

CITY OF DE SOTO
PLANNING COMMISSION
City Hall, 32905 W. 84th Street
July 26, 2005 – 7:00 P.M.

MINUTES

1. The meeting was called to order by Vice-Chairman Bob Friday at 7:00 p.m.

2. Roll Call:	Friday	Present	Hemphill	Present
	Honomichl	Absent	Kroeger	Present
	Krudwig	Present	Moberly	Present
	Templin	Present		

3. General Business:

A. Approve Planning Commission agenda.

Motion by Moberly to approve the Agenda; second by Kroeger.

All Commissioners approved by “ayes”.

B. Approve minutes from the June 28, 2005, Planning Commission meeting.

Motion by Commissioner Templin to approve the Minutes; second by Krudwig.

Roll Call:	Friday	Yes	Hemphill	Abstain
	Honomichl	Absent	Kroeger	Yes
	Krudwig	Yes	Moberly	Abstain
	Templin	Yes		

Motion carried.

4. Call to Public:

Members of the public who wish to address the Planning Commission regarding items not on the agenda may do so at this time. Any presentation is for information purposes only. No action will be taken. There is a four-minute time limit.

No one appeared.

5. New Business:

A. Consider preliminary plat of Cedar Springs Estates, 17 acres located at 8510 Waverly Road. City Engineer Mike Brungardt stated the property is currently zoned R-1 and no re-zoning is required. Brungardt reviewed the comments contained in staff's memo to the Commissioners dated July 21, 2005. Excise tax will be due upon Final Platting. The applicant is going to install the urban section roadway. This site is not served by public sewer, and the homes will be served by on-site septic systems. The preliminary plat review was discussed per the Subdivision Regulations, Section 4.03.

The general improvements have been determined to be in conformance with

the criteria, unless otherwise stated in the staff report. The water supply line is adequate. The stormwater management for this application has been addressed in a supplemental staff report. Brungardt has met with the applicant and the applicant will address the minimal drainage in an agreement on the plat, and this item has been fully mitigated.

The road access to the subdivision is via Waverly, Corliss and 87th Street. None of these roads meet general traffic safety or capacity standards for urban or rural road sections. All the roads are narrow, with poor sight lines, inadequate drainage, insufficient right-of-way, and deteriorating driving surfaces. It is recommended that the developer sign an agreement not to protest a benefit district for future road safety and capacity upgrades to the surrounding road network.

There is an issue regarding setbacks on Lots 3, 4 and 5. Defining a 50-foot building setback line on the plat that causes the lots to meet the lot width requirements seems inconsistent with the spirit and intent of the district regulations. However, literal interpretation of the text would lead one to conclude that the practice is allowable.

The preliminary plat layout is consistent with the requirements for block length, width, easements and pedestrian access.

Brungardt discussed the cul-de-sac lengths and the existing cul-de-sac in the subdivision. There is a recommendation to allow the proposed connection to Brome Road, and the proposed cul-de-sac length of 500 feet. Brungardt discussed future road access and alignment. He stated he recommends extending Brome Road at least 90 feet along the west line of Lot 9 to provide the minimum access to a public street for that lot.

The proposed storm sewer elements associated with the street construction are consistent with the requirements of the Subdivision Regulations. The lots will be able to sustain septic systems.

Brungardt reviewed staff recommendations regarding this application and stated he feels comfortable with recommending this for approval, with the stated items being addressed prior to the approval of the preliminary plat.

Commissioner Hemphill asked about the extension of Brome Road and the existing cul-de-sac. Brungardt stated this street would tie into the cul-de-sac circle and continue on. Discussion by Commissioner Hemphill and Brungardt on the turning radius of 35 feet.

Commissioner Krudwig asked if there had been discussion regarding taking out the existing cul-de-sac. Brungardt stated it will become a "T" intersection. Commissioner Krudwig asked about sidewalks, as did Commissioner Moberly.

Commissioner Templin discussed the septic tank regulations, and stated he has concerns that there are five "perfect" lots that barely meet the septic tank regulations. Discussion by Commissioner Moberly that in some cities, a professional engineer makes that final determination. Discussion by Brungardt and Templin that these lots may not meet the septic tank regulations when a building permit is issued in future. Brungardt stated there are assumptions being made by the wastewater supervisor in that a builder isn't going to build

an extremely large house with five bathrooms. Commissioner Moberly stated he thinks this letter needs to be rethought and restated, as did Commissioner Templin. Discussion by Commissioners that this could be a problem for the developer and builder in future home construction. Commissioner Moberly stated he is surprised the City is making a pre-determination at this point when there isn't a specific building permit for a home. Discussion by Commissioner Kroeger on who makes the determination at the issuance of a building permit. Brungardt stated it is the wastewater supervisor. Commissioner discussion.

Vice-Chairman Friday stated he has some written comments provided to him by Commissioner Honomichl, and stated Commissioner Honomichl is o.k. with measuring the lot width at the 50-foot setback. Commissioner Honomichl stated he is in agreement with the stormwater recommendations, and the five-foot concrete sidewalk. Commissioner Honomichl asked how the developer's agreement not to protest a benefit district will pass on to the private owner's agreement. Brungardt stated this will be noted on the final plat as a deed restriction. Commissioner Honomichl asked who will maintain the pond on Lot 3 as it receives stormwater drainage. Brungardt stated the supplemental report addresses this drainage issue, and he commented on the drainage easement. Even in a large flooding event the pond is not necessary to control runoff.

Commissioner Friday said he does not have a concern with the 50-foot setback as this is a fact with a cul-de-sac. With regard to Brome Road, the plan was not to put a cul-de-sac bulb at the end of the 90-foot road end-section. Discussion by Brungardt on the regulations. Commissioner Friday asked about the unbuildable lot that would be created if Brome Road were extended to the north being used as a park. He said his preference is to run the road to the property line for future road connection. Commissioner Friday discussed the storm sewer calculations with Brungardt.

Commissioner Kroeger asked about the pond. Discussion by Brungardt that this pond regularly holds water and the pond will stay in its existing state, as the developer is improving the culvert to the regulations. Discussion on future development on Brome Road. Discussion by Commissioner Kroeger on the front yard setbacks with Brungardt.

Commissioner Moberly stated his questions have been answered. He confirmed with Brungardt that the Fire Chief had approved the cul-de-sac.

The developer, Brad Burton, 7172 Mize Road, Shawnee, Kansas, stated he and his wife are very excited about this project and are looking forward to becoming members of this community. He stated the conditions he wanted to speak about are the minimum lot width and he wanted to go to a 50-foot setback line on the plan. He stated there is ten feet from the property line to the curb. Mr. Burton said the pond issue has been clarified by Mr. Brungardt and he discussed their findings. He complimented Mr. Brungardt on his recommendations regarding the extension of Brome Road.

Mr. Burton further discussed the future benefit district recommendation and the nine lots he is proposing that take access on Brome Road. He said the traffic would be split and it would also be minimal with only 9 lots. Mr. Burton said his concern in agreeing would be giving up an opportunity to see what the future holds and having a voice in the voting for a benefit district. He stated he is paying excise tax that is for future roadway improvements within the City. He

will be paying \$89,000 in excise tax and provided a calculation that would, in effect, be a cost of \$900 per trip for each lot owner. He said he used the new Arbor Ridge development and their rate of \$200 per trip for each lot owner. Mr. Burton said based on those calculations, he asked that the Planning Commissioner not make a future benefit district restriction on the Final Plat.

Commissioner Krudwig discussed the septic system concern on Lot 3 and how it has been addressed, along with the pond issue. Mr. Burton said Lot 3 is a 2.7 acre lot. Discussion by Mr. Burton and Commissioners on the septic system regulations and addressing the wastewater supervisor's comments more specifically in a letter.

Discussion by Commissioner Hemphill on Mr. Burton's comments regarding his excise tax calculations. Discussion by Commissioner Templin that this is one of the last acreages in Johnson County to build large lot subdivisions. Large lot subdivisions require a good deal more roadway construction; this additional expense should be passed on. Commissioner Templin stated he shares Mr. Burton's concerns on future benefit district road improvements; however, he asked if Mr. Burton would be opposed to future benefit districts for 87th Street and/or Brome Road. Mr. Burton said he could see Brome Road because that is where the access is coming from. Discussion.

No comments from Commissioner Moberly. Commissioner Kroeger asked Mr. Brungardt if the stormwater issues have been addressed per the follow-up staff report. Mr. Brungardt stated he is comfortable with moving forward on this preliminary plat. Discussion by Commissioner Kroeger and Mr. Burton on time scheduling of the project.

Commissioner Friday discussed the 90 foot extension of Brome Road. City Engineer Brungardt discussed the proposed extension, and the rural standards requiring sidewalks. Discussion by Commissioners and Brungardt. Mrs. Burton asked if the sidewalk has to be put in because it goes nowhere. Commissioner Templin stated that the applicant has chosen to provide an urban standard street in order to have more density and urban standard streets require a sidewalk. Mr. Burton said there are no other sidewalks in the adjoining subdivisions.

Commissioner Hemphill asked staff about the City regulations on front yard setbacks. Discussion by Commissioners that they are comfortable with the applicant's setback. Commissioner Moberly wants to review the language in Item E regarding the benefit district, and revise the language to state: "The developer should sign an agreement not to protest a benefit district for future road safety and capacity upgrades to Brome Road from 84th Terrace to 87th Street and 87th Street between Waverly and Corliss Road." Discussion by Commissioner Friday on how staff is going to manage the roadway upgrades.

Discussion by Commissioners on the future extension of Brome Road at the Sims property. Commissioner Hemphill stated he wants to ensure the turning capacity at the Brome cul-de-sac has been approved by the Fire Department. Discussion by Commissioners and Brungardt on the storm water management measures. Brungardt stated the applicant will participate in funding his share of the improvements the City is already doing on Waverly Road. Commissioners discussed the sidewalk on Brome Road. Commissioner Moberly said it doesn't make sense to put in a sidewalk at this point; he would

prefer to address this at a later time with a benefit district notation for the future.

Commissioner Templin stated he is wrestling with the urban street design in this area that will be attached to a rural road; and, urban design requires a sidewalk. Discussion. Commissioners agreed to amend the benefit district language per Commissioner's Moberly's recommended language. Discussion by Brungardt and Commissioner Friday regarding the future benefit district language on area road networks. Discussion by Commissioners and Commissioner Templin on benefit district formations. Commissioner Kroeger stated he has concerns about the septic regulations as defined in the letter by Doug Smith. Commissioner Templin stated the letter should be rejected without having any stated assumptions; the letter definitely puts the City on the hook for future septic system installation. Discussion by Mr. Brungardt and the Commissioners on the subdivision regulations and the septic system requirements for the preliminary plat approval. Further comments by Commissioner Templin that the Commissioners should be reviewing the lots and ensuring they are capable of meeting the requirements for septic systems. Discussion by Commissioner Moberly and Mr. Burton on the test holes.

Commissioner Kroeger asked Mr. Burton about the proposed language change for the benefit district for roadway improvements. Mr. Burton said he still has a concern about attaching this to a lot sale. Discussion. Commissioner Moberly asked if the letter on septic systems have to be a part of the approval process on the preliminary plat. Discussion by Commissioners on Section 6.02 being followed.

Motion by Commissioner Moberly to approve the preliminary plat with the following conditions as written in the Supplemental Staff Report dated July 25th, 2005, to include Items B and C; on Item D to revise the text to say the Preliminary Plat should be revised to include a five-foot concrete sidewalk along the north side of 85th Terrace from Brome Road to the east end of the cul-de-sac. Revise Item E to read "developer should sign an agreement not to protest benefit district for future road safety and capacity upgrades to Brome Road from 84th Street Terrace to 87th Street and 87th Street between Waverly and Corliss Roads; add a new Item F to say the approval is contingent upon the revision of the letter from Doug Smith to "To whom it may concern" attached as Exhibit "A", stating what assumptions and limitations are appropriate for the recommendations. Second by Kroeger.

Discussion by Commissioner Friday on whether or not 85th Terrace should be included in the benefit district language. Comments from Planning Coordinator Gordanier.

Roll Call:	Friday	Yes	Hemphill	Yes
	Honomichl	Absent	Kroeger	Yes
	Krudwig	Yes	Moberly	Yes
	Templin	No		

Motion carried.

Vice-Chairman Friday called a five-minute recess at 9:05 p.m.

Vice-Chairman Friday reconvened the meeting at 9:10 p.m.

- B. Consider revised preliminary plat of the Cherokee Woods subdivision, 24 acres located north of 87th Street and west of Penner Avenue (parcels AF221229-4004, 4008, 4011, 4012).

City Engineer Brungardt stated this application has an extensive history of planning applications over the past several years. Staff has determined this is a revision to a currently approved plat with several conditions attached to the approval. The staff report dated July 20, 2005 details the previous history of this preliminary plat. Mr. Brungardt stated the only modification to the previously approved Preliminary Plat is the inclusion of an on-site stormwater detention facility within Tract A. The location of this detention pond within Tract A has negative impacts on the proposal as stated in the staff report. Tracts A and B are under the ownership of Wyndham Development, L.L.C. A co-owner of Wyndham stated to Mr. Brungardt that no agreement has been reached between the owners regarding the detention facility being located in Tract A, and this proposal is the first notification of such site.

Mr. Brungardt reviewed the previous conditions of approval and provided an analysis of each condition's appropriateness based on current polices and changed circumstances. It is clear the majority of the previous approval conditions still apply to this subdivision and should be carried forward with any consideration of the revised plat. It is also clear that the developer has made very little progress toward addressing the conditions of the previous approval. It is recommended that the Planning Commission table this application until the August 23rd, 2005, meeting with the direction to the applicant that the items outlined should be fully addressed on or before September 27th, 2005. If the conditions are not fully addressed by that time, the revised plat will be denied and the original preliminary plat will expire.

Motion by Commissioner Templin to table this application until the August 23rd, 2005, meeting with direction to the applicant that the items outlined should be fully addressed on or before September 27th, 2005. If these items are not addressed by that time, it may be appropriate to deny the Preliminary Plat revisions, thus exhausting the validity period for the 2004 period; second by Moberly.

Discussion by Commissioner Krudwig on the development having an impact on the completion of Primrose. He asked if there is any provision for fining the developer in not completing the roadway. Discussion by Brungardt that the City has no regulations to force a developer to develop property. The City could choose to enact eminent domain and recoup the costs of construction with curb cut fees to the developer. However, any use of eminent domain would be at the discretion of the Council.

Victor Burks, of Allenbrand-Drews, on behalf of the applicant, stated they have written a legal description for the Primrose right-of-way and it has been turned over to the applicant's attorney. Both the benefit district and the adequate assurances will be forthcoming. The only question the developer has right now is the ownership of Wyndham LLC. He stated they are looking at Tract C and there will be some lots at substantial cost that will be lost if they construct a drainage basin. Commissioner Templin stated he is looking forward to seeing the applicant at the next meeting. Discussion between Commissioner Kroeger and Mr. Burks on the extension of Primrose.

Roll Call:	Friday	Yes	Hemphill	Yes
	Honomichl	Absent	Kroeger	Yes
	Krudwig	Yes	Moberly	Yes
	Templin	Yes		

Motion carried.

- C. Consider final plat of the Cherokee Woods subdivision. City Engineer Brungardt stated the recommendation is to deny the Final Plat based on its inconsistencies.

Motion by Commissioner Templin that the Planning Commission deny the Final Plat for Cherokee Woods on the basis that it is inconsistent with the conditions attached to the approval of the preliminary plat; second by Kroeger.

Roll Call:	Friday	Yes	Hemphill	Yes
	Honomichl	Absent	Kroeger	Yes
	Krudwig	Yes	Moberly	Yes
	Templin	Yes		

Motion carried.

- D. Consider site plan for an office building at the southeast corner of Jaycee Street and Lexington Avenue (parcel AF221227-2016).

Commissioner Krudwig recused himself from this item's discussion at 9:28 p.m. and left the Chamber.

City Engineer Brungardt outlined staff comments in the report dated July 22, 2005. The proposed development requires the approval of a Site Plan prior to the issuance of building permits. The property must be platted in accordance with Section 4.04 of the Subdivision Regulations prior to the issuance of building permits. This is a legal nonconforming lot and all required submittals are present and in conformance with the requirements of the Zoning Regulations. The Site Plan is in conformance with the development standards for on-site utility layouts. Sidewalks connecting the subject property with the grocery store parking lot and Lexington Avenue should be provided.

The shared parking area and required spaces was discussed. The proposed access drive will require that the applicant obtain an access easement from the adjacent property owner to the north. After discussion of the traffic flow, it is the recommendation of the Review Committee that no vehicular access be required to either adjacent parking lot.

The storm water management is deemed to be in conformance with the City's floodplain regulations.

Planning Coordinator Gordanier discussed the Architectural Details of the Site Plan. Staff strongly encourages the applicant to locate the overhead door at the west end of the building so that it is not readily viewed from the Lexington Avenue corridor. If installed, the overhead door(s) should be painted the same color as the stucco so as to blend in with the building. The east building elevation should receive additional treatment, i.e. windows or wainscot, to enhance its visual appeal. The landscaping and buffering measures well exceed what is required in the Zoning Regulations. It is recommended that the site plan to be approved with the conditions stated in the staff report dated July 22, 2005.

Discussion by Commissioner Templin and Gordanier on the proposed sidewalk to the grocery store and where it would be located and where it would stop. Discussion by Commissioner Hemphill on setbacks. Commissioner Moberly asked about the

proposed overhead door location and the size of truck that can access the building. Discussion by Brungardt and Commissioner Moberly. Chairman Honomichl provided written comments and stated he agrees with the staff report. He strongly agrees that architectural design should be required on the east elevation as it is essentially a frontage on the grocery store parking lot.

Commissioner Templin asked the applicant if they have any comments. Mr. Rawie asked about taking the sidewalk to Lexington Avenue as he did not remember this being discussed at the Site Plan Review Committee. Discussion by Planning Coordinator Gordanier that it was not discussed at the Site Plan Review Committee.

Commissioner Moberly stated he thought the grocery store owner might object to a sidewalk access directly onto their parking lot. Discussion. The proposed sidewalk access property actually is owned by another person, and not TJ Development. Commissioner and staff discussion on a specific route for pedestrian access being defined. Commissioner Hemphill stated the Commissioners should stay away from neighbor agreements. Commissioners stated they do not see a good place to put a sidewalk to Lexington. Mr. Fisher stated the sidewalk to Lexington Avenue was never brought up at the Site Plan Review meeting.

Commissioner Kroeger asked the applicant about the proposed overhead doors being shown. Discussion on making the overhead door being a wall until the space is leased out requiring the need for an overhead door.

Planning Coordinator Gordanier stated staff had made suggestions for the east side of the building elevation to enhance its visual appeal. Discussion by Commissioner Hemphill and Commissioner Kroeger on visual interest and materials. Discussion by Mr. Rawie and Mr. Fisher on using masonry and painting it a complementary color with a trim out. Commissioner Hemphill asked about signage. Staff stated no signage is proposed and a separate permit will be required for signage. Further discussion by the developers on putting "corners" on the east side of the building and use a contrasting color to enhance the visual aspect. Discussion by Commissioner Hemphill on placing four vertical elements in a proportionate spacing and using them as a visual appeal.

Motion by Commissioner Hemphill to approve the Site Plan with the conclusions and recommendations of staff with the exception of Item 5., the sidewalk requirement to Lexington Avenue be eliminated; and, Item 7, with the following stipulations that the owners are to work out details with staff to provide visual appeal treatments to include, but are not limited to, stucco trim, two-toned stucco, building corner treatments, downspout articulations, and other elements discussed in the meeting, and the second sentence of Item 7 to be stricken. Second by Kroeger.

Commissioner Templin asked for consideration in an amendment. Should Item 6 be considered to limit the overhead door element to only the west side. Does it need to be on both sides. Commissioner discussion with the applicant. No amendment was made.

Roll Call:	Friday	Yes	Hemphill	Yes
	Honomichl	Absent	Kroeger	Yes
	Krudwig	Recused	Moberly	Yes
	Templin	Yes		

Motion carried.

Commissioner Krudwig was recalled to the meeting at 10:13 p.m.

6. Old Business:

- A. Reconsider special use permit for a contractor office/storage business generally located on the west side of Lexington Road south of 95th Street. (Parcel number AF32800000-0001).

Discussion by Commissioners on Commissioner Krudwig's decision to not recuse himself and stay for this item of business as he has no financial interest in this item of business.

Planning Coordinator Gordanier stated the business hours stated in the application were Monday through Friday. Due to oversight, it is the applicant's intent to include Saturdays should the need arise to conduct some part of the business.

Motion by Commissioner Templin to resubmit the Planning Commission's original recommendation with the exception that the permitted business hours be expanded to include 6:00 a.m. to 9:00 p.m. on Saturdays; second by Moberly.

Roll Call:	Friday	Yes	Hemphill	Abstain
	Honomichl	Absent	Kroeger	Yes
	Krudwig	Yes	Moberly	Yes
	Templin	Yes		

Motion carried.

Planning Coordinator Gordanier requested direction to research the sidewalk issue with other cities. So directed.

- B. Reconsider amendments to the City of De Soto Procedures Manual Articles 1 through 8. Planning Coordinator stated this was returned by the Council for some clarification as noted in the Council Minutes dated July 7, 2005. She discussed the reasons for the requested revisions.

Commissioner Kroeger stated he voted "no" and had discussed his reasons for voting "no" with Chairman Honomichl. Commissioner Kroeger said he had a concern for his rights as a citizen and giving up his rights to speak because he is a Planning Commissioner. Discussion by Commissioners on the point of actually having to exit the meeting room after recusing oneself. Discussion on the City's Code of Ethics language.

Motion by Commissioner Kroeger to table this item until such point that Chairman Honomichl and the City Attorney can be present so that everyone is clear on these points; second by Moberly.

Roll Call:	Friday	Yes	Hemphill	Yes
	Honomichl	Absent	Kroeger	Yes
	Krudwig	Yes	Moberly	Yes
	Templin	Yes		

Motion carried.

7. Calendar:

- A. August 4, 2005 - City Council
- B. August 18, 2005 - City Council
- C. August 23, 2005 - Planning Commission

Motion by Commissioner Moberly to adjourn at 10:30 p.m.; second by Kroeger.

All Commissioners approved by "ayes".

Respectfully submitted:

Lana R. McPherson, CMC
City Clerk