

PLANNING COMMISSION MEETING

July 9, 2009

The Planning Commission convened in Courtroom No. 1 at City Hall for their regular meeting. Chairman Fitzgerald called the meeting to order at 7:30 PM.

Members in attendance were, Mr. Andrew Eade, Mr. Brian Temming, Ms. Christine Shoop, and Chairman Thomas Fitzgerald. Absent was Mr. David Komjati. Also present were, City Manager Rita McMahon, Assistant City Manager Douglas Lewis, City Planner Russ Schaedlich, Assistant Law Director James Lyons, and Secretary Lynn White.

MINUTES: Motion by Ms. Shoop, seconded by Mr. Temming to approve the Planning Commission Meeting Minutes from May 14, 2009 as submitted. All members present said “aye”. Motion carried.

ADMINISTRATIVE REPORT:

Chairman Fitzgerald moved onto the first item under the Administrative Report.

Walnut Ridge Condominium Project – Final Plat Extension Request

Mr. Russ Schaedlich explained to the Commission that the applicant, Winfield Construction, has requested an additional one-year extension of the Final Plat for Walnut Ridge Condominiums. The reasoning for this request is that the economy remains very weak and demand for new housing is still down. In addition, there has been no resolution to the frontage dispute of this property between Mr. Winfield and Lake MetroParks. Mr. Schaedlich indicated the letter received this year requesting an extension is the same as the letter received last year with the same unresolved issues on the property line dispute. His recommendation is to approve the request for an additional year with the stipulation that Mr. Winfield and Lake MetroParks work to resolve the frontage dispute between their properties and any future plat extension will hinge on a satisfactory resolution of this issue.

Chairman Fitzgerald indicated that he did not have an issue with the extension request and asked for comments or questions from the Members.

There being none, Chairman Fitzgerald asked for a motion. Motion by Mr. Temming to grant the one-year extension for the Final Plat of Walnut Ridge Condominiums with the condition the property dispute is resolved.

Mr. Jim Lyons questioned the language of the condition, “hinge on satisfactory resolution of this issue”. He indicated that Mr. Winfield could come back to the Commission and make a statement that he did try to work out the issue with Lake MetroParks and that would satisfy the condition. Mr. Lyons suggested that if the Commission wanted something affirmative then a standard would have to be set within the stipulation. Chairman Fitzgerald asked if setting a time limit would be sufficient. Mr. Lyons responded not necessarily, something where he would have to demonstrate he has taken significant efforts to resolve the situation such as a number of meetings with the MetroParks or a number of proposals that he submits to them. This is so the Commission has something to measure the effort. It is to Mr. Winfield’s advantage to stretch this out until the economy picks up. The ordinance does not give specific standards for the Commission to use in order to grant an extension. The reason there is a one-year approval time limit placed on Final Plats is in case the rules or regulations are updated within that year. The Plat is reviewed to ensure the project meets all current zoning regulations. Mr. Lyons stated it is up to the Commission if they want to set something more stringent.

There was discussion regarding limiting the extension to six-months rather than one-year. Mr. Lyons stated he did not believe six-months would make that much of a difference. He reiterated the Commission should consider making the stipulation something that can be measured in regards to the property line dispute.

Ms. Shoop stated that the downside to this not being granted is that Mr. Winfield would have to start all over with the application process. Mr. Schaedlich indicated that is correct. Ms. Shoop asked that if the statement of “Any future preliminary plat extension requests will hinge on a satisfactory resolution of this issue” could be put into the record so that when he comes back next year for another extension it would have to be resolved. Mr. Lyons commented that he did not know if it is possible to resolve in one-year. To be fair to Mr. Winfield, if he files a lawsuit today it would depend upon when it would be scheduled for, etc., so he may not be able to resolve the issue. Mr. Lyons

stated the statement was made there might be litigation on the issue, however, the letter Mr. Winfield sent this year indicates that they are at least speaking to each other. Mr. Lyons stated that since there were no definite standards set on the extension last year indicating efforts needed to be made. It is not unfair to add that as a stipulation this time around.

Chairman Fitzgerald indicated there is a motion on the table for this issue. Motion by Mr. Temming, seconded by Ms. Shoop to withdraw the motion on the table.

Motion by Mr. Temming; seconded by Ms. Shoop, to approve the extension request for one-year for Walnut Ridge Condominium Final Plat with the condition that the applicant must make a significant effort to resolve the situation with Lake Metro Parks and provide proof of efforts to resolve the frontage issue. There being no further discussion, the secretary was asked to call the roll. On roll call Ms. Shoop, Mr. Eade, Mr. Temming, and Chairman Fitzgerald answered "yes". Motion carried.

Chairman Fitzgerald moved on to the second item on the Agenda under Administrative Report.

Final Plat Approval for Kilroy Pointe (Lighthouse Pointe) Condominium – Phase 10.

Chairman Fitzgerald asked if there was anyone present who would like to speak on this issue.

Mr. Jim Hendley of Chicago Title indicated that he submitted the information for review. He can answer any questions on the project. They would like approval on the Plat for Phase 10.

Chairman Fitzgerald asked if the Members had any comments or questions on this item. He stated the Staff Report indicates that everything is in order and approval is recommended.

Mr. Lyons asked Mr. Hendley some questions regarding the ownership of the project. The original declaration was filed under Mr. Johnson, or Kilroy Pointe, and the deed for that was transferred with all the rights and declarations to the new owner. Mr. Lyons inquired about the conservation easement and asked if it had been assigned to the association yet. Mr. Hendley indicated he was unsure but would check on it and make sure it is taken care of shortly.

Chairman Fitzgerald inquired about the total number of units within this project. Mr. Hendley responded that with the addition of these two units in Phase 10, the total is now seventeen units for this project.

Chairman Fitzgerald asked if there were any additional comments or questions. There being none, he asked for a motion.

Motion by Ms. Shoop; seconded by Mr. Eade, to approve the Final Plat for Kilroy Pointe (Lighthouse Pointe) – Phase 10 as submitted. On roll call Mr. Eade, Mr. Temming, Ms. Shoop, and Chairman Fitzgerald answered "yes". Motion carried.

Chairman Fitzgerald moved on to the last item on the Agenda under Administrative Report.

Design Review Update

Mr. Schaedlich indicated that in the Commission's packet there is a listing of all the Design Review Applications reviewed so far for this year. He indicated if the Commission had any questions he would be happy to answer them.

OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE PLANNING COMMISSION

There were no other items to come before the Planning Commission.

ADJOURNMENT

There being no further business, the meeting was adjourned.

Lynn M. White, Secretary

Thomas Fitzgerald, Chairman