



The City of Lee's Summit

Action Letter

Planning Commission

Thursday, January 28, 2021

5:00 PM

City Council Chambers

City Hall

220 SE Green Street

Lee's Summit, MO 64063

Notice is hereby given that the Planning Commission of the City of Lee's Summit will meet in regular session on January 28, 2021, at 5:00 pm by video conference as provided by Section 610.015 of the Revised Statutes of the State of Missouri. Due to the ongoing Covid-19 pandemic, public attendance in the meeting room at City Hall is extremely limited, and therefore the public is invited to attend the meeting by one of these methods:

- By viewing the meeting on the City website at www.WatchLS.net, and various cable providers (Spectrum channel 2, Google TV channel 143, AT&T U-Verse channel 99 and Comcast channel 7) for those whose cable providers carry the City of Lee's Summit meetings.
- By sending a request to the City Clerk at clerk@cityofls.net to attend the meeting on the Zoom platform. The City Clerk will provide instructions regarding how to attend by this method.

Persons wishing to comment on any item of business on the agenda may do so in writing prior to 5:00 p.m. on January 27, 2021, by one of the following methods:

- By sending an e-mail to clerk@cityofls.net,
- By leaving a voicemail at 816-969-1005 or
- By leaving written printed comments in the utility payments drop boxes located in the alley behind City Hall or inside the foyer at the north end of City Hall, both located at 220 SE Green Street, Lee's Summit, MO 64063.

Written comments submitted by these methods will be presented at the January 28, 2021, meeting. Persons wishing to speak at a public hearing on this agenda may do so by contacting the City Clerk prior to 5:00 p.m. on January 27, 2021 by e-mail at clerk@cityofls.net, and they will be provided with instructions regarding how to provide their live testimony via videoconference during the public hearing.

In the event that the meeting cannot be broadcast via www.WatchLS.net and the cable channels noted above, this agenda will be amended to include directions for the public to attend via the Zoom software platform at www.Zoom.com; such amendment will include a specific link to attend the Planning Commission meeting.

Call to Order

Roll Call

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Present: 6 - Chairperson Donnie Funk
Vice Chair Dana Arth
Board Member Mark Kitchens
Board Member John Lovell
Board Member Matt Sanning
Board Member Terry Trafton

Absent: 3 - Vice Chair Carla Dial
Board Member Tanya Jana-Ford
Board Member Jake Loveless

Approval of Agenda

Chairperson Funk announced that there were no changes to the agenda, and asked for a motion to approve.

A motion was made by Board Member Trafton, seconded by Board Member Kitchens, that the agenda be approved. The motion carried unanimously.

Public Comments

Mr. Soto confirmed that there were no public comments outside of any items at the meeting.

1. Approval of Consent Agenda

- A. [TMP-1821](#) Appl. #PL2020-372 - VACATION OF EASEMENT - 780 NE Meadowview Dr and 3338 NE Ralph Powell Rd; Engineering Solutions, LLC, applicant

A motion was made by Board Member Sanning, seconded by Board Member Kitchens, that this application be recommended for approval to the City Council - Regular Session. The motion carried unanimously.

- B. [2021-3946](#) Appl. #PL2020-373 - SIGN APPLICATION - Hill ProMotion Physical Therapy, 1321 SW Market St; Gator Graphics, applicant

A motion was made by Board Member Sanning, seconded by Board Member Kitchens, that this application be approved. The motion carried unanimously.

- C. [2020-3930](#) Approval of the January 7, 2021 Planning commission minutes

A motion was made by Board Member Sanning, seconded by Board Member Kitchens, that the minutes be approved. The motion carried unanimously.

Public Hearings

2. [2021-3942](#) Appl. #PL2020-274 - REZONING from R-1 to PMIX, PMIX to RP-4, R-1 to RP-4 and PRELIMINARY DEVELOPMENT PLAN - Streets of West Pryor, Lot 7 and Tract C, 900 NW Black Twig Ln, 2100 NW Lowenstein Dr and 2200 NW Lowenstein Dr; Streets of West Pryor, LLC, applicant

Chairperson Funk opened the hearing at 5:06 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Dave Olsson gave his address as 7200 West 132nd Street in Overland Park, Kansas and stated that he was representing Streets of West Pryor, LLC. He stated that since 2018, Streets of West Pryor had promised quality and had delivered it; and tonight he was presenting the luxury villa community. It was a new approach and philosophy in terms of developing the remainder of the land west of the frontage property. The applicants had taken the comments from the neighborhood group about the proposed four-story structure quite seriously, especially those concerning the park.

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During one of the construction meetings, he had walked through this park with Mr. Joe Schnook. At one point Mr. Schnook had commented on the four-story apartment building being next to Lowenstein Drive. Concerning the density, the updated site plan showed the two apartment buildings next to Lowenstein Drive as well as the street's right-of-way. The solution to that was to move Building 1 on the plan about 75 feet away from Lowenstein, separating the building from the street with a landscape area. They had also lowered two buildings on Lot 7 to three stories, but had also increased the density. Building 1 would have 100 units, and Building 2 was planned for 84 units. The original approval had been for 164 units on Lot 7.

The application included a modification request as well as a medium-impact berm along Lowenstein that would create some separation from the park and the villa development on the north side of the detention basin. For the single-family area, the density had increased from 29 single-family homes to 83 luxury villas. Mr. Olsson emphasized that this increased density was needed to make the project economically viable. It would also offset the costs of the necessary remediation measures of the former mine in the area. The modification request was for the required high-impact buffer that would include a wall for screening. The applicants believed a better transition would be with increased landscaping density.

Concerning the rezoning part of the application, Mr. Olsson pointed out the area with current R-1 zoning, which was requested to be changed to RP-4 for planned apartment residential use. A small orange colored area on the map had been rezoned from R-1 to PMIX. Another area directly below it would be rezoned from PMIX to RP-4.

Mr. Olsson then displayed some colored building elevations. Building 1 was a mix of high quality exterior cladding, in a very contemporary architectural style. Building 2 would have an appearance complementary with the apartments in Phase 1. The proposed luxury villas would also need to be in the same style and materials. The villas' floor plan included a garage and space for parking, in addition to the off-street parking along Black Twig Circle.

Mr. Olsson added that several other principals involved were attending the meeting and could answer questions, including Mr. Matt Pennington of Drake Development, Mr. Rich Overtino of TRI Architects, apartment developer Mr. Jeff Tugatoff and civil engineer Mr. Sam Alinowski. The applicants had read staff's eight Conditions of Approval and agreed with all except for Condition 3. They were asking that staff be able to phase building permits based on the progress of the mine remediation. With that approach, not all the remediation would have to be complete; but rather the permits could be issued as each area beneath each building was completed. Building 1 in particular was on solid ground, so would take a minimal amount of time.

At Chairperson Funk's request, Ms. Andrea Prince of Geotechnology Inc. identified herself and explained that she was present representing Mr. Olsson with respect to the mine filling.

Following Mr. Olsson's presentation, Chairperson Funk asked for staff comments.

Ms. Thompson entered Exhibit (A), list of exhibits 1-29 into the record. She displayed an aerial and zoning map and pointed out the pink colored PMIX area, also the current Streets of West Pryor under development. The R-1 part was to the north along with the telecommunication tower. The property for the reclamation project, currently zoned AG, was across I-470. Ms. Thompson also pointed out the detention ponds to the west that were part of the Streets of West Pryor, adding that the zoning would remain R-1. The tract itself, formerly planned for single-family homes, would now be developed with townhomes. The PMIX area had been pickleball courts and a parking lot, with the senior living development at its south end. The south part of the map, showed in green, was Lowenstein Park and would have AG zoning. The Summerfield subdivision, zoned R-1, was directly to the west.

A large portion of the former R-1 zoning would change to RP-4 zoning to allow for the townhome development. Ms. Thompson pointed out two smaller pieces at the bottom corner that would be rezoned to PMIX and R-1 in order to have the same zoning as the adjacent larger areas. A total of 20 acres would be rezoned, with three lots proposed. At present these were Lot 7, in Tract C. Tract C would become a single lot for the townhome portion, with the apartments and hotel on their own lots.

The townhomes would have 8.9 units per acre, with 83 unit. The two three-story apartment buildings would have a total 184 units, for 20 units per acre. The proposed hotel, to the north, would be three stories with 88 units. Displaying the color rendering of the townhomes, she listed the materials used as a combination of EIFS, aluminum siding, fiber cement siding, brick and stone in a cream and brown color scheme. Renderings of the two apartment buildings showed the same materials. Materials for the hotel would be EIFS and cementitious Nichiha Shake shingles and Nichiha Vintage Wood panels in the same color scheme. One of staff's Conditions of Approval was specifically for the hotel's west elevation to have more architectural detail, such as offsets and recessions.

The Comprehensive Plan called for "low-density residential and commercial/retail land uses" and was generally consistent with the Plan as a mixed use residential and commercial development. The high-impact buffer would be technically required between two different zoning districts; and Tract A would remain R-1, with the townhomes as RP-4. The buffer would need to be right behind the townhomes; and as a high-impact buffer would have a six foot solid fence, with low impact screening on both sides. In this situation it would make more sense to omit the fence and have the landscape buffer along Lowenstein. Some medium-impact landscape screen would run along the street and serve as a buffer for the detention ponds and the townhomes beyond it. It would also extend to the south where Lowenstein made a curve.

A large part of the project would be remediation of the undermined area that had been mined for limestone between 1959 and 1961. It was on the north and south sides of I-470, with its four tunnels running underneath. Geotechnology Inc., had been contracted to evaluate and make recommendations, especially for the south part of the former mine. This was the basis for staff's recommendation that no site development permits would be issued prior to a redevelopment agreement with the City, and the remediation plans and specifications were approved.

Condition 1 in staff's Conditions of Approval would grant a modification to allow staff's buffering plan in lieu of the required high-impact buffer. In Condition 2, the original development agreement would need to be amended to address off-site transportation improvements and improving Lowenstein Drive to urban standards. This was addressed in more detail in the Traffic Impact Analysis prepared by Mr. Michael Park.

Condition 3 required the developer to enter into a redevelopment agreement with the City "to address long-term management and liability issues associated with development over the undermined areas." The remediation plans would need approval according to the conditions set out in the redevelopment agreement, and the remediation work would need to be designed and completed subject to certification by an independent professional geotechnical engineer. This would have to be accomplished before any building or site development permits would be issued.

Condition 4 pertained to the west elevation of the hotel, which had needed some breaks and more architectural detail in general.

Following Ms. Thompson's comments, Chairperson Funk opened the hearing for public comments for the applicant or for City staff. There were no public comments or questions, and

Chairperson Funk then asked for questions from Commissioners. He asked if Ms. Thompson or Mr. Soto knew of any public comments, and Ms. Thompson replied that she had received 4 or 5 phone calls after the public notices went out. Some of the residents were concerned about the City taking their homes, the notification had included a buffer map that they had thought was for the development area. Other questions were about the density for the townhomes. Mr. Soto had received some questions about the small area on the map that would remain PMIX.

Chairperson Funk asked Mr. Olsson what his question had been about permits in Condition of Approval 3. Mr. Olsson explained that the way this was written suggested a mandate to remediate the entire area before issuance of a building permit. A look at the site plan showed that they could start construction on Building 1 and the remediation would progress ahead of that construction. The same process would apply to construction down Black Twig Circle.

Ms. Arth asked staff how many multi-family housing units were cited in the housing study that was done a few years ago. She also wanted to know how many projects for multi-family housing had actually been approved, permitted and built since that study was done. Mr. Elam answered that the study done in 2017 had projected anticipated apartment demand as 2,319 units. At that time, the demand was greater than the supply, and this was the expected demand for the year 2027. Staff had been tracking this, taking into account existing units, those approved and those under construction. They also included "conceptual" units, which had been the subject of pre-application meetings but had not yet gone through the approval process. At present, demand was still greater than supply, with a deficit of about 558 units.

Mr. Elam added that staff did plan to update this study; probably in the summer after they had the new census data. Ms. Arth asked if the update would take the slight slowdown in this demand nationwide into account. One of her concerns was that interest rates were low at present, with the result that many people who had been renting were now looking to buy. She was curious as to what an updated study would show in that context.

Ms. Arth was also concerned about the modifications going toward higher density. She noted that the residents had issues about this in the beginning and the current plan had taken out much of the single-family residential element in favor of more townhomes and apartments. She had been a proponent of increasing multi-family housing and was a renter by choice, so she was not opposed to apartments. She noted that the last modification had been for the drive-through proposed for the restaurant, and this was being followed by modifications allowing higher density. Although notices did go out, she was not sure how many residents were aware of these changes. Ms. Arth recalled an application that had included a Texas Roadhouse plus another restaurant; and this was the third modification requested of this type. She had general concerns about the need for that many more apartments over the past few years.

Chairperson Funk asked if the townhomes and villas were available for lease or for purchase. Mr. Olsson replied that they were for lease only and would not be sold as condominiums.

Chairperson Funk then noted that the applicant was not in agreement with Condition of Approval 3, and asked if there were any questions or discussion about the phased permitting process. Mr. Lovell responded that while the original plans, they had the townhomes and villas above the mine site, he did not think that the present one was much of a departure from the original plan. Whether the townhomes and villas were rentals or sales, they were quite different from something like multi-story apartment buildings. They were individual units with their own parking facilities. Chairperson Funk then asked Mr. Bushek if a discussion regarding the Conditions Of Approval should take place during the public hearing or during the discussion after the hearing was closed. Mr. Bushek answered that if the Commission wanted more testimony from the applicant or staff, it should be during the public hearing.

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Regarding Condition 3, Mr. Bushek noted that discussions with the developer had taken place about their planned conceptual presentation to the City Council in February. This presentation would include their incentive requests associated with the costs of remediating the mine area. This work was ongoing, and there was still some engineering review to be completed. The applicants would receive some engineering input from the City tomorrow but at this point, the discussion of this aspect was down to the last few issues. It was very likely that by the time this application went to the City Council, the last part of Condition 3 concerning certification could be removed. The first parts of Condition 3 provided that the parties enter into a redevelopment agreement and the remediation plans approved prior to any site development permits being issued. Mr. Bushek agreed with the applicants that some portions of the project that were not within the undermined area could proceed.

Mr. Monter added that the engineering review and the work that had been done was actually the preliminary work. It was basically the concept of how it would be done and what they were proposing to do. Any kind of final plans would be subject to staff's review of the final work.

Mr. Kitchens said that his concerns were in a different area. Much of the area of Lee's Summit where development might happen in the future had been undermined. Staff did seem to be in agreement about the front portion, which was not in an undermined area; and he asked if this would be some assistance to the applicant. Mr. Olsson answered that it would. Mr. Kitchens remarked that he was confident that staff would be able to address any concerns or make sure that any problems would be remedied correctly.

Mr. Sanning asked staff if any environmental studies would be part of the planning and development process; and if this would be a requirement for construction in undermined areas. Mr. Monter replied that staff had not identified any specific environment studies. Concerning the mine remediation work, everything that came out of those proposed plans as they were submitted might very well identify some environmental studies. They might need to be brought forward by the applicant.

Chairperson Funk stated that the Commission could move this application forward, based on the current Conditions Of Approval, with the understanding, based on discussion in the public hearing, that once the application went to the City Council and the studies completed, the situation would be addressed. He asked if this would work for Mr. Olsson and Mr. Pennington to their satisfaction, and they replied that it would.

Chairperson Funk asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:55 p.m. and asked for discussion among the Commission members.

Mr. Lovell remarked that the Commission might need to look at this application in terms of the City's major development and environment today, versus two or three years ago. He believed that many of the changes made had to do with the environment and the users. The City might be measuring the users versus what it were trying to do; but in this case he did not consider that abnormal in a development that the Commission had seen more than once, with owners changing several times over the years. He added that the previous modifications for the Texas Roadhouse or Spira Care should be brought into the discussion, though these were good uses for the location. What the Commission was tasked with at present was to look at current day standards and what was being presented to it today.

Mr. Lovell also commented on the renderings and designs for the townhomes that had been presented tonight. They represented a forward-thinking approach and architectural design that was unique and different; and a different model for multi-family housing altogether. In terms of being discouraged over changes, these were sure to happen as markets changed over time. The renderings and designs he had seen tonight were trail-blazing ones compared to

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what the Commission typically saw. The feedback from neighbors had been a challenge in the early stage; but the developer had been willing to work with them. Even the improvements done to the park, including the waterfall, was quality and cutting edge, and generally an improvement over what the Commission had been seeing in the past. The overall quality was above what he had anticipated earlier, and was in favor of the community raising the bar in terms of materials and designs.

Mr. Kitchens remarked that the renderings had reminded him of some new developments he had seen in Washington D.C. and Georgetown. In general, developments in many cutting-edge regions looked similar to these. He also felt that this was the best location, although the City did need to be careful in view of the busy intersection. How the City dealt with this at present, with so much upheaval in the market, it would set a standard in a very rapidly growing city. The City did need to not only take appropriate precautions but also make sure citizens and developers came to agreements on how best to beautify the area. He would definitely vote to approve this application.

Chairperson Funk agreed with Mr. Lovell's and Mr. Kitchen's evaluations, specifically that the presentations and renderings shown tonight were superior to what the Commission had seen over the past few months.

Mr. Sanning asked if the City had any responsibility or obligation in terms of the remediation costs. Mr. Bushek replied that it did not. When the developer made their conceptual presentation to the City Council next month, the request would include a proposed incentive package that would in effect provide reimbursement. A tax abatement was another possibility for providing reimbursement in some form for the costs associated with undermining.

Ms. Thompson clarified Ms. Arth's reference to the modification for density for the townhomes. Technically there was no modification if the property for the townhomes was rezoned to RP-4, as the maximum allowed density for that zoning was 12 units per acre. The proposed density was actually 8.9 units per acre, which would not be a modification. The RP-4 zoning was needed, based on the UDO, due to there being more than four units attached. Ms. Arth responded that she was referring to increasing the density for the apartments. Ms. Thompson recalled that the unit count was higher for the apartments than for the senior living housing. Mr. Olsson clarified that the units per acre had actually gone down, but with more acreage. The actual trade-off was reducing the structure height from four stories to three. The increased number of units essentially compensated for that.

Hearing no further discussion, Chairperson Funk asked for a motion.

Mr. Sanning made a motion to recommend approval of Application PL2020-274, Rezoning from R-1 to PMIX, PMIX to RP-4, R-1 to RP-4, and Preliminary Development Plan: Streets of West Pryor, Lot 7 and Tract C, 900 NW Black Twig Lane, 2100 NW Lowenstein Dr and 2200 NW Lowenstein Dr; Streets of West Pryor, LLC, applicant. Mr. Kitchens seconded.

Chairperson Funk asked if there was any discussion of the motion. Hearing none, he called for a vote.

A motion was made by Board Member Sanning, seconded by Board Member Kitchens, that this application be recommended for approval to the City Council - Regular Session. The motion carried by the following vote:

Aye: 5 - Chairperson Funk
Board Member Kitchens
Board Member Lovell
Board Member Sanning
Board Member Trafton

Nay: 1 - Vice Chair Arth

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Absent: 3 - Vice Chair Dial
Board Member Jana-Ford
Board Member Loveless

- a. [TMP-1822](#) An Ordinance approving a rezoning from R-1(Single-Family Residential) to PMIX (Planned Mixed Use District), PMIX (Planned Mixed Use District) to RP-4 (Planned Apartment Residential) and R-1 (Single-Family Residential) to RP-4 (Planned Apartment Residential) and Preliminary Development Plan for approximately 20 acres, proposed Streets of West Pryor Lot 7 and Tract C, 900 NW Black Twig Ln, 2100 NW Lowenstein Dr, and 2200 NW Lowenstein Dr, in accordance with the provisions of Chapter 33, The Unified Development Ordinance of Lee's Summit, Code of Ordinances, for the City of Lee's Summit, Missouri.
3. [2021-3940](#) Appl. #PL2020-279 - VACATION OF RIGHT-OF-WAY - An approximately 700' segment of NW Black Twig Ln located north of NW Lowenstein Dr; Streets of West Pryor, LLC, applicant

Chairperson Funk opened the hearing at 6:08 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Displaying the project information and site plan. Mr. Olsson related that with the original Streets of West Pryor development, the right-of-way had extended into the development in order to provide lot frontage and access to the back lots. Based on the layout of the townhomes, that public right-of-way would not become a public street. This was an application to vacate what was dedicated for the back lots in the lots' original design. The map showed a split down the center of the right-of-way, part of which would be added to Lot 7: Lot 7A on the preliminary minor plat. The other half would be part of the villas' lot, and the current Black Twig Circle would become a private drive. The applicants were requesting to vacate the right-of-way from the 2018 plat.

Following Mr. Olsson's presentation, Chairperson Funk asked for staff comments.

Ms. Thompson entered Exhibit (A), list of exhibits 1-12 into the record. She stated that this was essentially a 'clean up' application for the NW Black Twig Lane right-of-way, land pointed out the portion on the displayed Aerial and Zoning map. It was a total .85 acres and about 700 feet long. In the original 2018 plat it was to be a public street, as residential development was planned on both sides, fronting on single-family lots, and that required a public right-of-way. Now it fronted on multi-family use lots, and could be a private drive. Staff had not received any objections from utility companies or City departments and notifications had been sent out. Ms. Thompson displayed the wording of the one Condition of Approval:

"The ordinance approving the vacation of right-of-way shall be recorded with the Jackson County Recorder of Deeds office and a copy of recorded document shall be returned to the Development Services Department prior to the issuance of a building permit."

Following Ms. Thompson's comments, Chairperson Funk asked if there was anyone present wishing to give testimony, either in support for or opposition to the application. There were none, and Chairperson Funk then asked if the Commission had questions for the applicant or staff.

Mr. Trafton asked if the developer would be responsible for maintenance and upkeep, since Black Twig would now be a private drive. He also asked if fees would be paid by the residents. Ms. Thompson replied that it would be a private street, but she was not sure what

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arrangements would be more maintenance. It would not be the City's responsibility. Mr. Olsson answered that it would all be a part of normal site and structure maintenance associated with the villa project. The maintenance costs were built into the lease rates.

Chairperson Funk asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 6:18 p.m. and asked for discussion among the Commission members, or for a motion.

Mr. Kitchens made a motion to recommend approval of Application PL2020-279, Vacation Of Right-Of-Way, an approximately 700' segment of NW Black Twig Ln located north of NW Lowenstein Dr; Streets of West Pryor, LLC, applicant. Mr. Trafton seconded.

Chairperson Funk asked if there was any discussion of the motion. Hearing none, he called for a vote.

A motion was made by Board Member Kitchens, seconded by Board Member Trafton, that this application be recommended for approval to the City Council - Regular Session. The motion carried by the following vote:

Aye: 5 - Chairperson Funk
Board Member Kitchens
Board Member Lovell
Board Member Sanning
Board Member Trafton

Nay: 1 - Vice Chair Arth

Absent: 3 - Vice Chair Dial
Board Member Jana-Ford
Board Member Loveless

- a. [TMP-1818](#) An Ordinance vacating dedicated right-of-way for a portion of NW Black Twig Ln located at the intersection of NW Black Twig Ln and NW Lowenstein Dr, in the City of Lee's Summit, Missouri.

Roundtable

Mr. Elam related that staff was looking into providing some training for Planning Commissioners. The first topic covered would probably be procedures for motions, plus some general updates on processes in general. They had a list developed of additional training topics that would be covered when time permitted. The first training session would be on February 11th. Mr. Bushek, Mr. Soto and Mr. Johnson would prepare the information for the Commission to consider. Mr. Elam added that the next joint session with the City Council was scheduled for February 9th and would include a discussion of the Comprehensive Plan.

Adjournment

There being no further business, Chairperson Funk adjourned the meeting at 6:17 P.M.

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