

**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, October 24, 2022. 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: Kirk Wulff, Wulff Building, 8016 Manor Road, Leawood; Eileen Jones, 5909 Fontana Street; Austin Roeser, Roeser Homes, 11415 Strang Line, Lenexa; Scott Hueschen, Infinity Signs, 4900 Lister Avenue, Kansas City, Missouri; Jim Sullivan, Sullivan Palmer Architects, 5616 Tahoe Lane, Jim Engle, 7726 Delmar, Prairie Village; Rick Mosely, 3901 W. 56th Street.

1. APPROVAL OF MINUTES

Chair Bailey asked for a motion to approve the minutes from the September 26, 2022 meeting.

MOTION: Motion was made by Commissioner Denton to approve the September 26, 2022 minutes. Commissioner Pfalzgraf seconded the motion.

The motion carried unanimously.

2. OLD BUSINESS

None.

3. NEW BUSINESS

a. SITE PLAN FOR NEW SINGLE-FAMILY RESIDENCE – 5926 WINDSOR DRIVE, FAIRWAY, KANSAS, AS SUBMITTED BY KIRK WULFF OF WULFF BUILDING ON BEHALF OF THOMAS AND MARY CHAMPION, PROPERTY OWNERS.

Chair Bailey requested the staff report.

Director Alani reported that the applicant submitted a request for new single-family residence with a footprint of approximately 3,139 sq. ft. The plans show the height of the structure is 29 feet 10 inches. The existing grade is 913.4 feet and they will keep that same grade. The proposed hardscape is reduced and the runoff will be reduced. 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. 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.

Chair Bailey asked for questions for staff.

Responding to Commissioner Denton's question, Director Alani stated that the applicant would need to address his question concerning the trim around the windows being stucco over foam.

Kirk Wulff of Wulff Building, 8016 Manor Road, Leawood, stated that he represents the property owners, Thomas and Mary Champion. Mr. Wulff stated that only the sill of the window will be a hard foam product covered in stucco.

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

MOTION: Motion was made by Commissioner Denton to approve the site plan for new single-family residence – 5926 Windsor Drive, Fairway, Kansas, as submitted by Kirk Wulff of Wulff Building on behalf of Thomas and Mary Champion, property owners, subject to staff recommendations. Commissioner Pfalzgraf seconded the motion.

The motion carried unanimously.

- b. SITE PLAN FOR NEW SINGLE-FAMILY RESIDENCE – 5914 EL MONTE STREET, FAIRWAY, KANSAS, AS SUBMITTED BY KEVIN SCHNEIDER OF JAMES ENGLE CUSTOM HOMES ON BEHALF OF JAMES ENGLE CUSTOM HOMES, PROPERTY OWNER.

Chair Bailey requested the staff report.

Director Alani reported that the applicant submitted a request for a new single-family residence with a footprint of approximately 2,134 square feet. The plans show the height of the structure is 29 feet 9 ½ inches. The existing grade is 936 feet and the proposed elevation measured at the proposed threshold is 936. The hardscape will reduce the rear drainage runoff from 1.01 cfs to 0.73 cfs and will increase the front street drainage runoff from 0 to 0.35 cfs. Storm

detention is not required. 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. 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.

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

Eileen Jones, 5909 Fontana Street, stated that the lot slopes quite a bit to the rear and she is concerned about the runoff because Fontana is a low street and water accumulates there. She asked Director Alani to clarify his comments about detention and drainage.

Director Alani responded that the applicant is proposing to reduce the runoff to the back and will redirect it to the front and then to the street.

Chair Bailey asked if staff has plans that would show the downspouts and how the drainage is routed.

Director Alani responded that information is typically provided with the building permit application, which has not been submitted yet. Staff will review and verify the location of the downspouts.

City Clerk Young presented the proposed site plan from the engineer on the overhead, which shows buried roof drain lines under the driveway.

Commissioner Zwick explained that the water from the front of the house is being pushed to the front to the gutters under the driveway and the gutters from the back of the home will drain to the rear of the property.

Commissioner Pelkowski confirmed that is consistent with the watershed analysis. The argument is that the front of the new home is larger than the current home and the extra drainage is being captured in the front to the street.

Chair Bailey pointed out that the watershed analysis indicates that they will be reducing the drainage in the back. The engineer has provided the calculations and the watershed analysis has been sealed by the engineer.

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 new single-family home – 5914 El Monte Street, Fairway, Kansas, as submitted by Kevin Schneider of James Engle Custom Homes, on behalf of James Engle Custom Homes, property owner, subject to staff recommendations. Commissioner Zwick seconded the motion.

The motion carried unanimously.

c. SITE PLAN FOR NEW SINGLE-FAMILY RESIDENCE – 6123 HOWE DRIVE, FAIRWAY, KANSAS, AS SUBMITTED BY MARY LINE OF ROESER HOMES ON BEHALF OF ROESER HOMES, PROPERTY OWNER.

Chair Bailey requested the staff report.

Director Alani reported that the applicant submitted plans for a new single-family residence. The existing grade elevation and the proposed grade elevation are at 938 feet. The height of the new structure equals 28.7 feet. There are two issues that have been discussed with the applicant. The first issue relates to the 30-foot side platted building line, and the applicant revised the plans to meet the building line. The second issue is the 35-foot front platted building line where the front porch encroaches by 2.8 feet. That issue has not been corrected.

The watershed analysis shows the proposed hardscape to increase from 4,671.3 square feet to 4,837.8 square feet. The runoff will increase to the street from 1.46 cfs to 1.63 cfs and the runoff to the south will decrease from 0.53 cfs to 0.37 cfs. Storm detention is not required.

Director Alani explained that because there is a 35-foot front platted building line, Zoning Counsel Krstulic has determined that the Commission cannot grant approval for the encroachment. Regardless, the applicant has requested that he be able to present the application to the Commission.

City Clerk Young understands that the applicant is requesting input from the Commission as to whether the Commission would have concerns about the plans and whether it believes a replat would be favorable.

Zoning Counsel Krstulic explained that Code allows the Commission to grant an exception to the front setback as long as the building line is consistent with adjacent properties. If the applicant replats the property, they would be required to be in conformance with the applicable zoning requirements, which require a 40-foot setback, unless there is a 35-foot setback on the adjacent properties.

Commissioner Denton asked if staff knew what the setbacks were for the adjacent properties.

Director Alani responded that this is a unique situation because the street curves to the house to the south so you cannot base the setback on the adjacent property to the south. The only properties that would be applicable would be the houses to the north and there is a street intersection between the applicant's home and the home to the north. He added that the Code allows an applicant to have a front porch that extends into the setback; however, they cannot encroach into the platted building line.

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

Austin Roeser, Roeser Homes, 11415 Strang Line, Lenexa, Kansas, stated that he represents the property owner. He pointed out that they do not intend to replat the property. He understands that the allowed encroachment for the front porch is 200 square feet and the proposed front porch is 114 square feet. He does not understand how, because the lot is platted, that would remove the applicant's ability to follow Fairway's guidelines. He is confused why this particular lot, even though it is platted like others, is not allowed to follow the guidelines. While they can make adjustments, if necessary, the home is in complete disrepair and they are trying to get it torn down quickly.

Responding to Zoning Counsel Krstulic's question, Mr. Roeser stated that the porch is completely open and is under the 200 square feet allowed. The property fronts on Howe Drive with a 35-foot build line versus the 30-foot build line on the north side. With the addition of the porch, the front building line would be at about 32 feet. He does not know why the platted build line would negatively impact the project.

City Clerk Young explained that the Code requires a 40-foot setback. With the platted building line at 35 feet, the applicant is already encroaching 5 feet into what the Code allows and then would be encroaching even more with the porch. The City has historically required applicants to replat. She understands it is a long process and that is why most people adjust their plans to meet the requirements. She would defer to Zoning Counsel Krstulic if her interpretation is not correct.

Discussion followed regarding if the 35-foot platted building line was not present. City Clerk Young explained that in that situation, the setback would be 40 foot and the open porch could then encroach. Zoning Counsel Krstulic added that the Commission could also approve the 35-foot setback if the adjacent homes had setbacks at 35 feet.

Chair Bailey pointed out that if the applicant did replat the property, it could work against them. Therefore, she does think that replatting the property is an option.

Mr. Roeser agreed, stating that the property is unique and replatting would work against them because of the nature of the street and the way it curves. Other than the platted setback, the project meets all other Code requirements.

Zoning Counsel Krstulic explained that she had not previously reviewed the porch provisions in the Code and read them into the record, as follows:

Encroachments of unenclosed primary entrance features up to 10 feet into the front setback with a maximum of 200 square feet within the front setback may be approved by the Planning Commission upon a determination of each of the following:

1. The encroachment results in a setback building line or other structural encroachment similar to that of the immediately adjacent property;
2. The encroachment is architecturally compatible with and integrated into the principal building;
3. The encroachment does not adversely impact any other required residential site design guideline; and
4. The encroachment does not have a detrimental impact on adjacent property.

She added that there is also a limitation that in no case may any portion of the primary entrance feature be closer than 30 feet from the front property line and the proposed project meets this requirement.

After further review, Zoning Counsel Krstulic explained that the Commission can grant the exception if each of the four requirements are met.

Chair Bailey asked for clarification of what the difference is between the building line and the plat line and whether one has more authority over the other.

Zoning Counsel Krstulic explained that the building line is set by the Code and Regulations and any amendments thereto by the Commission. Many properties in Fairway were platted front building lines from a long time ago and there is recognition of those in the Code. The key is consistency.

Responding to Chair Bailey's question, Zoning Counsel Krstulic confirmed that the Planning Commission has the ability to grant an exception in this situation.

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

Commissioner Denton explained that the requirements indicate that the Planning Commission must make certain findings concerning the setbacks of adjacent properties and asked if the applicant had that information available.

Mr. Roeser explained that the lot to the south curves around and he assumes that the setback is the same. The only part of the proposed home that will cross the building line is the open porch on the northwest side of the property. The garage and main house will have the same setback as the rest of the neighborhood.

Commissioner Denton stated that he is not sure he is comfortable approving the request without confirmation from the developer or builder as to what the specific setbacks are for the adjacent properties. He asked if Mr. Roeser was planning to tear down the home immediately so that it could be rebuilt by spring.

Mr. Roeser explained that he would like to get the home removed soon because it is falling in and there have been complaints from neighbors.

Director Alani stated that he has received numerous complaints about the property. He noted that the applicant did apply for a demolition permit but they would rather obtain a building permit to avoid a delay between the demolition and construction activity.

Mr. Roeser explained there was a lot of risk involved and they do not want to have a hole in the ground that could fill up with rain.

Commissioner Denton is concerned that the porch is not going to line up with adjacent homes, causing it to be out of character with the neighborhood. He wondered why the applicant did not consider this issue before they designed the home.

Mr. Roeser responded that they were under the impression that because the porch was small and fit within the guidelines that they would not have an issue. The porch faces the northwest side at the corner of Howe and 61st Terrace. There are no adjacent houses that line up to the front porch. The home to the east faces 61st Terrace, and has a 35-foot setback. The proposed home lines up with that 35-foot setback so there is no porch encroachment on that side. The closest home is to the north, at the southwest corner of 61st Terrace and Howe. That house is oddly shaped, but it has the same 35-foot setback. That house is farther to the west and the proposed home would have to encroach into that 35-foot setback to remotely be in line with the house to the northwest.

Mr. Roeser further explained that they did look at designing the home so that it faced 61st Terrace. The lot is narrow front to back and there is no way to fit a house that Fairway demands on the lot. The proposed plan faces towards Howe because the lot is longer. They had to custom draw the home in order to meet the platted setback in the front and the rear setback of 25 feet.

City Clerk Young presented the AIMS map of the adjacent properties on the overhead.

Referring to the AIMS map, Mr. Roeser stated that both his lot and the lot to the south are awkward because of the curve to the street. The proposed garage will be in the same location as the existing garage. The two homes pivot away from each other at the garage and the house to the south faces southeast so the two don't really line up. He added that the angle does not exist where the front porch would ever encroach in front of another view from any other house.

Responding to Commissioner Denton's question concerning how staff feels about someone building into the front platted setback, City Clerk Young explained that her only concern would

be in the future if someone would want to enclose the porch. She suggested adding a stipulation to the building permit that an exception was granted strictly for an open unenclosed porch.

Zoning Counsel Krstulic recommended that the stipulation be added to the building permit and recorded, which would alert anyone in the future that the porch must remain unenclosed.

Mr. Roeser added that it would be extremely difficult for someone to enclose the porch because of the front columns and the stone and it is not designed to be enclosed.

Responding to Chair Bailey's question, Director Alani stated that he did review the plans and has determined that they meet all other Code requirements, including greenspace.

Chair Bailey asked for further discussion.

Commissioner Deeken stated that he is generally supportive of the request based on the conversation with the applicant.

Commissioner Pelkowski agreed, especially because of the awkward lot and trying to line up with the adjacent lots.

Commissioner Pfalzgraf also agreed and does not think anyone would notice the slight encroachment based on the angles of the adjacent properties.

Commissioner Hoelscher agreed, stating that he believes the home will line up with the house to the south.

Commissioner Denton stated he is supportive of the request. He thinks the house is well designed. He is concerned about ruling against the staff recommendation but understands that Zoning Counsel Krstulic has indicated that the Commission can approve the exception.

Zoning Counsel Krstulic apologized, indicating that she did not realize the porch was open and that there was a special exception provision for porches.

Chair Bailey asked for a motion.

MOTION: Motion was made by Commissioner Deeken to approve the site plan and exception request to encroach into the 35-foot front platted building line for an unenclosed porch for new single-family residence – 6123 Howe Drive, Fairway, Kansas, as submitted by Mary Line of Roeser Homes on behalf of Roeser Homes, property owner, subject to staff recommendations. Commissioner Pelkowski seconded the motion.

The motion carried unanimously.

d. SITE PLAN FOR DEVIATION REQUEST FOR NEW SIGNAGE – 2712 W. 53RD STREET, FAIRWAY, KANSAS, AS SUBMITTED BY DAN MOTUSH OF INFINITY SIGN SYSTEMS ON BEHALF OF STRETCH LAB, TENANT, AND FIRST WASHINGTON REAL ESTATE, PROPERTY OWNER.

Chair Bailey requested the staff report.

Director Alani reported that the applicant is submitting a request for three new signs - one 2.7 square feet window sign, one 7.7 square feet wall sign, and one 4 square feet illuminated blade sign.

Staff supports the wall and two window signs but not the blade sign. The blade sign is not in character with the other signage for the shops. Additionally, based on the size, it would not be readily visible for traffic traveling on Shawnee Mission Parkway and the canopies above each shop would impact the visibility for pedestrian traffic. If the Commission recommends approval of the requested application and deviation, the project will go before the City Council on November 14, 2022 for final site plan approval. Approval should include 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.

Chair Bailey asked if there were questions for staff.

Responding to Chair Bailey's question, City Clerk Young presented a photograph of the proposed sign location. She explained that a deviation would be required for the blade sign because wall signs are required to be mounted parallel to the façade.

Chair Bailey asked the applicant to address the Commission.

Scott Hueschen, Infinity Signs, 4900 Lister Avenue, Kansas City, Missouri, stated that he represents the applicant. He agrees with staff that the blade sign does not fit with the character of the shops and that pedestrians would not be able to see the sign because of the awnings. He explained that requesting the sign is a formality that his customer is required to go through because of their national branding.

Responding to Commissioner Zwick's question concerning whether approval is needed from the property owner, Zoning Counsel Krstulic explained that the approval by the property owner would not involve the City as it would be a private agreement between the landlord and tenant.

Mr. Hueschen agreed to contact the property owner and ask them to approve the signage.

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 and deny the deviation request for new signage – 2712 W. 53rd Street, Fairway, Kansas, as submitted by Dan Motush of Infinity Signs Systems on behalf of Stretch Lab, tenant, and First Washington Real Estate, property owner, subject to staff recommendations. Commissioner Zwick seconded the motion.

The motion carried unanimously.

e. SITE PLAN FOR NEW SINGLE-FAMILY RESIDENCE – 5912 ALHAMBRA, FAIRWAY, KANSAS, AS SUBMITTED BY MIKE DONAHUE OF MEJ REAL ESTATE COMPANY, PROPERTY OWNER.

Chair Bailey requested the staff report.

Director Alani reported that the applicant is requesting a new single-family residence with a footprint of approximately 2,040 square feet. The plans show the height of the structure is 29.6 feet and the existing grade is 963 feet. The proposed elevation measured at the proposed threshold is 963 feet. The watershed analysis shows the proposed hardscape will reduce the runoff to the rear from 1.69 cfs to 1.21 cfs and increase runoff to the street from 0 to 0.52 cfs. 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. 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.

Director Alani added that the applicant will be removing a small right of way tree and has received approval from Public Works.

Chair Bailey asked if there were questions for staff.

Chair Bailey pointed out that the applicant is meeting the greenspace requirements; however, it is very close. She is concerned that will be a problem in the future if a new homeowner wants to add an outdoor patio, which is not included in the current plans.

City Clerk Young noted that the Commission can grant an exception to the greenspace requirements; but, she agrees that many homes are being built to the maximum. She recalled that on other applications the builders were told to advise buyers that the home is built to the maximum hardscape allowed.

Chair Bailey asked for further discussion from the Commission. Hearing none, she asked the applicant to address the Commission.

Jim Sullivan, Sullivan Palmer Architects, 5616 Tahoe Lane, stated that he is the architect on the project.

Chair Bailey asked if the applicant had considered the need for hardscape in the back for a BBQ grill or a patio.

Mr. Sullivan responded that was the developer's decision. He thinks it is a tradeoff and that many homeowners would rather have the lanai than a patio.

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

MOTION: Motion was made by Commissioner Deeken moved to approve the site plan for new single-family residence – 5914 Alhambra, Fairway, Kansas, as submitted by Mike Donahue of MEJ Real Estate Company, property owner, subject to staff recommendations. Commissioner Zwick seconded the motion.

The motion carried unanimously.

4. ADDITIONAL BUSINESS

a. NEXT MEETING

City Clerk Young stated that the next meeting is scheduled for November 28, 2022.

5. ADJOURNMENT

Chair Bailey asked for a motion to adjourn.

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

The motion carried unanimously.

Hearing no further business, the meeting adjourned at 7:00 P.M.

Kim H. Young, City Clerk