

City of Leawood
Planning Commission Meeting Minutes

July 8, 2003
Worksession – 5:30 p.m.
Meeting – 6:00 p.m.
Leawood City Hall
4800 Town Center Drive

CALL TO ORDER/ROLL CALL: Henderson, Rohlf (absent), Carper (absent), Conrad, Duffendack, Brain, Williams, Munson, Pilcher

APPROVAL OF THE AGENDA: A motion to approve the revised agenda was made by Henderson and seconded by Pilcher. Motion approved unanimously.

CASE 50-03 IRONHORSE CENTRE & PHASE ONE Request for approval of a final site plan and final plat. Located at the southeast corner of 151st Street and Nall Avenue.

Commissioner Duffendack recused himself from this case.

Staff presentation: Presentation by Mark Klein. The applicant is requesting approval of a final site plan and plat to allow the construction of a 108,617 sq. ft. mixed-use development on 13.09 acres with an FAR of .19. The first phase of the development, that consists of Security Savings Bank and a multi-tenant retail building, will contain 25,372 sq. ft. of construction. This case was seen at the June 24, 2003 Planning Commission meeting. At that time, the applicant presented the project as a phased development and they were only offering a final plat and final plan for that phase. Since that time, the applicant has worked with staff and this current application is for a final plat and final plan for the entire development with the final plan for the first phase, which the City has done with other projects. The applicant has indicated they would prefer to remove the trail along the golf course easement. They met with the golf course sub-committee who indicated they would like to see that removed also, primarily due to safety reasons. Staff would like to recommend an additional stipulation be added to state; "The applicant/owner shall work with City Staff at the time of final site plan application for each building to provide additional pedestrian connections between buildings." Staff is recommending approval of this case with the stipulations stated in the staff report and addition of the stipulation regarding the pedestrian connections.

Applicant presentation: Presentation by Curtis Holland of Polsinelli Shalton and Welte, representing the applicants on this project. Holland introduced the development team. Since the last meeting, the applicant has worked with staff and come back with a recommendation of approval. The applicant is comfortable with this application and would like to move forward with this project. The internal drive will be constructed at the same time as the first phase. Holland described the first phase. It is possible the phasing order could change, and this has been discussed with staff. The applicant is in agreement with staff's stipulations except for stipulation number 21. Stipulation number 21 relates to the construction of a 5-ft. wrought iron fence along the south and east property lines. It is the applicant's preference to phase the construction of

the fence to coincide with the phases of development as they occur along the golf course. One of the reasons for this is that even though the applicant will be rough grading the entire site with the first phase, there would still be some final grading to do. Once the applicant knows where those building sites would be, it is very possible the grading would change slightly. The fence line will be constructed on top of a retaining wall, which needs to be designed to match the future final grades, so it is possible that the retaining wall might shift and the location of the fence could change. The second reason for the request is that if the fence were built first, it could get damaged as the buildings are built. The applicant is concerned about building the fence, then having to rebuild it. The applicant spoke with the golf course committee and they are comfortable with the fence being built in phases, their only concern was to make sure there is proper sediment and erosion control measures in place to keep any silt or sediment from running onto the golf course property. The applicant is prepared to do that. Staff has stated in the past they are comfortable with the phasing of the fence. The applicant is requesting a change of stipulation number 21 to read as written and suggested by staff on page 11 of the staff report. To paraphrase, it reads, "The applicant would be permitted to construct the fence in phases as development occurs along the golf course."

Brain asked if the applicant is in agreement with the additional stipulation suggested by staff in their presentation regarding the pedestrian connections. Holland stated the applicant is in agreement with the additional stipulation stated by staff.

Munson asked how the phasing of the fence would take place. Holland stated it would depend on the phases. Once the applicant knows which building would be included in which exact location and construction is going forward, then they would be able to build the fence after the building is built. It would be built with the phases of the development. Holland described the phasing on the site plan. Munson stated concern with the fence being built intermittently. Holland stated there are trees around the area where the fence will be placed.

Henderson suggested constructing a temporary fence before the permanent fence is put in place for safety and liability issues. Holland stated he believes the purpose of the fence is to keep the public from accessing the golf course property. With respect to the first phase, this development is still remote enough from the golf course so as to not encourage people to cross over the vacant land to get to the golf course. Henderson stated if the rough grading for the entire development would include tearing down trees, thus making it easier for people to access the golf course, he would still recommend a temporary fence. Holland stated it is the applicant's intention to save as much of the existing vegetation and he believes it is possible to perform sufficient enough rough grading while still leaving most of the existing vegetation. The applicant would like to keep as much of the existing vegetation in place as long as possible.

Williams stated if the golf course committee is comfortable with the phasing of the fence, then he is not sure if a temporary fence should be required.

Conrad stated it appears on the drawings that most of the fence is on existing grade, until the northeast corner where it transitions up onto one of the retaining walls. He is concerned with the flexibility of this and is not sure why the fence cannot be installed at-grade right now. Brick Owens of HNTB stated the idea was to create a transition from the golf course to the office/retail center so it would not be a continuous wall. The retaining wall has been set back off of the property line to allow for landscape space. On top of the retaining wall there will be a 42-inch railing for safety. The idea with the fence is to connect the retaining

walls. One of the reasons the applicant would like to construct the fence in pieces is because they do not know which parts of the retaining wall will be built first. Conrad asked how there would be access to maintain the property that is below the retaining wall. Owens pointed out the access points on the site plan.

Brain suggested changing the wording on stipulation 21 to incorporate two ideas. One would be that the applicant, staff and golf course committee work to create a temporary fencing that would be built at least by the time the first phase is built, to protect the public from accessing the golf course unwittingly. The second would be to set an exact date to have the permanent fence completed, regardless of the development. Holland stated the development should be completed in about 5 to 6 years. Brain stated he believes the fence should be completed in at least 2 to 3 years.

Conrad stated he is uncomfortable not knowing what will actually be placed along the boundary, and also with not knowing the timing of its construction. Holland stated the applicant is agreeable to meeting with staff and the golf course committee to resolve that issue.

Fred Merrill, president of Merrill Development Company and one of the partners in this development, stated the markets have changed dramatically for commercial space in south Johnson County. Once a commitment is made on the retaining wall and the buildings are not in place, there would be a retaining wall by itself that is not going to be an integral part of the development. The applicant has spoken many times with the golf course committee about doing something that is complementary to the golf course, but at the same time something that makes sense to the commercial development in Leawood. This project is foreseen to be a five-year project. In all likelihood, it will start from the west to the east. The east end of the site, which includes the buildings facing hole number 14, is farthest from the development standpoint. The applicant would like to keep the natural vegetation separation as long as possible. The applicant would not want the retaining wall there with nothing on top.

Binckley stated one alternative would be to have a 2 or 3 year time frame that the developer would agree to, then when that time ends the developer could come back before the Commission and request an amendment to the stipulation. A better alternative would be to have a fence put in at the property line by the set time frame, then build the retaining walls as the buildings are put in.

Henderson suggested the applicant accept Binckley's second option of placing a fence along their property line. Henderson then asked if a new public interact meeting should be held in regard to this case, since this is a new application. Binckley stated a public meeting is only required at preliminary plan application, not final plan application.

Williams asked where the retaining walls would be located. Owens described the proposed retaining wall on the site plan. Williams asked if the newly suggested perimeter fence would hamper the access for maintenance on the other side of the retaining wall. Owens stated the access to the property would be the same. Williams asked if the wrought iron would be panels or gates. Owens stated they would be panels.

Kevin Berman, with Hoefler Wysocki Architects, stated the reason behind having a railing along the top of the retaining wall is because it is an aesthetically better solution. A double wall would be visually less attractive. Two fences would create a channel for the landscaping. Williams stated he would not like the concept of a channel for the landscaping.

Henderson stated he feels a fence of some kind is essential to separate the golf course from the development. The developer should not wait an indeterminate amount of time. It has to do with safety and liability.

Conrad stated there is a legal issue with fencing, from both the golf course side and the developer's side. **He suggested an amendment stipulation to state, "A combination of fencing and retaining wall, accented with landscaping, will be submitted with each final lot application for approval and the south and east boundaries adjacent to the golf course shall be completed constructed within three years after the issuance of the building permit for the first building of the development using a combination of fencing and retaining walls, accented with landscaping".** Holland stated the applicant would be agreeable to Conrad's amendment.

Munson suggested an amendment to state, "The five-foot, wrought iron fence along the full length of the project shall be completed within three years from the date of issuance of the building permit for the first building. The developer shall be allowed to construct a temporary fence, designed by materials approved by the planning staff until such time as the permanent five-foot, wrought iron fence can be permanently in place, or a combination of fence and retaining wall."

Henderson does not agree with the last part of Conrad's amendment in regard to landscaping. He feels landscaping can sometimes be a euphemism that voids either a fence or retaining wall. Conrad stated it would need to be approved by the Commission at the time of the application. Williams stated the intent is to have a fence and/or retaining wall, and the landscaping would be in addition to the fence and/or retaining wall. Holland agreed with Williams.

A motion to approve was made by Williams, with the change to stipulation number 21 suggested by Conrad and the additional stipulation stated by staff regarding the pedestrian connections. Henderson seconded the motion.

Henderson asked if there would be some type of barrier in place between the time of the first building permit issuance and the three-year period. Binckley stated the Commission could suggest the applicant continue to work with staff and the golf course committee. It can just be a recommendation, and not a stipulation. Conrad stated if there are any security requirements by either the golf course or the developer, it should be discussed with staff and if required, it should be constructed.

Motion approved unanimously.

CASE 51-03 IRONWOODS PARK Request for approval of a final site plan for a fence surrounding the Alpine Towers. Located at 148th and Mission Road.

Staff presentation: Presentation by Diane Binckley. This is a request by the Parks and Recreation department to construct an 8-ft. PVC coated chain link fence around Alpine Towers in Ironwoods Park. The City's insurance carrier made a recommendation to put a fence around it for security purposes. The maximum height allowed by ordinance is 6-ft. A taller fence is usually only allowed for a tennis court or sport court type structure. By ordinance, the City has the ability to exempt itself from all pieces of the

ordinance as long as the project goes through the procedure of going to Planning Commission and Council to obtain approval of final site plan. Staff is requesting approval of this request.

Conrad asked if there would be some type of treatment along the top of the fence. Binckley stated she is not aware of any. Conrad asked if the insurance provider stated an 8-ft. fence is a better deterrent than a 6-ft. fence.

Henderson asked if this is the same type of fence that is at The Church of the Nativity. Binckley stated it is exactly the same. The City also has it around the tennis courts at the City Park.

Duffendack asked if the request from the insurance provider was for an 8-ft. fence, or just a fence. Binckley stated she is not sure, but would assume the only reason for this request would be by suggestion of the insurance provider. Duffendack asked if there is some other way to prevent people from climbing the tower. Binckley stated the ladders to get to the tower are pulled up at night, but there are also signs posted that say "no trespassing". Duffendack asked if there were any other type of barriers discussed. Binckley stated she has not been involved in the discussions of the fence. The Parks and Recreation Board is meeting tonight. This case could be tabled in order to allow time for the Director to attend this meeting.

Pilcher made a motion to table the case to allow time for someone from the Parks and Recreation department to attend this meeting. Conrad seconded. Motion to table the case approved unanimously.

CASE 52-03 CIP 2004-2008 Request for an amendment to the 2004-2008 CIP.

Staff presentation: Presentation by Diane Binckley. This is a request to amend the 2004-2008 CIP. This case was seen by the Commission before, about two months ago. Since that time a couple of items have been added. One of the items is for Cornerstone and the Church of the Resurrection forming a benefit district for road improvements. The other item is for Parkway Plaza. The Commission would be approving that these two improvements meet the Comprehensive Plan.

Henderson asked if there is a way to provide a clause in this document to permit the City Administrator to add something without going through this process. Shannon Marcano stated State statutes require this type of addition to go through this process.

A motion to approve was made by Henderson and seconded by Pilcher. Motion approved unanimously.

Continuation of case 51-03 Ironwoods Park:

Brian Anderson, Parks Superintendent, entered the meeting. Duffendack asked if the 8-ft. fence was the only answer to security that would satisfy the City's insurance provider. Anderson stated the Alpine Towers have built-in deterrents to climbing. There are hand holes that are removed. The entrances to the logs are covered with a plank that is greased. The cargo netting is raised up on pulleys. When the risk manager for the insurance provider came out to the park with the City's legal department, it was determined the City's original measures were good, but not good enough. An 8-ft. fence was the insurance provider's

recommendation. They were not specific as to the type of fence. The Alpine Tower representative believes the original measures put into place were enough, but the insurance carrier felt the City should add more.

Williams asked how the location for the fence was chosen. Anderson stated the reason the fence will jog in and out is because of the path around the fence perimeter. Williams asked the width of the trail. Anderson stated it is 10 ft. in width.

Duffendack asked if the park is open 24 hours a day. Anderson stated it would not be staffed 24 hours a day and there will be gates to close the park.

A motion to approve was made by Williams and seconded by Pilcher.

Henderson asked why the coating on the fence would be black, rather than green. Binckley stated she assumes it is because that is what has been used in the City's other park fencing.

Motion approved unanimously.

Meeting adjourned.

J. Paul Duffendack, Chair