

MINUTES
CITY PLANNING COMMISSION
CITY HALL AUDITORIUM
February 16, 2023

Minutes of the City Planning Commission meeting held February 16, 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. David Denham

ROLL CALL

MEMBERS PRESENT: David Denham
 Ron Jarvis
 Deborah Jones
 Allen Smith
 Darren Medders
 Michael Logan

MEMBERS ABSENT: Shelli Fox (excused)
 Neil Springborn (excused)
 John Jones (excused)

ALSO PRESENT: Denise Ezell, Recording Secretary
 Charlotte Brown, Director of Community Services/Planning
 Gregory Gibson, City Attorney
 Michael Sweat, Fort Sill National Bank

2. Verify posting of meeting according to the Open Meetings Act (Title 25, Okla. Statutes 301-314)

Meeting was posted on February 15, 2023 at 1:27pm by Kobe Humble.

3. Establish a Quorum

Recommended Action: Establish that a quorum is present.

6 (six) of the 9 (nine) members were present

4. Consider approving the minutes from the January 26, 2023 meeting.

Recommended action: Motion to approve minutes from the January 26, 2023, meeting as written.

Motion by Medders, Second by Logan, to approve the minutes of January 26, 2023 as written. **Aye:** Denham, Jarvis, Deborah Jones, Smith, Medders, Logan **Nay:** None **Motion Passed**

Business

5. Consider approving the record plat for Scissortail Pointe, accepting water improvements, sewer improvements and maintenance bonds with conditions.

Brown stated its me. Scissortail Pointe is located northwest of 52nd Street on the south side of Cache Road just west of the Chicken Express, it's the old Eddie Cordes and Cache Road Cinema location. The plat consists of 10 lots on a total plotted 18.71 acres. The property is zoned C-5. The developer is Cache Properties LLC, and the consulting engineer is Landmark Engineering. The sewer and water plans were approved for construction and by City Council on February 23, 2021. The conditions that are outstanding for the record plat are submittal of maintenance bonds, acknowledgment of the ODEQ permits for the water and sewer improvements and provide an additional 10 feet of right of way for Cache Road. We just received the OEDQ permits on Tuesday from the engineer so we're going to be getting those on the agenda so council can acknowledge those. This does not include the traffic signal it is a separate item, and they are not completed with that yet. The conditions will have to be met before City Council.

Denham asked, any questions for Charlotte?

Motion by Smith, Second by Jarvis, to approve the record plat for Scissortail Pointe, subject to conditions. **Aye:** Jarvis, Deborah Jones, Smith, Medders, Logan, Denham **Nay:** None **Motion Passed**

6. Consider approving a request to waive the screening requirement for 1130 SW Lee Boulevard/1350 SW 13th Street and direct staff as necessary.

Brown stated, so this request came from Michael Sweat and he is here today. A change of use was applied for, this is the old Gibson's building on Lee Boulevard. City Code requires the south property line to be screened by a 6-8 feet opaque screening fence or wall. The building was built in 1984 and it was originally shown on the original plan for there to be screening on that side but it appears it was never actually constructed. So, Mr. Sweat is asking for us to waive that requirement. There is R-3 across the street to the south of the property.

Denham asked, what was the change of use for this?

Brown responded, so part of the building is a church and part of it is a beer distributor.

Denham asked, beer distributor or warehouse.

Smith responded, warehouse from what I understand

Brown stated, yes, it's a warehouse, where they are storing, a temporary storage facility for a new business coming in.

Deborah Jones asked, so Charlotte everything is stored inside.

Brown responded yes.

Smith stated, so I had the pleasure of going to look at this after talking to Michael Sweat. Have any of you heard of this or looked at it? Where they are having him put the fence at is probably, I think its 20 feet away the building I don't know exactly where the fence would go but where the fence stops is not going to shield any of the trucks where this is going to be taking place. So, all you're doing is shielding the building that's already been there since way after 1984. I can remember as a kid going there. So, it might have changed use since then, but I know when they were in there doing their military stuff, I think they built a couple of smoking habitats on the northside. Well, I think the law enforcement got with the bank and said "Hey, can you tear that down because the homeless were actually living in there". If we put up this fence or he puts up this fence that is going to be a habitat for them to just go ahead and go on in there. Even if you block it off, they're going to climb the fence, pull the pickets off and get in there. I mean to me it just doesn't make any sense, whatsoever. And there's an emergency door on the southside of the building so you would have to have a panic device on some kind of a gate to be able to get in and out for the Fire Marshall. Like I said where they are making them put the fence it stops where the deliveries are going to come in and out, it doesn't shield that part in anyway. So, I really don't understand the purpose for doing it, I don't think it makes any sense and it's going to create a problem.

Deborah Jones stated, well we have lots of buildings that have adjacent opaque screening fences because they are adjacent to residential. I don't like to waive the code, but I think there is something we need to talk about here. In the back of my mind, we approved a security fence for the property to the south its either cyclone or wrought iron, isn't it David?

Denham responded; it was wrought iron for the roofing company.

Deborah Jones stated, well and the residential duplexes.

Denham added, they were putting those in for their workers.

Deborah Jones stated, ok. So, the adjacent property to the south, the residential portion has already put in the type of fence that they like will work for them. Which I think is an unusual situation. You know on opaque fences, Fort Sill National can go across the street and put the opaque fence over there if we allow that in the code. But considering that the duplexes have already got, I don't know how to describe it, but this transparent security fence.

Denham stated, its redundant.

Deborah Jones responded, yes, it's not really following the code per se. And so I don't think that it's inappropriate to vary this requirement. Now I do want to make I understand all the storage is in the warehouse and there's trucks in the parking lot?

Brown asked, Michael do you want to speak on that? The storage is all going to be on the inside. There will be no storage on the outside of the building and then they are using the west side of the building is where the warehouse is. There is a driveway and loading dock.

Denham stated, where trucks put Gibson's product in the back, in the warehouse

Deborah Jones responded, oh okay so it's not in the parking lot.

Denham and Brown stated, no, no.

Brown stated, there is a loading dock.

Smith stated, there is a loading ramp on the back.

Deborah Jones stated, I apologize.

Denham stated, well I like the second key issue stated mentioned, do we want to direct staff to write a code that would allow for variances since this isn't exactly an allowable variance under current code. Obviously, there are always exceptions and I want to go back to what Allen was saying when a fence from 12 to 13th street and not going all the way to the end doesn't make your fencing, entire big building, that's been there forever, it's really not going to be hiding the truck activity in the first place. I know its code, but it doesn't really make a lot of sense.

Deborah Jones stated, well I think and Greg is the expert. Greg, you know what I'm going to ask.

Gibson responded, I don't know about that.

Deborah Jones stated, this is a classic variance, and it should be based on facts like we've talked today, hardship. Something unique to this building, this site. And I think we've entered that into the record. It is not a special exception; it is a variance and probably could've have gone to the Board of Adjustments. Now I don't mind handling it here because of the silent, I'm not sure if you need to amend the code. But you need to make sure that variance according to the statute is based on hardship that is not financial, document it with facts.

Gibson responded, right.

Deborah Jones stated facts.

Gibson asked, so Charlotte why is it coming here and not the Board of Adjustments?

Brown responded, so we actually had this going to City Council at first and John our City Attorney kicked it back and said no it needs to go to CPC. And he felt it did not meet the requirement for Board of Adjustments variance.

Gibson responded, okay.

Brown continued, if you want us to draft a code change that would add it into the Board of Adjustments as a variance then we can do that.

Deborah Jones stated, I think that's a better place. Do you Greg?

Gibson responded, so what I'm hearing is and I'm no expert on this particular piece of code, but what I'm hearing is that the code simply does not allow for a variance of this particular requirement, am I right? So, this board really and this is my opinion, sounds like this board this commission does not have a choice of whether to recommend or not. Is that correct, would you say that's fair.

Deborah Jones stated, no, I think it silent. And based upon what Charlotte has said, the City Attorney, you all need to sit down and hash this out. I don't care, I would prefer it in variance, but City Attorney know and determined that the chapter 18 and the CPC is the appropriate place to provide for varying a code of screening requirements based upon hardship or whatever that word. I don't care.

Denham stated, it sounds like to me that is only here because it's not an authorized variance for Board of Adjustments so if we can update code to make this kind of variance go the Board of Adjustment just include that, and we are out of this.

Brown stated yes. So let me read you that state statute that John sent on where he says he feels it can come to you guys. It says the planning commission shall prepare from time to time plans for the betterment of the municipality as a place of residence or for business. It may consider or investigate any subject matter tending to the development and betterment of the municipality and make recommendations as it may deem advisable concerning the adoption thereof. To any department of the municipal government and for any purpose make or cause to be made surveys, maps, or plans.

Deborah Jones responded, I think that answers our question. It's silent.

Gibson asked, so where do this leave us? Is the question?

Denham responded, well it appears to me we can grant this variance based on the hardship and as DJ's commented, we're having another one right after this so kind of

Brown stated, right.

Denham stated, I think it's. I would entertain a motion in addition to direct the staff to look into a place to put this into the code under the Board of Adjustments governances not ours per se. I guess you update the code and it comes back to us for approval, and then it would go to council from there for final approval and then implementation.

Brown responded yes.

Denham stated, we are not putting another responsibility on us other than approving whatever code modifications you bring.

Brown responded, correct.

Gibson asked, so this variance can be granted right here, it doesn't have to go to council. Is that right?

Brown responded, it still has to go to council.

Gibson stated, so this is more of a recommendation.

Brown stated a recommending body yes.

Gibson asked, so not that different from a normal process.

Denham stated yes.

Brown stated, right.

Gibson responded, so just a little bit of a different subject matter.

Denham stated, since it's out of the current code.

Deborah Jones stated, before we leave of this subject you should be aware that the Board of Adjustments is a quasi-legal body. So, if there is an appeal by the decision of the Board of Adjustment it goes to district court. I just want to point that out.

Smith responded, I guess want to point out, you just said something, you're just saying a bunch of things like this is maybe a financial hardship here, I don't think in this particular deal that money's an object with the fence.

Deborah Jones stated no.

Smith stated money is not a financial hardship at all.

Deborah Jones stated its not a financial hardship

Smith stated, it's not a financial hardship.

Denham stated, that's what she said

Deborah Jones stated it's not.

Smith responded, oh ok, not a financial hardship. By not doing this fence it's better for the community.

Brown stated so yes, one of the things we require when doing variances for Board of Adjustments is that it cannot be a financial hardship.

Deborah Jones stated, it's in statute.

Brown stated yes.

Smith responded, gotcha.

Deborah Jones stated, this doesn't apply to it.

Denham stated, all right I think we've had some good conversation here. I will entertain, is there any further discussion?

Deborah Jones stated, I will move

Denham said, entertain yeah.

Deborah Jones continued, to recommend to the City Council a variance to the screening requirement at 1130 SW Lee Boulevard/1350 SW 13th Street and amend the code in Chapter 18 to provide for future variations of the code. And you all figure out where it goes.

Motion by Deborah Jones, Second by Medders, to grant a variance of the screening requirement for 1130 SW Lee Boulevard/1350 SW 13th Street and to amend the in Chapter 18 to provide for future variations. **Aye:** Deborah Jones, Smith, Medders, Logan, Denham, Jarvis.
Nay: None **Motion Passed**

Denham stated, its unanimous 6-0. Variance has been granted to this property and we are going to have some code review coming in the next few months so awesome.

7. Consider approving a request to the waive the screening requirement for 30 NW Sheridan Road and direct staff as necessary.

Denham stated, we've got about thirteen similar pages in this item.

Brown stated yes. So, this comes from Chad Rogers who owns the commercial property shopping center at 30 NW Sheridan Road. He was unable to be here today, and I left the example that he brought downstairs, I apologize. He has submitted a building permit to replace his existing chain link fence that runs behind along the west side of the building with a wrought iron fence.

Denham asked it's west and north, right?

Brown responded, so he is not looking at the north side so much, but he is actually going to be coming in because he purchased a property the blank property that is between the duplexes to the north and his existing building is going to be coming in for a rezoning change and he is fine with doing an opaque screening fence there. His biggest concern is, he's got safety and security concerns along the west side because the homeless will set up back there. And police can drive down 24th Street behind there where the vacant lots are and see the back of the property without actually having to drive behind his building. So that is his biggest reason for wanting to do wrought iron. It's a heavy-duty wrought iron fence that he is planning on putting up back there.

Denham stated, that's interesting that you know the whole point of this requirement is to protect the neighborhood, now we're having to protect the businesses.

Deborah Jones asked, can I ask why we can not replace this another I know they're not the most attractive, a normal screening fence a cyclone with slats, aluminum slats?

Brown responded, because code actually says you cannot have a chain link fence with slats it as a screening requirement.

Deborah Jones stated, ok but.

Brown responded, that's what he has now, a cyclone fence with slats.

Deborah Jones stated so he has a right to replace it right now.

Brown responded, yes but he wants to replace it with the wrought iron to make it look prettier.

Denham added, he also wants you to be able to see through.

Brown responded yes.

Deborah Jones stated, well the problem I have, not the wrought iron I love wrought iron, is that trash blows through it. It's for a development that is more sophisticated in terms of the screening fence. And I would agree that there are issues with the housing development and their legitimate, and I understand why he has concerns but.

Denham responded, but again we will be looking to make it variance as opposed to a change.

Deborah Jones stated, yeah, he could replace right now.

Medders stated, the problem just like where we are located you get people thinking that's a short cut and they either trash the fence, if its chain link they take it down or cut a hole in it, so it has to be substantial. I've been there fifteen years and every year I replace a part of my fence. Because people want either the movie theater, Wayne's, or the grocery store. It's an issue ongoing especially with the homeless.

Deborah Jones responded, so really what the owner if I'm hearing you Darren, you're a business owner, it's more of a security issue then the screening issue.

Medders stated, we want to screen it because there is residential behind us and protect them but the people from the residential coming kids, skateboarders, you name it, homeless if they decide they're going to camp out for a month they'll do what they want and cut holes, and anything they want to make a home out of.

Deborah Jones responded; well I think security is a valid factual reason to vary a code. We've done that, but I want to land on something to defend in the future.

Denham stated a note for the code revisionment. Any further discussion?

Motion by Deborah Jones, Second by Logan, to recommend to the City Council to vary the screening requirement for security concerns for 30 NW Sheridan Road, and to amend the code as propriate to provide for variances. **Aye:** Smith, Medders, Logan, Denham, Jarvis, Deborah Jones **Nay:** None **Motion Passed**

8. Commissioner's Report or Comments

Denham stated, seeing none we will move to nine.

9. Secretary's Report

Brown stated, we do have a new Planner 1 and a new Transportation Planner 1 starting Monday. So we will be almost back up to full staff next week. You will start to see a lot more code changes coming through that we have been talking about for a long time.

Denham responded, congratulations.

Deborah Jones asked, Charlotte where are we on the status on hiring consultants for the land use plan?

Brown responded, we are working on the RFP now and we will take it to the LMPO next month. We have been approved to use some of our LMPO funds for that.

Deborah Jones stated you're LMPO funds?

Brown responded yes. We've been asked to give an update as many of you saw the general business licenses went into effect this week, notice was given to the business owners. We do have a special meeting tomorrow afternoon at one o'clock with City Council and that is the first item on the agenda is to discuss and provide additional information.

Denham asked what time is that? Here?

Brown responded one o'clock. Yes sir.

Denham stated, We have had a calls on our level too so, kind of slide by me. I was caught off guard too.

Brown stated this was not a code change that was required to come to you guys, it's chapter 7 so is doesn't fall under your purview.

Deborah Jones asked do you issue occupancy permits only when a building permit is issued?

Brown responded yes.

Deborah Jones stated okay.

Denham asked is that all?

Brown responded yes. Darren did I answer all your questions? Ok, I think that's it.

Denham stated, very good alright, anything else. There is no public left so let's call for adjournment.

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

With no further business the meeting was adjourned.