

**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, November 29, 2021. The meeting was called to order at 6:00 P.M.

Present: Commissioners Jonalan Smith, Michael Hoelscher, Jeremy Deeken, Shae Pelkowski, Ron Denton.

Absent: Commissioner Ben Zwick.

Presiding: Chair Wendy Bailey.

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

Visitors: Adam Stein, 5638 Mission Road; Barrett Kroll-Urban Prairie Design, 4523 Mercier, Kansas City, MO; Joe Elder, 2705 W. 51<sup>st</sup> Terrace, Westwood, KS.

1. APPROVAL OF MINUTES

Chair Bailey asked for a motion to approve the minutes from the October 25, 2021 meeting.

MOTION: Motion was made by Commissioner Smith to approve the October 25, 2021 minutes. Commissioner Denton seconded the motion and the motion carried unanimously.

2. OLD BUSINESS

None.

3. NEW BUSINESS

a. SITE PLAN FOR POOL AND EXCEPTION REQUEST TO THE GREENSPACE REQUIREMENTS – 5638 MISSION ROAD, FAIRWAY, KANSAS, AS SUBMITTED BY BARRETT KROLL, URBAN PRAIRIE ARCHITECTURAL COLLABORATIVE, ON BEHALF OF ADAM AND SARA STEIN, PROPERTY OWNERS.

Chair Bailey requested the staff report.

Director Alani reported that the applicant is proposing to install a pool and deck/patio on the property. The property was granted a Special Use Permit for a sports court in 2019. The site plan for the sports court showed the court at 1500 square feet; however, the site plan did not include the gravel border around the perimeter of the sports court, which increased the non-permeable area by an additional 454 square feet. The property is 36,771 square feet and requires 27,771 square feet of greenspace (75.5 percent). With the addition of the proposed pool, patio, retaining walls, gravel perimeter around the sports court and walkways, the

greenspace is at 25,176 square feet (68 percent). The applicant requests approval of the exception to the greenspace requirements and will also be adding a stormwater basin.

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 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.

City Clerk Young explained that staff does not support the request because the Code has not changed since the Special Use Permit was granted for the sports court in 2019. The applicant was aware of the greenspace requirements when the sports court was installed. The Code currently requires 100 percent greenspace for any lot area over 30,000 square feet but the Commission may want to look into reducing that greenspace requirement to 90 percent. She knows the logic for the requirement is to keep the estate size lots estate size.

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

Adam Stein, 5638 Mission Road, stated that he is the owner of the property. He explained that when they purchased the property five years ago the backyard had no grass. They treated it like a blank canvas and installed the sports court, which they have really enjoyed. While the plan was to add a patio and fireplace next, his wife was injured about a year ago and has been rehabbing her injury through swimming. Therefore, they would like to install a pool to help with his wife's rehabilitation and for their four children to enjoy. The pool will be long and skinny and tucks next to the house. They were very aware of the greenspace requirement and hired an engineer to design the underground retention. Even with the addition of the pool and deck, they will have ample greenspace in their yard. From their home they cannot see their neighbors to the back and to the right and the neighbor to the left is blocked by the garage.

Barrett Kroll of Urban Prairie Design, 4523 Mercier Road, Kansas City MO, is the architect and stated that he understands that one issue is stormwater runoff. They have addressed this with the addition of a stormwater detention basin that will contain and percolate additional runoff so there will be no additional runoff from the project. A separate issue relates to hardscape. The neighboring properties will not be able to see the pool so it will not have any impact on the neighbors.

Chair Bailey asked if the stormwater analysis was based on a recent study. She knows that the drainage from the neighboring property goes to the east but the drainage study shows that the water drains north or south.

Mr. Kroll responded that the drainage report is based on a topographical survey completed about three months ago and the engineers used the information from that survey for their report.

Responding to Commissioner Denton's question, Mr. Kroll stated that the retention basin being proposed will be like a dry pond with planting materials on the interior and sides of the basin and maintenance would be similar to a lawn.

Commissioner Deeken stated that he is generally supportive of the exception request, especially given the fact that the property owner has taken steps to include a retention pond and that the lot is larger. In addition, the pool is relatively small at 12 x 40 feet and will be close to the house.

Commissioner Smith agreed.

Chair Bailey asked for a motion.

MOTION: Motion was made by Commissioner Smith to approve the site plan for pool and exception request to the greenspace requirements – 5638 Mission Road, Fairway, Kansas, as submitted by Barrett Kroll, Urban Prairie Architectural Collaborative, on behalf of Adam and Sara Stein, property owners, subject to staff recommendations. Commissioner Denton seconded the motion and the motion carried unanimously.

- b. SITE PLAN FOR NEW SINGLE-FAMILY RESIDENCE AND EXCEPTION TO THE FRONT SETBACK – 4612 W. 59<sup>TH</sup> TERRACE, FAIRWAY, KANSAS, AS SUBMITTED BY LONNIE SHANKS OF JC ARCHITECTS ON BEHALF OF ROGER PAYNE OF RED JACKET PROPERTIES, PROPERTY OWNER.

Chair Bailey requested the staff report.

Director Alani stated that this project is a tear down and rebuild and he referred the Commission to the report in the packet. There are some discrepancies concerning the calculations of non-permeable area. An updated site plan has been received and provided to the Commission. The original site plan showed removal of a tree in the front but the resubmittal indicates that the tree will remain and the driveway has been reconfigured. There are also questions regarding the grade and elevation.

Staff recommends approval of the application with clarification concerning of the non-permeable area and grade and elevation, with the following recommendations:

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.

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

Joe Elder, 2705 W. 51<sup>st</sup> Terrace, stated that he represents Red Jack Properties. With respect to the discrepancies in the calculations, Mr. Elder indicated that they had problems getting the numbers pulled together with the holiday but that they will provide updated information. There is a huge tree in the front yard which, according to Public Works, is 2 inches inside the City's right of way. The tree is one of the biggest trees in Fairway and they want to save but doing so requires changing the driveway approach to the garage.

The engineer is proposing a swale on the east side of the property that will be elevated about six inches. The lot is relatively flat and the drainage travels to the east and to the rear. They plan to elevate the house a bit to allow the water to run off to the driveway.

Discussion followed regarding the grade around the perimeter of the property versus the top of the foundation. Director Alani he is concerned about the runoff because the finished grade at the back is shown at 947 but the contour lines show 944. The watershed analysis is based on the 944 elevation and with the slope, the water is directed to the property to the east.

Chair Bailey also noted an inconsistency in the finish grade at the patio that shows 947 but the contour lines show the grade is 943. She would like clarification because the contour lines appear on the watershed analysis but they were removed from the new site plan. She also noted that the high and low points are shown for the swale, but she wondered what would prevent water from flowing over the swale and into the neighboring property.

Mr. Elder agreed to get updated information concerning the contours lines and grading and would provide that to staff.

Chair Bailey asked for further discussion.

Commissioner Denton stated that he is in favor of approving the site plan; however, he would suggest adding a stipulation that upgraded grading plans be submitted and approved by Director Alani.

Director Alani stated that he could review the grading plans and contour lines for the swale to confirm there are no issues and when he does the inspection, those can be verified.

Chair Bailey asked for a motion.

**MOTION:** Motion was made by Commissioner Deeken to approve the site plan for new single-family residence and exception to the front setback, 4612 W 59<sup>th</sup> Terrace, Fairway, Kansas, as submitted by Lonnie Shanks of JC Architects on behalf

of Roger Payne of Red Jacket Properties, property owner, subject to staff recommendations and an additional requirement that the applicant submit updated grading and elevation information to Director Alani for approval. Commissioner Denton seconded the motion and the motion carried unanimously.

c. CONSIDER 4210/4220 SHAWNEE MISSION PARKWAY REDEVELOPMENT DISTRICT TAX INCREMENT FINANCING REDEVELOPMENT PROJECT PLAN (THE "PROJECT PLAN") – FINDING OF CONFORMANCE WITH INTENT OF COMPREHENSIVE PLAN.

Zoning Counsel Krstulic referred to the staff report in the packet that outlines the history of the project. As a TIF Act procedural requirement, the next step in the process is for the Commission to review the project plan. Previously, the Commission considered an amendment to the Comprehensive Plan to change the designation of the property from Office Park to Community Commercial and that change was approved by the Governing Body. With that change, the project conforms to the Comprehensive Plan. The Commission must now make a finding that the project plan is consistent with the intent of the Comprehensive Plan for development in the City.

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

MOTION: Motion was made by Commissioner Denton to approve the 4210/4220 Shawnee Mission Parkway Redevelopment District Tax Increment Financing Redevelopment Project Plan (the "Project Plan") – finding of conformance with the intent of the Comprehensive Plan. Commissioner Smith seconded the motion and the motion carried unanimously.

d. UPDATE REGARDING SOLAR PANELS CODE LANGUAGE.

City Clerk Young stated that staff is still in process of drafting the proposed language related to solar panels. She expects to have draft language available for review by the Commission at the December 20, 2021 meeting.

Director Alani stated that an application has been recently submitted for solar panels on the roof. Discussion followed regarding clear cutting trees to install solar systems and solar easements.

Commissioner Deeken considers this a self-policing situation. If a homeowner wants to cut down all their trees and install solar panels, that may affect their heating and cooling costs and reduce the value of their property. Thus, there would be a balancing act for the homeowner and it should be their decision.

City Clerk Young stated that currently the Code does not have language that would prohibit anyone from installing solar panels. At the last meeting, the solar panel regulations from other cities were reviewed and the Commission provided input.

Zoning Counsel Krstulic noted that the regulations from the other cities also included other forms of alternative energy, including wind, geothermal and battery storage. The Commission will need to make a determination as to whether to include different forms of alternative energy in the Code and whether those regulations will have a separate section or whether they will be specific to each zoning district.

Commissioner Smith believes that requests for solar panels should be considered on a case-by-case basis by the Commission because trying to write the Code to address all the possible scenarios is going to be difficult.

Changing topics, a discussion followed concerning whether the Commission should consider changing the greenspace percentages for lots over 30,000 square feet as addressed in the first application this evening. City Clerk Young explained that the greenspace requirements increase incrementally as follows: lots up to 10,000 (60 percent), from 10,000 to 30,000 (75 percent), over 30,000 (100 percent). She wondered if the Commission would want to consider changing the percentage for lots over 30,000 to 90 percent greenspace.

Chair Bailey stated that regardless of a change being made to the greenspace requirement, there will be still be applicants who want to push the limits.

Commissioner Denton suggested that the greenspace requirements remain as they are currently.

Commissioner Deeken added that coming to the Commission is in itself a bit of a deterrent as well.

City Clerk Young said that based on the Commissioner's comments, staff would not move forward with revising the greenspace requirements. Staff will continue to provide its reasons concerning whether it is or is not supportive of the requests.

Concerning the pending application for solar panels, Zoning Counsel Krstulic suggested that the application come before the Commission for review. Discussion followed regarding the timeline for approving the proposed regulations for solar panels and the current application.

Chair Bailey thinks it would be unfair for the applicant to watch the Commission approve the Code language and then have the Commission immediately turn around and deny the application because it does not meet that newly adopted Code language.

Commissioner Smith asked if the applicant had indicated how soon they wanted to install the solar panels.

City Clerk Young stated that there are no regulations for solar panels or requirements for review by the Commission. Staff has approved several other applications in the past.

Discussion followed concerning the specific regulations that the Commission would like to put in place. Zoning Counsel Krstulic noted that regulations from Mission Hills are basic and straightforward and require the panels to be integrated into the roof and concealment of mechanical and electrical components.

Commissioner Deeken agreed that the Code regulations should be basic, especially at first. As more applications come to the Commission, revisions can be made to address any problems or issues that are identified.

Chair Bailey asked for additional discussion. Hearing none, discussion on this item was closed.

4. ADDITIONAL BUSINESS

a. NEXT MEETING

City Clerk Young stated that the next meeting is scheduled for December 20, 2021

5. ADJOURNMENT

Chair Bailey asked for a motion to adjourn.

MOTION: Motion was made by Commissioner Denton to adjourn. Commissioner Smith seconded the motion and the motion carried unanimously.

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

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Kim H. Young, City Clerk