscape will increase from 19.9 percent to 34.4 percent. An infiltration trench is proposed to reduce the discharge. The project meets all requirements of Code Sections 15-296 (Dimension Standards) and 15.297 (Site Design Standards).

Staff recommends approval of the Project, subject to the following conditions:

1. One electronic set of plans must be submitted for plan review and approval.
2. Building permit must be obtained and fees paid, as required by City Code.
3. Project must comply with all City Ordinances, the 2012 International Building Code and other incorporated technical codes.
4. Application and approval are void if the building permit is not obtained within one year of the date of Planning Commission approval.

Chair Bailey asked if there were other questions for staff. Hearing none, she asked if there were questions for the applicant. Hearing none, she asked for a motion.

MOTION: Motion was made by Commissioner Pfalzgraf to approve the site plan for 5928 Alhambra Street, Fairway, Kansas, as submitted by Caleb George of Chris George Homes, Property Owner, request for new single-family residence, subject to staff recommendations. Commissioner Denton seconded the motion.

The motion carried unanimously.

c. SITE PLAN – 6000 SUNRISE DRIVE, FAIRWAY, KANSAS, AS SUBMITTED BY HAROLD WILY OF REIN CONSTRUCTION ON BEHALF OF DAVID AND SARAH DANNOV, PROPERTY OWNERS, REQUEST FOR EXCEPTION TO HAVE MORE THAN ONE ACCESSORY STRUCTURE.

Chair Bailey requested the staff report.

Director Alani reported that the applicant is requesting an exception for a second accessory building, which is a covered patio over an existing concrete patio. The property already has an existing storage shed.

Staff is not supportive of the exception request because it does not meet Code requirements. Should the Planning Commission approve the site plan and exception request, staff recommends the following conditions:

1. One electronic set of plans must be submitted for plan review and approval.
2. Building permit must be obtained and fees paid, as required by City Code.
3. Project must comply with all City Ordinances, the 2012 International Building Code and other incorporated technical codes.
4. Application and approval are void if the building permit is not obtained within one year of the date of Planning Commission approval.

Responding to Commissioner Denton's question, Director Alani confirmed that the applicant is requesting a cover over their existing concrete pad but the cover will not be attached to the home. There is an existing pergola, but it will be removed. The pergola is not considered an accessory structure because it does not have a full roof.

Chair Bailey asked if there were additional questions for staff. Hearing none, she asked the applicant to address the Commission.

Steve Bass, Ryan Construction, 6129 Granada Street, stated that the applicant wants to replace the existing structure with a better structure. They are willing to remove the storage shed if that is the only option. He indicated that the property owner does not want to attach the new structure to the home.

Chair Bailey agreed that the structure should not be attached to the home because of possible movement and settlement issues.

Sally Dannov, 6000 Sunrise Drive, stated that she is the property owner. The covered area is about one foot from the house and will be used for a dining and lounge area. The area will be open and there will be no sides on the structure. Attaching the roof to the house will cause an issue because of the roof pitch.

Chair Bailey asked if there were other questions for the applicant. Hearing none, she asked for additional discussion from the Commission. Hearing none, she asked for a motion.

MOTION: Motion was made by Commissioner Deeken to approve the site plan for 6000 Sunrise Drive, Fairway, Kansas, as submitted by Harold Wily of Rein Construction, on behalf of David and Sarah Dannov, Property Owners, request for exception to have more than one accessory structure, subject to staff recommendations. Commissioner Pfalzgraf seconded the motion.

The motion carried unanimously.

d. SITE PLAN – 5732 WINDSOR DRIVE, FAIRWAY, KANSAS, AS SUBMITTED BY PHILLIP CRUM OF PHILL CRUM DESIGN, ON BEHALF OF MITCHELL KINGAN, PROPERTY OWNER, REQUEST FOR EXCEPTION TO THE MINIMUM REQUIRED GREENSPACE FOR ADDITION AND POOL.

Chair Bailey requested the staff report.

Director Alani reported that the applicant is requesting an exception to the greenspace requirements for a new addition and construction of a pool with a pool deck. The lot size is 22,007 square feet and the existing greenspace is 13,692 square feet (62.2 percent). The required greenspace is 15,005.25 square feet (68.2 percent). The proposed plan will result in 54.4 percent greenspace.

Staff is not supportive of the exception request because it does not meet the Code requirements. Should the Planning Commission approve the site plan and exception request, staff recommends the following conditions:

1. One electronic set of plans must be submitted for plan review and approval.
2. Building permit must be obtained and fees paid, as required by City Code.
3. Project must comply with all City Ordinances, the 2012 International Building Code and other incorporated technical codes.
4. Application and approval are void if the building permit is not obtained within one year of the date of Planning Commission approval.

Chair Bailey asked for discussion from the Commission.

Commissioner Pfalzgraf stated that the Commission has reviewed several exception requests concerning greenspace recently and he believes the Commission has been consistent in allowing 60 percent greenspace.

Director Alani pointed out that the existing greenspace already exceeds that 60 percent, at 62.4 but with the addition and pool, the greenspace will be reduced to 54 percent.

Chair Bailey agreed that the Commission has been consistent over the last few requests it has received for greenspace, but she thinks it might be worthwhile to look at that again because property owners continue to seek exceptions to the greenspace requirements.

Chair Bailey asked if there were additional questions for staff. Hearing none, she asked the applicant to address the Commission.

Phillip Crum, Phill Crum Designs, 8204 Rosewood Lane, Prairie Village, Kansas, stated that he represents the property owners. He explained that initially the property owners wanted to add an in-law suite for their parents to stay in when they visit. He could tell by looking at the plans with the circle drive and large home that there may be greenspace issues. An engineer reviewed the plans and found that the proposal was 1,300 square feet over the allowable greenspace. He advised the property owner there was an opportunity to request approval for the overage and install a retention pit, or they could try to swap one for one by replacing the driveway and making it smaller.

The property owner then indicated that they planned to install a pool later. Mr. Crum indicated that he did not think they would be allowed to install a pool down the road if they were adding the in-law suite now. He suggested that the plan be redesigned and that they have a watershed analysis conducted and retain the water onsite. The preliminary plans for the addition were revised, swapping out some items and making them smaller. They then designed the pool to be around 1,500 square feet. The key item is that the existing home is already 1,300 square feet over the allowed greenspace. They have provided a preliminary plan for the Commission to consider before they move forward with the final site plan.

Mr. Crum explained that the lot is 22,000 square feet and there is plenty of backyard space for a pool. They will be installing an infiltration tank in the rear and a gravel trench in the front with soil on top to collect water and slow it down. The proposed plan will have 54 percent greenspace. They will be able to control the water and will actually make the water situation better than it is today. He requested that the Commission approve the exception request.

Discussion followed concerning maintenance of the various infiltration tanks and trenches. Commissioner Pelkowski thinks that it will be important for the property owner to understand what is required as far as maintenance is concerned.

Mr. Crum reiterated that they will be retaining the water on the site, in addition to the amount of water the pool will retain during a storm.

Director Alani pointed out that the intent of the requirements for greenspace relate more to actual green vegetation rather than retaining water on the site.

Commissioner Denton agreed. He does not think there is anything in the Code about being able to ignore the greenspace requirements because the property owner can capture the water somewhere else.

Responding to Commissioner Zwick's question, Mr. Crum stated that the current property owner did not own the property when the improvements were made to the home in 2007.

Commissioner Deeken asked if the applicant would consider tapering the front drive.

Mr. Crum stated that is a consideration. He explained that the lot is elevated. Initially they considered removing a portion of the circle drive as they could gain 1,200 square feet; however, they would still need to add a sidewalk to the front door so that visitors won't pull into the driveway and knock on the back door. If they were closer to meeting the greenspace, they probably would have tried to manipulate some other things to meet the requirements. The proposed plan gives the homeowner what they need and he feels like they have made appropriate accommodations in order for the homeowner to have a pool and the addition.

Responding to Chair Bailey's question, Mr. Crum stated that if the pool is not approved the applicant will most likely not move forward with the addition.

Chair Bailey asked if there were other questions for the applicant. Hearing none, she asked for discussion from the Commission.

Responding to Commissioner Zwick's question, City Clerk Young explained the history of the greenspace requirements, stating that the requirements were in place when she began working for the City 19 years ago. Initially, the greenspace requirements were 55 percent, regardless of the size of the lot. Those requirements were increased at some point to 60 percent, when the City saw what happened when someone built to the max on setbacks and greenspace. In approximately 2015, the Code was changed to its current form, where there is a sliding scale for greenspace requirements, based on the size of the lot.

Discussion followed concerning when the house was built and the greenspace requirements were at that time. Mr. Crum noted that original plans for the home were submitted with the application and those plans show a date in 2006. City Clerk Young indicated that in 2006, the lot would have been required to have 55 percent greenspace.

Commissioner Denton stated that he understands what the applicant is trying to do with the retention and drainage. He also knows that in the past the Commission has worked with property owners and made concessions related to the greenspace requirements. He is not comfortable with the proposed plan because he feels that it pushes the boundaries too far. However, knowing that the existing home is already over the allowed greenspace at 62 percent, he would be inclined to allow the addition for the in-law suite.

Responding to Commissioner Pfalzgraf's question, City Clerk Young explained the process if the Commission wanted to consider amending the greenspace requirements in the Code.

Commissioner Pfalzgraf does not think it would be prudent for the Commission to approve an exception as large as the one being requested. He does think it would be worthwhile for the Commission to have further discussions on this issue. He does not want to discourage investment in homes, but for now, he does not think the Commission can approve the exception request.

Commissioner Deeken agreed. He noted that the property owner is locked in because they already exceed the greenspace allowed. He knows the City wants to maintain the estate like nature of properties. The proposed plan is different in that it will be in the rear of the property and oftentimes those are fenced off. He would be open to exploring a change in the greenspace requirements.

Commissioner Pelkowski noted that a fence in the rear would not block everything and he feels like there should still be a decent amount of greenspace in the backyard. He does not want to keep people from investing in their homes, but he is not in favor of approving the application.

Commissioner Zwick pointed out that the City spent a lot of money and involved members of the Planning Commission, City Council and community members in the City Survey taken a few years ago and one of the issues important to homeowners was greenspace. He discussed how the lack of greenspace affects the watershed and those residents downstream.

Commissioner Hoelscher thinks that the greenspace requirements create the character of the City and he has seen lots that are overbuilt. He does think that the current applicant is getting penalized because of the big circle driveway that exists. He does agree that the greenspace requirements should be revisited by the Commission.

Chair Bailey asked for additional discussion from the Commission. Hearing none, she asked for a motion.

MOTION: Motion was made by Commissioner Pfalzgraf to deny the site plan for 5732 Windsor Drive, Fairway, Kansas, as submitted by Phillip Crum of Phill Crum Design on behalf of Mitchell Kingan, Property Owner, request for exception to the minimum required greenspace for addition and pool. Commissioner Pelkowski seconded the motion.

The motion carried unanimously.

e. SITE PLAN – 5810 WINDSOR DRIVE, FAIRWAY, KANSAS, AS SUBMITTED BY TODD HIGGINS OF BACKYARD DESIGN, ON BEHALF OF CHARLES AND TRACY TETRICK, PROPERTY OWNERS, REQUEST FOR EXCEPTION TO MINIMUM REQUIRED GREENSPACE FOR SWIMMING POOL

Chair Bailey requested the staff report.

Director Alani reported that at the February 27, 2023 meeting, the Commission granted the applicant an exception to the greenspace requirements with a stipulation that the site plan meet a minimum of 60 percent greenspace with staff to verify the percentage. The applicant did not achieve the Commission's requirement and is seeking approval for less than 60 percent greenspace. The latest submittal is at 58.5 percent greenspace.

Staff is not supportive of the exception request. Should the Planning Commission approve the site plan and exception request, staff recommends the following conditions:

1. One electronic set of plans must be submitted for plan review and approval.
2. Building permit must be obtained and fees paid, as required by City Code.
3. Project must comply with all City Ordinances, the 2012 International Building Code and other incorporated technical codes.
4. Application and approval are void if the building permit is not obtained within one year of the date of Planning Commission approval.

Responding to Commissioner Zwick's question, Director Alani stated that the plans submitted do not include dimensions for the hardscape around the pool. The applicant has removed the shed and reduced the size of the pool and the deck around the pool.

Chair Bailey asked if there were other questions for staff. Hearing none, she asked the applicant to address the Commission.

Todd Higgins, Backyard by Design, 9130 Flint, Overland Park, stated that he is the landscape architect on the project.

Chair Bailey noted that the applicant needs to remove about another 300 square feet to meet the 60 percent greenspace requested by the Commission. She asked if the applicant feels like they have pulled everything out of the project possible.

Mr. Higgins responded that he has gone back and forth with the property owners several times with redesigns since the last meeting and making reductions caused issues with the flow and keeping things symmetrical. The property owners have agreed to remove the shed. They are asking that the Commission allow them to reduce the greenspace by another 1.5 percent from the previous 60 percent that was approved.

Mr. Higgins read into the record a statement from the property owners, Tracy and Charlie Tetrick. The Tetrick's are not new to Fairway and have every interest in making it more beautiful and economically fruitful. Tracy has lived in Fairway for 55 years. She grew up on Cherokee, got married, and they bought their first home on Sunrise before finally acquiring their dream home on Windsor. They do not want to be confused with new folks moving in and building monstrosity homes. As far as Fairway goes, the committee can visit the park on Mission Road and see a plaque with the Tetrick name on it. They and three other families are solely responsible for raising money to renovate the entire facility. Finally, the new Kathryn Lyon Flora Park was completely paid for and developed by Tracy's family. The Park was dedicated by Trace's family to Tracy's sister, who passed away from cancer. A short drive to Highlands Elementary School will show their name all over for their fundraising efforts for that project. They are about making this neighborhood outstanding. Their plan with the pool is to continue to make Windsor a more prominent and valued street in the neighborhood. Every investment they have made to their property has had this in mind. They have great respect for the trees and greenspace in the neighborhood. It is their hope the committee sees disparities and allows the project for their backyard, one that 99 percent of the community will never see.

Discussion followed concerning whether there might be an opportunity to remove several feet from the driveway. Mr. Higgins responded that there is a side entry garage and that hammerhead portion of the driveway is used as a turnaround. He added that they have complied with the watershed engineering requirements and they have also made their planting beds bigger so they can be considered greenspace.

Commissioner Pelkowski stated that it doesn't seem the amount of overage is as egregious in this case and he is supportive of approving the exception.

Responding to Commissioner Zwick's question concerning whether they could incorporate more greenspace or a planter between the home and the pool, Mr. Higgins stated that reducing the impervious areas in that location would only amount to a small reduction of about 50 square feet total.

Commissioner Pfalzgraf thinks granting the exception to this degree is beyond the scope of the Commission. While he appreciates the efforts to reduce the impervious area and the property owners' contributions to the community, he is not in support of granting the exception.

Commissioner Deeken believes the property owner has made reasonable accommodations. If the applicant tapers areas to get another 20 or 30 feet of greenspace, they will still exceed the greenspace and cause issues with functionality of the back yard. He supports approval of the exception request.

Commissioner Pelkowski said that in previous meetings the Commission has discussed the purpose of the Commission. He understands that the Commission is tasked with looking at

exceptions to the Code because if the Commission always follows the Code, then there would be no reason to have a Planning Commission. He thinks compared to the earlier plan, the greenspace for the revised plan seems more reasonable.

Commissioner Denton understands it is important for people to be able to improve their property, but the Commission also has to have some line that it sticks with. He thinks the applicant should be able to reduce the size of the pool or something and still have a very usable recreation area behind their home.

Chair Bailey asked for further discussion. Hearing none, she asked for a motion.

MOTION: Motion was made by Commissioner Deeken to approve the site plan for 5810 Windsor Drive, Fairway, Kansas, as submitted by Todd Higgins of Backyard Design on behalf of Charles and Tracy Tetrick, Property Owners, request for exception to minimum required greenspace for swimming pool, subject to staff recommendations. Commissioner Pelkowski seconded the motion.

The motion failed 2 to 4.

Discussion followed.

Commissioner Denton asked if the applicant would be willing to make further adjustments to the plan or whether they would prefer that the request be denied.

Director Alani explained that if the exception is denied, the process would be for the applicant to appeal the Planning Commission's decision and the matter would go before the City Council.

Commissioner Denton stated that if the applicant does not think they can make the adjustments, then the request should be denied so they can go before the City Council. If the Council approves the exception, then the Commission will know how the Council feels about the situation.

Mr. Higgins related that he thinks that the exception is being denied based on personal opinion.

Commissioner Denton responded that the request is not be denied based on personal opinion. The request is being denied because it is against the rules. Based on the size of the lot, the Code requires 68 percent greenspace. The Commission allowed a reduction to 60 percent greenspace. The applicant revised the plans and the greenspace is at 58.5 percent.

Mr. Higgins indicated that they could possibly get to 59 percent, but does not think they can get to 60 percent without shrinking everything to the point it would be unusable.

Commissioner Deeken understands that the Commission has guidelines; however, he believes those are subject to impressions and negotiation by the Commission.

Further discussions followed concerning combining the lower area fire pit with the kitchen area. Mr. Higgins explained that the kitchen area has a bar that you can sit around so there is not a lot of space there to combine them. He added that he was initially able to get to the 60 percent; however, the walkway was removed on the south side of the pool and the property owner wanted the walkway included so they can get around the pool to clean it.

Responding to Commissioner Deeken's question, Mr. Higgins stated that the project cost is about \$500,000.

Zoning Counsel Krstulic pointed out that the cost of the project is not one of the criteria for granting the exception.

Chair Bailey asked for additional discussion. Hearing none, she asked for a motion.

MOTION: Motion was made by Commissioner Denton to deny the site plan for 5810 Windsor Drive, Fairway, Kansas, as submitted by Todd Higgins of Backyard Design on behalf of Charles and Tracy Tetrick, Property Owners, request for exception to minimum required greenspace for swimming pool, subject to staff recommendations. Commissioner Pelkowski seconded the motion.

The motion carried 4 to 2.

4. ADDITIONAL BUSINESS

a. NEXT MEETING

City Clerk Young stated that the next meeting is scheduled for May 22, 2023.

City Clerk Young stated that staff would start gathering some data on the greenspace requirements for the Commission's review to determine if revisions should be made.

5. ADJOURNMENT

Chair Bailey asked for a motion to adjourn.

MOTION: Motion was made by Commissioner Denton to adjourn. Commissioner Deeken seconded the motion.

The motion carried unanimously.

Hearing no further business, the meeting adjourned at 7:27 P.M.

Kim H. Young, City Clerk