

**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 via telephone and video conference on Monday, June 27, 2022. The meeting was called to order at 6:00 P.M.

Present: Commissioners Shae Pelkowski, Jeremy Deeken (late arrival), Rorric Pfalzgraf, Michael Hoelscher, Ron Denton.

Absent: Commissioner Ben Zwick.

Presiding: Chair Wendy Bailey.

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

Visitors: Caleb George, 6830 Beverly, Overland Park; Tim Hakes, 3904 Shawnee Mission Parkway.

1. APPROVAL OF MINUTES

Chair Bailey asked for a motion to approve the minutes from the May 23, 2022 meeting.

MOTION: Motion was made by Commissioner Denton to approve the May 23, 2022 minutes. Commissioner Pelkowski seconded the motion.

The motion carried unanimously.

2. OLD BUSINESS

None.

3. NEW BUSINESS

a. SITE PLAN AND EXCEPTION REQUEST TO MAXIMUM BUILDING HEIGHT - 6024 BUENA VISTA, FAIRWAY, KANSAS, AS SUBMITTED BY CALEB GEORGE OF CHRIS GEORGE CUSTOM HOMES, PROPERTY OWNER.

Chair Bailey requested the staff report.

Director Alani stated that the applicant has submitted plans for a new single-family residence. The plans show the height of the structure is 28 feet 9 1/16 inches from the 962-foot elevation; however, the existing grade is 960.7 feet, which is 1.3 feet below the 962-foot elevation. The 1.3 feet added to the height of the new structure would result in a height of 30 feet, 9/16 inches. The watershed analysis shows the proposed hardscape would decrease the runoff. An infiltration trench is proposed to direct the water flow and reduce the discharge. The applicant is requesting an exception to the building height.

Staff recommends approval of the project subject to the following conditions:

1. Three (3) complete sets of plans and one electronic set 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 Residential 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.
5. Verification of the top of foundation elevation and height of the structure once the roof is installed.
6. The new proposed privacy fence needs to remain at the existing fence line location on the 59th Street side.

Responding to Chair Bailey's question, City Clerk Young stated that the Code requirement is that the front door be no more than 8 feet from the garage. The plans indicate the front door is a little over 7 feet from the garage wall so the applicant meets that requirement.

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

Caleb George, 6830 Beverly, Overland Park, stated that he is the applicant. Responding to Chair Bailey's question concerning the measurement from the garage to the front door, Mr. George stated that the measurement would be 7.67 feet and therefore meets the requirements.

Responding to Commissioner Denton's question, Mr. George explained that the room is a foyer and a flex space.

Commissioner Deeken arrived at the meeting.

Chair Bailey asked if there were other questions for the applicant.

Mr. George explained that they plan to lower the foundation an extra inch so there will not be any issue with height and, therefore, an exception is not required. He does not want to get bogged down in the height issue because they fully intend to meet that criterion.

Chair Bailey asked for discussion from the Commission.

Commissioners Denton and Pelkowski indicated that they do not have any issues with the project.

Chair Bailey asked for a motion.

MOTION: Motion was made by Commissioner Pelkowski to approve the site plan and exception request to maximum building height – 6024 Buena Vista, Fairway, Kansas,

as submitted by Caleb George of Chris George Custom Homes, property owner, subject to staff recommendations, with the additional stipulation that the applicant meet the 30-foot height requirement. Commissioner Pfalzgraf seconded the motion. Commissioner Deeken abstained because he was not present during the entirety of the discussion.

The motion carried unanimously.

b. SITE PLAN FOR EXCEPTION REQUEST TO GREENSPACE REQUIREMENTS – 3904 SHAWNEE MISSION PARKWAY, FAIRWAY, KANSAS, AS SUBMITTED BY TIM HAKES, PROPERTY OWNER.

Chair Bailey requested the staff report.

Director Alani stated that the applicant is requesting an exception to the greenspace requirements to install a concrete driveway, walkway and retaining walls on the property. The property already exceeds the greenspace requirement. The property is 57,057.98 square feet and requires 48,057 square feet of greenspace (84.22 percent). With the proposed addition of a driveway, walkways and retaining walls, the greenspace will be 46,924 square feet or 82.25 percent. The exception request is twofold as the applicant has stated that he would like to build a garage, which would require a variance to encroach into the setback. The watershed analysis shows an increase but the rate of discharge is equal to the existing.

Staff does not support the exception to greenspace. If the Planning Commission approves the site plan and requested exception, staff recommends the following conditions:

1. Three (3) complete sets of plans and one electronic set 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 Chair Bailey's question, Director Alani stated that staff is not supportive of the request because the lot already exceeds the hardscape allowed.

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

Tim Hakes, 3904 Shawnee Mission Parkway, stated that he is the property owner. He explained that the lot is 57,000 square feet and when the Code changed in 2015, any square footage over 30,000 square feet is required to be 100 percent permeable. The lot is large and there are no issues with drainage. The new driveway will be located in the northeast corner of the lot, is elevated and 145 yards from Shawnee Mission Parkway. The proposed driveway will not be visible from any neighboring property owners. They plan to add a retention basin

to offset any additional drainage from the driveway and walkway. The additional driveway, walkway and retaining wall will add 1,100 square feet of non-permeable area.

Responding to Commissioner Denton's question, Mr. Hakes confirmed that the driveway will be used for parking and will not be used as a sports court. He has four children, two of whom are currently driving and the other two will be driving soon. He is also doing a kitchen renovation so the plan includes a walkway from the parking area around to the back of the home.

Commissioner Denton thinks the additional driveway is excessive. He understands the parking issue for the cars, but the current driveway has a widened-out area that looks like it could be used for parking.

Mr. Hakes confirmed there is a bump out in the driveway; however, if one or two cars are parked there, another car cannot get in and out of the garage.

Responding to Chair Bailey's question, Mr. Hakes confirmed that the shed is being removed. There is also a stone wall that will be removed, which he estimates to be about 200 square feet. Based on his calculations, there will be a 2 percent increase in impermeable area.

Chair Bailey understands the applicant's request for the driveway and empathizes with the situation.

Commissioner Pfalzgraf agreed, adding that the side entry garage also increases the impervious area.

Commissioner Pelkowski stated that he does not have any issue with the request as it will be hidden in the rear corner of the lot.

Commissioner Hoelscher also noted that because of the elevation, the driveway will not be visible from the street.

Commissioner Denton stated that he can see a need for the driveway because there is no street parking like most streets. He does think there will be a lot of concrete involved with the driveway and 10-foot-wide walk, but understands it will not be able to be seen from the street.

Responding to Commissioner Deeken's question, Mr. Hakes confirmed that he will be adding the detention basin referred to in the watershed analysis simultaneously with the installation of the driveway.

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

MOTION: Motion was made by Commissioner Denton to approve the site plan for exception request to greenspace requirements – 3904 Shawnee Mission Parkway,

Fairway, Kansas, as submitted by Tim Hakes, property owner, subject to staff recommendations. Commissioner Pelkowski seconded the motion.

The motion carried unanimously.

4. ADDITIONAL BUSINESS

a. DISCUSSION FOR POSSIBLE AMENDMENTS TO CHAPTER 15.

City Clerk Young explained that at the May meeting, Chair Bailey asked that staff review the list compiled from the joint work session held with the City Council in October 2019 of items that the Council requested that the Commission review and consider. She outlined those items, as follows:

1. Site Plan Review. This item relates to what items come before the Planning Commission and what items staff would be able to approve. Some modifications were made and Ordinance #1715 was adopted in May 2020.
2. Architect Requirement. The Code allows for either an architect or engineer to stamp plans, but in discussions with engineers, they were not checking the Fairway Codes during their review. Staff now requires engineers to comply with all sections of 15-296 and 15-297 of the Fairway Code.
3. Curb Cuts and Driveways. The graphic shown in Section 15-438 related to driveways does not match what is being approved in the field. The graphic shows that the driveway just cuts off and applicants are being allowed a 10-foot graduation down to the right of way entry so the graphic should be updated.
4. Trees and Landscaping. Section 15-297 requires landscaping plantings around 50 percent of the foundation. City Clerk Young wanted the Commission to be aware that once the plans are approved, staff does not monitor whether those plantings are maintained. Chair Bailey recalled that when the requirement was originally discussed, the Commission decided it did not want to monitor maintenance of the landscaping.
5. Passive Energy. Ordinance #1758 was passed in February 2022 requiring Commission review of solar energy systems for residential homes. City Clerk Young noted that commercial properties already required Commission approval.
6. Generators (placement). Changes were made to the placement of generators in Ordinance #1735, passed in April 2021. Director Alani explained that currently, the maximum dimension for generators is 48 inches and the pad size is allowed to be 12 square feet. The majority of generators being requested are actually up to 52 inches and the pad size is not sufficient for a generator that size. Chair Bailey understood that the Commission was trying to limit the pad size so the pad would not have a generator and then something else.

She suggested that the language allow the pad size to be no more than six inches on each side of the generator.

7. Fence/Building Materials. The Ordinance was updated in February 2021 (Ordinance #1731) to allow legal non-conforming fences on corner lots to be rebuilt in the same location. City Clerk Young noted that recently the Commission had a lengthy discussion about fences on corner lots so she does not know if it is necessary to revisit that issue. She did ask if the Commission felt that the building materials are too restrictive, especially with respect to roofing materials. She noted there are rubber materials, stone coated metal and other options for roofing materials that are not currently allowed in the Code. Director Alani explained that the Code allows composite shingles, wood shake, clay or concrete tile, natural slate, glass (acceptable for greenhouses), and rolled composition. City Clerk Young suggested that the Commission consider adding more approved roofing materials.
8. Water Retention Basins. Concerns about maintenance of water retention basins have been discussed in the past because after several years, they fill up and do not perform as intended. City Clerk Young explained that the Property Maintenance Code, which is adopted in the Code by reference, could be a way to address this situation. Director Alani explained that it is important to maintain the retention basins, especially in residential areas, noting that homeowners are directing all the gutters and downspouts to the basin and any debris that is getting into the gutter is going into the basin, causing them to silt over after a few years. Zoning Counsel Krstulic discussed that Mission Hills requires a certification by an engineer within one year of installation and then every two years thereafter. She suggested that could be a way to monitor the situation. Chair Bailey asked what the cost of that engineer certification would be. Zoning Counsel Krstulic responded that she was not sure as the requirement was only added about two years ago. Further, she is not aware of any complaints coming from the requirement. Commissioner Denton believes that the owner should be responsible for maintenance of the basins. City Clerk Young agreed, stating that requiring an engineer to come out ever couple years could be problematic, especially if someone else purchases the home and the current homeowner would need to notify the new owner about the requirement. She suggests using the Property Maintenance Code. If the retention basin fails, the property owner would need to fix it. Chair Bailey added that if the retention basin fails, she would assume there would be ponding, the water would not drain properly after a big rain, and there would be complaints from neighbors.
9. Building Footprint Requirements for New Construction. Currently, a single-story home is required to have a minimum ground floor of 1,800 square feet, not including the garage. City Clerk Young wondered if the Commission considers that to be too high because it forces people to build larger homes.
10. Storage Shed Design and Size. The current Code requires that any shed over 120 square foot match the house materials, including window and door openings and architectural relief. Director Alani stated that when an application for a shed comes in that is more than 120 square foot and the applicant is told that they need to meet those additional requirements, the applicant reduces the size of their shed. Responding to Chair Bailey's

question, Director Alani confirmed that the standard off the shelf shed is usually 10 feet by 10 feet or 10 feet by 12 feet; however, sheds 10 feet by 14 feet are also available.

11. Director Alani also discussed issues with the height regulations. The Code requires that sheds that are 8 feet in height be placed 4 feet from the property line and for every foot the shed is over 8 feet, it must be moved one additional foot further in from the property line. The problem comes when the ground is not level and one side of the shed meets the height requirements but when the shed is leveled, the other side does not. There are also additional issues caused by sheds that have a sloping roof.
12. Greenspace Requirements. Any exception to greenspace comes before the Commission for approval. City Clerk Young asked that the Commission consider whether the current regulations and exception process are satisfactory.
13. Permeable Surface vs. Hardscape vs. Vegetation. The Code defines greenspace as permeable, uncovered, and capable of supporting vegetation. City Clerk Young explained that in the past, applicants have suggested that swimming pools or the area between pavers can hold water and should be considered permeable; however, neither of those can support vegetation. Decks have also been questioned because rain can go through the deck boards, but vegetation cannot really grow under a deck. She asked if the Commission would want to consider allowing permeable concrete or gravel to be considered greenspace, even though those will not support vegetation.

City Clerk Young asked which of those items the Commission wanted to address.

Chair Bailey responded that she thinks over the last couple months it seems that fewer applications are coming before the Commission. She suggested that if there were specific areas where staff felt like revisions were needed, that the Commission would be in support.

Discussion followed concerning fences on corner lots. City Clerk Young explained that next month a corner fence location will be going to the Board of Zoning Appeals for approval. She understood that the Commission wanted to review fences on corner lots. The language in the Code states that: “fences shall not be located closer to the street-side property line than the street-side building line of any adjacent dwelling unit, provided that in no event shall any fence or wall be located any closer than twelve feet to any street-side property line.” The Code uses the terms “shall not,” and Zoning Counsel has advised that requests for encroachments for fence location must seek a variance from the Board of Zoning Appeals. The Code requires a greater setback for a fence than the home. Chair Bailey agreed that the intent was for the Commission to review corner lot fences to make educated decisions and not force the applicant to send out notices in order to go before the Board of Zoning Appeals. Zoning Counsel Krstulic explained that the language could be revised to be more flexible, adding that the Commission could grant an exception.

City Clerk Young suggested that staff revise the driveway graphic and draft language concerning corner fences for review by the Commission at its July meeting. She indicated she would notice both of those issues for public hearing.

Discussion followed concerning height requirements, not just for sheds but also for homes. Commissioner Pelkowski suggested that language be added to set a basis for where the measurement should be taken. City Clerk Young explained that the current language states that the allowed height is 30 feet, measured at the existing grade where the front door threshold is located. She noted it is difficult sometimes for applicants to determine that point.

Director Alani referred to the application earlier this evening where the new home had been pushed on the lot about 10 feet, resulting in a one-foot difference in the elevation. City Clerk Young added that new homes are raising foundation to allow for windows in the basement. She suggested that the measurement could be taken from the existing foundation wall. Director Alani clarified that the measurement would be taken from the top of the existing foundation wall.

Commissioner Pelkowski asked if there were restrictions on how tall the top of foundation could be over finished grade as he is concerned there would be a large extension of the foundation to allow for a taller house.

Director Alani explained that the recent development has been to properties where the existing home did not have a basement, and applicants are raising the top of the new foundation from the existing grade to add full basements and an egress window.

City Clerk Young stated that staff would draft some language on this issue for the Commission's consideration.

5. NEXT MEETING

City Clerk Young stated that the next meeting is scheduled for July 25, 2022.

6. ADJOURNMENT

Chair Bailey asked for a motion to adjourn.

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

The motion carried unanimously.

Hearing no further business, the meeting adjourned at 7:05 P.M.

Kim H. Young, City Clerk