

MINUTES CITY PLANNING COMMISSION

Minutes of the City Planning Commission meeting held January 26, 2023, in the City Council Auditorium, City Hall, 212 SW 9th Street, Lawton, Oklahoma.

The agenda for the meeting was posted on the bulletin board in City Hall in compliance with the Oklahoma Open Meeting Act.

The meeting was called to order at 1:30 p.m. by David Denham.

MEMBERS PRESENT: David Denham
 John Jones
 Ron Jarvis
 Darren Medders
 Michael Logan
 Neil Springborn

MEMBERS ABSENT: Deborah Jones (excused)
 Shelli Fox (excused)
 Allen Smith

ALSO PRESENT: Charlotte Brown, Director of Planning/Community Services
 Kameron Good, Planner II
 Gregory Gibson, Legal
 Michael Cleghorn, City Manager
 Larry Burk, Deputy City Manager
 Madison Aust, Recording Secretary

2. Verify posting of meeting.

Meeting posted on January 24, 2023 at 10:58 am by Tammy Branstetter

3. Establish Quorum.

Six (6) of the nine (9) members present.

Denham stated I saw DJ was out, have we heard from Allen or Shelli for attendance?

Aust replied I heard from Deborah Jones via email, and I heard from Shelli Fox yesterday I thought she was coming.

Denham stated she is probably running late then. I need to show DJ as excused the other will hopefully show up.

4. Approval of Minutes from December 15, 2022 meeting.

Motion by Medders Second by Logan to approve the meetings for the December 15, 2022 meeting as written. Aye: Jarvis, Jones, Medders, Smith, Denham, Logan, Springborn Nay: none
Motion Passed

BUSINESS

4. Consider an appeal filed by Tiffany Walker of the Downtown Lawton Architectural Review Committee's Decision to rescind the Certificate of Architectural Conformance for the property located at 308 NW 2nd Street.

Denham asked Kameron are you tackling this one?

Good responded good afternoon I'm Kameron Good from the Planning Department. This is an item to hear an appeal filed by Tiffany Walker to appeal the decision by the Downtown Lawton Architectural Review Committee to rescind the Certificate of Architectural Conformance for the property located at 308 NW 2nd Street. A little bit of background on this they submitted a building permit to do a remodel on this building. on the building permit it stated that no extra work shall be done until a Certificate of Architectural Conformance is applied for. There was a complaint filed of the outside of the building, we then went out and issued a stop work order on that building. They filed for a Certificate of Architectural Conformance and submitted all the correct paperwork an agenda and packet were created and sent out to the members and the former director decided to administratively approve it and that certificate was issued. Work was completed, a complaint was filed against the exterior of the building. the Downtown Lawton Architectural Review Committee reviewed the complaint and that is when they decided to rescind the Certificate of Architectural Conformance. Downtown over lay design standards is 100 percent clay fire brick or other material approval by DLARC. The former director was approving this based off of Resolution 15-1 that has send be rescinded. The resolution gave the director power to approve the certificate if it met 100 percent of the standards.

Denham stated I don't see a recommendation from the city so this will just be an appeal. This will be the first under my watch in twenty something years.

Good stated staff can not recommend to go against code but staff is here to answer any questions you have about the code itself.

Brown stated so this type of appeal used to go before the Board of Adjustments and about a year or so ago maybe two years ago at this point, the Downtown Lawton Architectural Review Committee asked us to change it from Board of Adjustments to CPC.

Good responded we have visual aids if you would like to see what the building currently looks like. It's a modern grey slate color with no stone and the standard for the downtown area is brick as you can see from the other buildings that have been built S there.

Denham asked any questions, alright I guess Mrs. Walker would you like to approach.

Bernard Walker stated good afternoon, I'm Bernard Walker following the stop work order issued on May 24, 2022 we exercised diligence and reviewed Article 18-12 ordinance for the

Downtown overlay District. We spoke to the planning department on the process for resolving this matter. We submitted the required documents and paid the associate fees. See Exhibit A attachment. On June 20, 2022, we received the approved Certificate of Conformity after agreeing to the terms set fourth by the City Planning Department. See Exhibit B attachment.

Cleghorn asked can you lean a little closer to the microphone please?

Denham added we are having a tough time hearing you sir.

Walker stated on December 29, 2022 we received a letter notifying us the certificate had been rescinded and we had until January 23, 2023 to take action. See Exhibit C attachment. Article 18-12-2-1233 "Special Character Districts contains the standards for the 2nd Street Corridor Sub District. On January 19, 2023, we questioned Mr. Good to determine what the exact conformity infraction was following the recent rescinding our certificate of conformity. We were told our building must be 100 (one hundred) percent brick and he directed us to Article 12-12-23-1233 of the Code of Ordinances. The 2nd Street Corridor Sub-District Articles do not specify or imply there is a required percentage of brick or that brick is even mandatory, when other material are approved for use. See Exhibit D Attachment. On June 20, 2022 the director administratively approved the certificate of conformity. At the time of the decision DLARC Resolution 15-1 gave the director of planning the authority to do so. See Exhibit E attachment. in the military we have rules and regulations that we use to maintain good order and discipline. I frequently rely on them, so I understand there are time when the rules are written in a way that leaves it open to interpretation. Article 18-12-2-1233 Special Character Districts is not written that way. It is clear and concise. Now 7 months later our business, servicing over 200 tenants and property owners, is being commanded by DLARC to conform or they will revoke occupancy. Given a valid certificate was previously approved and issued, we feel the City should honor its prior decision and reinstate the Certificate of Conformity. Additionally, we'd like to call to attention the fact we as the owners were not notified of the meeting to rescind the certificate. However, the adjacent property owner Mr. McKenzie who has chronically complained since we purchased the building was invited to attend. After reviewing the camera footage, we learned at least one DLARC member had visited our building as early as November 8, 2022. Reasonably raising doubt as to why we were not contacted prior to the Dec 20, 2022 meeting held over a month later. We feel that because DLARC revoked Resolution 15-1 invited Mr. Kenzie to discuss building 308 and ultimately rescinded our certificate of conformity all in the same meeting warrants reasonable concern that these actions were related and deliberate.

Denham stated Thank you Mr. Walker. Go ahead Darren

Medders responded In the process you get approved for what you have if I'm following this correctly. I mean they backtracked and come back.

Denham asked do you know what the actual complaint was

Brown responded that it was not 100% brick. There were also some other additional complaints about parking and not being able to see around the vehicles but the majority of it was that when he went into his business that he was handed that section of Chapter 18 that talks about the

downtown overlay and said that was his bible and he had to follow those rules and regulations and that it had to be brick.

Denham said I'm somewhat confused on that with your interpretation of the article of code but ever sense we started with the downtown I mean 2nd Street deal it has been required that the buildings be brick. It's raised a lot of frustrations with some on the developers, but it has been a standard so where are you going the 2nd Street Corridor Sub-District, I mean that its all a part of the downtown overlay district.

Walker responded correct prior to that section it identifies the percent of brick require is does not apply to the 2nd street corridor. Which is why we brought the additionally area that does set the standard for that area in question in that area is 18-12-2-1233. So, as you can see those are the standards described.

Brown stated we also reference that paragraph on the second page of the agenda.

Denham said the following provisions shall apply for the 2nd Street Corridor Overlay District building materials all buildings shall be clay fired brick or other material as approved by the ARC. What exhibit did you show on the last one?

Walker responded it's the same thing as you read.

Denham responded ok.

Walker stated above it states the procedures for the downtown district but specifically for our district it states clay fired brick or other materials as approved by DLARC. Which is what they approved.

Denham stated that a minimum of 51 (fifty-one) percent of the building material shall be clay fire brick other than in the 2nd Street Corridor Overlay District. Where does it say that the 2nd street Corridor it must be 100%?

Brown responded that is where it goes to be 18-12-2-1233, the supplemental regulations where it goes to talk about how all buildings shall be clay fired brick or other materials approved by the ARC.

Denham asked what do you all think?

Medders responded they got approved for what they did.

Denham replied right by the person who was allowed to approve it at the time.

Medders stated how can we go back at them after the fact.

Denham stated after the work has been done.

Medders asked I mean we're talking how much money? Do you have an estimate?

Walker responded I don't have an estimate at this time.

Denham asked approximation.

Walker responded so just assumed the outside would be off the top of my head would be about \$18,000 to \$20,000, so that does not include additional material, time, or the plans to draw it up (the rest of the audio is undiscernible)

Brown stated just a reminder too that when the building permit was issued it said no exterior work shall be down prior to the issuance for the Certificate and the exterior work was already in progress of being complete before they even applied for the certificate

Walker responded (the audio is undiscernible)

Springborn replied unless I'm missing something, I'm having a hard time hearing the microphone is not working as well as it should. They went ahead and proceeded with their plans along with the approval from the City, after they were already in to doing what they wanted to do the City goes what no you can't do that. I have a problem with granting someone the right to building something and then all of a sudden take that privilege away. If we start doing that with everyone in town, we are going to have some really upset builders. So I don't know how we are going to resolve this maybe an attorney can give us some guidance on it but then again maybe he can't. But anyway I do have problem with that, I would like to see it rectified somehow or justified somehow.

Brown stated the committee has the ability to un-rescind the certificate and to approve the material as it is because you guys are the appeals process for the ARC rescinding the certificate you guys have the ability to overturn that rescension. Or you can uphold the rescension.

Denham replied are we the final authority on this case?

Brown replied yes.

John Jones stated let me ask you a question is this building is a remodel, right?

Good, replied yes sir.

John Jones asked this is not a new construction.

Good replied correct.

John Jones asked does this same thing apply with remodel buildings as it does to new construction, as far as exterior finishes.

Brown replied if they do any work on the exterior is has to the current city standards so yes. So, they could remodel the inside and not even touch the outside exterior and the existing exterior would be considered legal nonconforming because that's how it was. But because they remodel the exterior of the building it would be brought up to our current city standards.

John Jones stated even if brick was never on the building it must be added to the building?

Brown responded yes.

John Jones stated on existing buildings?

Brown responded yes.

John Jones stated I have problems with that too.

Denham replied there is a similar situation which where its now Johnson and Johnson Locksmith, it was a car lot, it's just a metal building.

John Jones stated right.

Denham continued now they've done a little nothing major, but you know.

Brown responded they were never actually issued a Certificate of Architectural Conformance and we are working to address that as well.

Denham stated you said you had another question?

Walker responded if the Director of Planning approves the certificate of conformity and then within DLARC they want to rescind, should that have come to CPC prior to decision to rescind?

Denham stated it seems like it was the same time they gave us the appeal process or made us the entity to hear appeals, so I've got an issue also with getting the work approved and then after the fact repealing the certificate. I can see it going forward past that point, but you can't go back and do a do over so that's my feelings on the subject so

Medders stated I'll, help me with a motion, but I think we can't go back on the people that's just not right, and I'll make a motion that we rescind is that the word I'm looking for.

Brown responded I would say overturn.

Medders said I will make a motion to overturn this item because it was prior approved and let them go on doing business.

Logan added I second that motion.

Denham asked any further discussion.

Burk stated yes.

Denham replied go ahead sir.

Burk stated just for quick clarification this is a unique situation that we're in, the began work on the exterior, it was sustainably completed by my understanding at the point that the stop work order was issued, at that point we did have the Resolution, I believe it 15-1, in place it had specific language in that administrative approval could be issued by the Planning Director provided that the work was clearly within the confines of the policy for the downtown overlay. What happened was, the director at that time because the work had been completed, went ahead and made the recommendation or did the administrative approval and then brought it to the Board of Adjustments (*meant Downtown Lawton Architectural Committee), but you have a member here in the audience today she was clearly told at that point it did not meet the downtown overlay requirements they were in a conundrum because she had already approved it

and went ahead and finished the work. At that point it was brought back based on compliant because you have other tenants or other property owners, Mr. McKenzie is one of them, who was forced to comply with the rules. And this one here was allowed. To some you know in some of the error would have been on their part because they started unbeknownst to them, they thought they had the permit and all that. This is kind of a one-off situation, I totally understand their frustration that they see, the issue here is moving forward if we try to enforce the rule uniformly for everyone, we're going to have this one off down there on 2nd street it doesn't fall within the downtown, I mean the language is pretty clear in here that it has to be brick. It's not an exception. There is no exception. So, I want you to be clear that part of the reason this was approved was because the work had already been done and I think the issue was the Director at the time didn't want to make the take it down, even though it had already begun. My fear is here that the message is if you go ahead and start the work, what's the penalty? If we're going to go ahead and allow it to continue. We complicated the matter by letting that Director to administratively approve and then appropriately the Board of Adjustment (*meant Downtown Lawton Architectural Committee) rescinded that policy, that can't happen anymore. They will all go to DLARC. So, we're not going to have any more than that.

Denham Responded that is my concern too. That we almost set precedent, but unfortunately, we kind of have with the approval

Burk said it's a tough situation I understand

Denham responded and I do know, and I've heard all kinds of complaints from developers about that kind of requirement. They've done it but it's been a complaint and I thought that was a process of being looked at as well but that's not what it is now. The rule is it needs to be 100% percent brick. But when you've got a certificate of approval that's the thing that makes the City also I think part of the problem.

Burk responded she didn't follow the rules when she made the administrative approval and that's part of the problem.

Denham stated right.

Burk respond (what is being said is indiscernible)

Denham stated I get it. So I appreciate the clarification.

John Jones responded Mr. Chairman I'd like to add one more thing before the vote. You know we have existing buildings on the North side not only this building, but so what are they doing to do in the future when people come forward with existing buildings and my understanding is go inside the building and work its ok but can't improve the outside at all so are we to the point were we can't save any existing buildings and have to building everything new to comply or what are we going to do here? I mean I think it's a problem built in itself.

Denham stated its almost like a historical preservation overlay.

John Jones responded yeah.

Denham continued what ever you're going to do inside is fine but if you address that outside you must leave it. I mean you have to comply with the new rules and requirements, I don't know of many more are in this situation apparently one more is in the works, but you're right unfortunately when this thing was set up to go brick and it gets to be a little costly for folks having to utilize all that brick. But we also don't want to have the metal buildings either. I think this building looks nice, but it does not conform.

John Jones stated, and we've got the issue that many commercial buildings today are being built with simulated brick. Like siding that looks like brick. Then are we in a situation that we can't use that?

Denham asked I think it specifies in code does it not?

Brown respond it does, it says clay fired brick, or other approved. So if they wanted to come, if there was something they wanted something similar to the clay fired brick, that they brought to the board that would look like brick, I don't see how that would be that big of an issue on something like that. But it does specify clay fired brick.

Denham stated if I'm not mistaken the Dollar General down there that was built, is a metal building, that's got a brick front and put on the sides. You can see on the sides where the metal building is the majority of it. There are ways around it but right now we've got a situation where your project is complete and we've got an approval. We're in discussion, I guess. So, we do have the motion so any other commentary before we call the vote?

Motion by Medders Second by Logan to overturn the decision to revoke the Certificate of Architectural Conformance located at 308 NW 2nd Street. Aye: Springborn, Logan, Denham, Medders, John Jones, Jarvis Nay: None **Motion Passed**

Denham stated alright the motion to overturn the revocation of the Certificate of Architectural Conformance is approved so I guess it stands this time. I hope we do know that this is not precedence setting and however we need to enforce this code to make sure this doesn't happen again needs to be done.

Bernard Walker stated (audio is undiscernible)

Denham responded thank you sir.

Bernard Walker said thank you.

Denham stated it was a tough one

5. Appoint a City Planning Commission member as their representative on the Board of Adjustments.

Brown stated Mr. Springborn is the current representative and his term expires tomorrow so we just need to officially reappoint or appoint.

Denham responded I have spoken to Mr. Springborn, and you are still willing to serve.

Springborn stated I have no problem serving again.

Denham asked Mr. Purcell do you want to keep him there?

John Jones stated I move we reappoint Neil to the board.

Logan responded I second.

Motion by John Jones Second by Logan, reappoint Neil Springborn to be the City Planning Commission representative member on the Board of Adjustment. Aye: Logan, Denham, Medders, John Jones, Jarvis, Springborn Nay: None **Motion Passed**

Denham stated unanimous six-zero. You can always count on your fellow commissioners to vote for anybody but themselves. That is how I obtained Chairman.

6. Commissioner's Reports or Comments.

Denham stated I want to welcome Mady, I want to thank you for joining our team. Look forward to working with you.

Aust responded thank you, I'm glad to be here.

Denham asked any other commissioner comments.

7. Secretary's Report.

Brown stated yes, we would definitely like to welcome Mady aboard. Bear with her, she's still learning. She's still learning, she's never dealt with committees like this is in the past so she's getting her feet wet this month. You guys are aware that we've got 6 or 7 neighborhoods that are under construction right now. We are actually looking to start see some record drawings coming in on Rolling Hills and Rose Creek. I believe we are fixing to start seeing them come in for approval. So we'll see record drawings and plats, record plats before to much longer on that. And we also had some changes on the annual meeting dates that were approved, we had a couple of dates that were wrong because of the council meetings so we've got some reschedules, but we will get those dates out to you.

Denham responded thank you. You reminded me of something. Over a year ago we were told we were advancing pretty good on a new updated land use plan. All of the sudden we're reloading and all that with everything else, and I'm sure a very limited on staff so

Brown stated yes.

Denham responded is that something that's still going?

Brown stated yes, we have gotten permission from ODOT to use LMPO funds to for that so we're actually in the process of putting together a RFP and RFQ to send out for a consultant to actually help us with that.

Denham stated awesome thank you.

Denham stated any comments from the public. Thank you all for coming we appreciate having an audience. Seeing nothing else I will call for a motion to adjourn.

Motion by Springborn Second by Medders to adjourn the meeting. Aye: Denham, Medders, John Jones, Jarvis, Springborn, ,Logan Nay: None **Motion Passed**