

The City of Lee's Summit

Action Letter

Planning Commission

Thursday, August 11, 2022

5:00 PM

City Council Chambers
and Via Video Conference
220 SE Green Street
Lee's Summit, MO 64063

Notice is hereby given that the Planning Commission for the City of Lee's Summit will meet on Thursday, August 11, 2022, at 5:00 pm in the City Council Chambers at City Hall, 220 SE Green Street, Lee's Summit, Missouri, and via video conference as provided by Section 2-50 of the City of Lee's Summit Code of Ordinances, adopted by the City Council on June 15, 2021, Ordinance No. 9172. Persons wishing to comment on any item of business on the agenda, including public testimony during a Public Hearing, via video conference may do so by sending a request prior to 5:00 p.m. on Wednesday, August 10, 2022, to the City Clerk at clerk@cityofls.net to attend the meeting on the video conferencing platform. The City Clerk will provide instructions regarding how to attend by this method.

Call to Order

Roll Call

- Present:** 6 - Chairperson Donnie Funk
Vice Chair Dana Arth
Board Member Randy Benbrook
Board Member Tanya Jana-Ford
Board Member Cynda Rader
Board Member Chip Touzinsky
- Absent:** 3 - Board Member Mark Kitchens
Board Member Jake Loveless
Board Member Terry Trafton

Approval of Agenda

A motion was made by Vice Chair Arth, seconded by Board Member Benbrook, that this agenda be approved. The motion carried unanimously.

Public Comments

There were no public comments at the meeting.

1. Approval of Consent Agenda

- A. [2022-5087](#) Approval of the July 28, 2022 Planning Commission minutes

A motion was made by Vice Chair Arth, seconded by Board Member Rader, that the minutes be approved. The motion carried unanimously.

Public Hearings

2. **2022-5037** Public Hearing: Application #PL2021-318 - Vacation of Right of Way - a segment of SE 15th Street located east of SE Dalton Drive (adjacent to 1501 SE Dalton Drive); Lee's Summit R-7 School District, applicant.

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Chairperson Funk opened the hearing at 5:10 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Brad Sonner with Olsson and Associates gave his address as 7301 103rd St. Overland Park, KS. He was representing the school district, agreed with the staff report and was available for any questions.

Mr. Soto entered Exhibit (A), list of exhibits 1-13 into the record. This particular application is for the vacation of the SE 15th St. stub located in the Newberry subdivision. This is a 50' wide section of ROW that is about 106' in length. There are public and private utilities in the ROW. Appropriate easements will be dedicated to accommodate the infrastructure. There were two requests submitted asking that a pedestrian connection be maintained through the neighborhood and the middle school via the 15th St. stub. The correspondence was included in the packets. There is just one condition of approval that has to do with easements to cover the existing public and private infrastructure.

Following Mr. Soto's comments, Chairperson Funk asked if there were any comments from the public.

Mr. Gregory Young and his wife Delores gave their address as 1501 SE Dalton Dr. This is the adjoining property to the south of the VROW. They are in support of the change but are not comfortable with the public using that area as a connection to the middle school. They don't want to assume the liability that comes with people walking back and forth through that area.

Chairperson Funk then asked if the Commission had questions for the applicant or staff.

Mr. Touzinsky asked who would assume the vacated property and what type of easements would be in place. Mr. Soto explained that the respective halves of the ROW would go to the abutting properties. The easements would be dedicated by separate document.

Mr. Benbrook asked if the pedestrian walkway would be included in the VROW. Mr. Soto said that it was not a part of this VROW.

Mr. Sonner further explained the easements associated with this VROW.

Ms. Arth asked the staff if there were fencing between the houses and the school. Mr. Soto replied that there was some remnant fencing, but not continuous fence and that the area was fairly well treed.

Ms. Arth then asked the Youngs about the foot traffic that was occurring. They replied regarding the foot traffic and lack of fencing and number of trees.

Chairperson Funk asked for clarification about the sidewalk that will run along Dalton St. between 165 and 196 Dalton. Hector Soto replied that it will be a continuous sidewalk.

Chairperson Funk asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:17 p.m. and asked for discussion among the Commission members.

Vice Chairperson Arth acknowledged the concerns that the Youngs have regarding people traveling through the area.

Development Services Director Ryan Elam gave clarification to the concerns. If the VROW is approved the property owners will be allowed to install a fence. It would be private property

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at that time. Currently the ROW is public and a fence cannot be installed on public property.

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

Mr. Touzinsky made a motion to recommend approval of Application PL2021-318, Vacation of Right-Of-Way: Lee's Summit R-7 School District, applicant. Mr. Benbrook 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 Touzinsky, seconded by Board Member Benbrook, that this application be recommended for approval to the City Council - Regular Session. The motion carried unanimously.

- a. **TMP-2379** An Ordinance vacating dedicated Right-of-Way for a segment of SE 15th Street located east of SE Dalton Drive, adjacent to 1501 SE Dalton Drive, in the City of Lee's Summit, Missouri.

- 3. **2022-5095** Public Hearing: Application #PL2022-185 - Rezoning from AG to RDR and R-1 - proposed Orchard Woods, 1204 NE Woods Chapel Road; Entres Development, LLC, applicant.

Chairperson Funk opened the hearing and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Daniel Villanueva of Entres Development gave his address as 424 NE Brockton Dr. Lee's Summit, MO. He deferred the presentation to Mr. Doug Ubben of Phelps Engineering. Mr. Ubben gave his address of 1270 N Winchester, Olathe, KS. Mr. Ubben indicated that he was giving one presentation for the Rezoning and the Preliminary Plat. The plan that was displayed shows Wood Chapel Rd. to the south and NE Lakewood Way on the west. This 19 acre project is situated on the NE corner of NE Lakewood Way and NE Woods Chapel Rd. The R-1 zoning will be north of the collector road (Orchard Valley Drive) and RDR zoning will be south of the collector road. The road placement was based on several items: The distance that it has to be back from the intersection of Woods Chapel and Lakewood Way, the future alignment of the collector road as it goes down and connects with Woods Chapel, the distance of the connection point on Woods Chapel and the radius for the collector road. The R-1 zoning is composed of 34 lots on 13.8 acres. Lot widths of 75 feet to allow for 3 car garages, Tracts A and B reserved for future expansion to the east and Tract C to be used for stormwater. South of the collector road is the 35th lot zoned as RDR. This is 5.2 acres and maintains the existing residence and the cell tower.

Mr. Soto entered Exhibit (A), list of exhibits 1-13 into the record. Mr. Soto stated that his testimony will cover the rezoning application and the preliminary plat. Mr. Soto showed an overview of how the subject property sits relative to surrounding development. At the far NE corner of the 19 acres is the Savannah Ridge subdivision which has Piedmont St. that stubs in at the NE corner. To the north, west, and the northwest there is a combination of office warehouse development, the water tower and immediately west there is a church and another historic church about two lots over. The nature of the development to the east is single-family. It is zoned AG and is large acreage.

Keeping the 35th lot in the RDR zoning and at 5 acres allows it to remain on a sanitary septic system.

The ignite plan shows this area as a residential land use of residential one. The proposed residential zoning is consistent with existing R-1 zoning for the connecting Savannah Ridge

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subdivision to the northeast. The proposed residential zoning is compatible with existing large lot single-family and single-family residential subdivision development to the east and northeast. The proposed residential zoning is consistent with the recommended Residential 1 land use category for the area under the Ignite Comprehensive Plan. The proposed residential zoning and associated proposed plat for a residential subdivision connects to and extends the area's public infrastructure, the result of which facilitates future development of adjacent large lot properties. The proposed residential zoning is not expected to negatively impact the aesthetics or future development of surrounding properties. The adjacent area to the east is a mix of large acreage and traditional single-family residential development. Connection to the existing water main at the NE Piedmont St. stub in Savannah Ridge will require upsizing from a 6" main to an 8" main, which will require a development agreement and/or an upsizing agreement between the City and developer. This will show up as a condition of approval on the Preliminary Plat. There are no specific conditions of approval on the rezoning application beyond the standard conditions of platting prior to issuance of any building permits and a standard condition regarding that once this property is zoned from AG to RDR and R-1 that the property owner to the south will be subject to maintenance along the ROW. The city will no longer take care of that piece since they only maintain AG zoned properties within the ROW.

Following Mr. Soto's comments, Chairperson Funk had a couple of questions of clarification before going to public comments.

Chairperson Funk asked the applicant to give an idea of the magnitude of the houses that will be constructed. Mr. Villanueva declared that the homes would match the development to the east at a cost of \$500,000 to \$700,000 dependent on the upgrades that a buyer would choose. Mr. Funk then asked the timeline of the development to which Mr. Villanueva responded within 12 months.

Following Chairperson Funk's questions he asked for comments from the public.

Rick and Cindy Mendenhall gave their address as 4100 NE Suwannee Dr. They had a question about the storm water. Mr. Mendenhall said that when they purchased the house the previous homeowner had an open drain under the gazebo that has created a lot of issues over the years. He said that he had addressed it by putting an extension pipe on to try to get the water to run off. He wanted to talk about the developers plans and the possibility of an easement or a way to tie into the storm drain.

Jerry and Annetta Killian gave their address as 1220 NE Woods Chapel Rd. They would like to see a privacy fence put up between their property and the new homes. They have a pond in the corner and they are afraid of children/people crossing over to get in the pond or on the ice and possibly drowning. They would like a barrier to discourage people crossing over to their property.

Mr. Steven Goldschmidt gave his address as 4108 NE Suwannee Dr. He would like to see the developer save as much of the tree line to the north as possible.

Following the public comments Chairperson Funk asked if the Commission had questions for the applicant or staff.

Commissioner Touzinsky asked for clarification on the tree line. Mr. Goldschmidt replied that it was west of his property on the eastern edge of the development.

Vice Chairperson Arth asked if the house on the proposed RDR zoning would belong to the developer. Mr. Villanueva replied that it was part of the purchase and that the applicant would own it.

Commissioner Rader asked the Killian's which lot their property was on.

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Chairperson Funk asked for clarification as to why there was no PDP with this rezoning application. Mr. Soto responded that there is not PDP because they are not requesting a rezoning to a planned district nor any modification to the UDO. A PDP is not required to rezone to the RDR district, RLL district or R-1. Both of these fall under one of those three categories. The associated Preliminary Plat lays out the lots, the street network, the utilities, and the easements.

Ryan Elam reiterated that the proposed development is in full compliance with the Unified Development Ordinance.

Mr. Goldschmidt asked if the lots to the east would have homes in the same price range if those two lots were sold. Mr. Soto said that if that were to occur in the future they would have to come through the same public hearing process for approval.

Ms. Arth asked Mr. Soto about the request for a fence. Could that be a condition on the plat?

Mr. Bushek indicated that this would be the responsibility of the property owner that owns the pond and not the responsibility of the developer. It is a valid concern but the first application only deals with the rezoning – whether or not to approve the rezoning. The second application is to approve the preliminary plat. The liability falls on the property owner of the pond. Chairperson Funk indicated that the caliber of homes will likely ultimately create a fence through the individual property owner's installing fences on their properties. Based on the application for rezoning it is not appropriate to ask the developer to install a fence. Conditions must be related to the application type.

Mr. Ubben responded to the question about stormwater. He said that the applicant is committed to extending the stormwater to connect into their drainage pipe to clean up the area under the their gazebo.

Chairperson Funk asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:54 p.m. and asked for discussion among the Commission members.

Ms. Rader thanked the people that came out to express their thoughts about what is happening with this development.

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

Mr. Benbrook made a motion to recommend approval of Application PL2022-185, Rezoning from AG to RDR and R-1: Entres Development, LLC, applicant. Ms. Rader 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 Benbrook, seconded by Board Member Rader, that this application be recommended for approval to the City Council - Regular Session. The motion carried unanimously.

- a. **TMP-2378** An Ordinance approving a rezoning from District AG to District RDR and R-1 for approximately 19 acres located at 1204 NE Woods Chapel Road in accordance with the provisions of Chapter 33 of the Unified Development Ordinance of Lee's Summit Code of Ordinances, for the City of Lee's Summit, Missouri.

Other Agenda Items

4. [2022-5094](#) Appl. #PL2022-186 - PRELIMINARY PLAT - Orchard Woods, Lots 1-35 and Tracts

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A-C, 1204 NE Woods Chapel Rd; Entres Development, LLC, applicant

Mr. Benbrook made a motion to recommend approval of Application PL2022-186 PRELIMINARY PLAT: Entres Development, LLC, applicant. Ms. Rader 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 Benbrook, seconded by Board Member Rader, that this application be approved. The motion carried unanimously.

Roundtable

Vice Chairperson Arth discussed items of the July and August CEDC meetings. In July they discussed attainable housing, takeaways were that new housing in the \$300,000 range is difficult right now. That discussion is ongoing to include alternative materials. In August they discussed the pro-active neighborhood enforcement code. This was an update to the new approach being taken with some of the code enforcement activities. Ryan Elam responded that this was a discussion about program changes and what is working and what is not working. Ms. Arth then brought up the topic of amending work from home restrictions to comply with recent state statutes. Mr. Elam replied that several changes had been made through the state that really limits the ability to regulate home occupations. Several changes will need to be made to the UDO to comply with state statutes. The legislation took a lot of the regulatory authority away from municipalities and the ability to regulate them. Ms. Arth then brought up short-term rentals and the changes to that. Mr. Elam stated that the area that short-term rentals is allowed has been asked to be expanded across M-291 hwy.

Mr. Benbrook commented on bike lanes and asked why there are not more within Lee's Summit. Mr. Elam replied that there is a complete streets and livable streets advisory board. He went on to explain that a lot of the regulations and standard street sections will include a ten foot wide multi-use path on one side and a sidewalk or five foot path on the other. There is a bikeway and greenway master plan that the city is trying to get built out throughout the city but it does take more ROW.

Mr. Benbrook requested that when the Scherer Rd expansion happens that room for bike lanes is included. Mr. Touzinsky replied that the committee is looking at those things.

Adjournment

There being no further business, Chairperson Funk adjourned the meeting at 6:06 p.m.

For your convenience, Planning Commission agendas, as well as videos of Planning Commission meetings, may be viewed on the City's Legislative Information Center website at "lsmo.legistar.com"