

# Plan Commission Minutes 03 - April 25, 2012

## **Plan Commission April 25, 2012 Meeting Minutes (approved 5/23/2012)**

The Plan Commission held their regular meeting in the EOC Room located at City Hall, 6801 Delmar Boulevard, University City, Missouri on April 25, 2012. The meeting commenced at 7:05 pm.

### **Voting Members Present**

Ben Halpert (Chairperson)  
Deidre Lewis (Vice-Chairperson)  
Ben Senturia  
Cirri Moran  
Lisa Greening

### **Voting Members Absent**

Nova Felton

### **Non-Voting Council Liaison Present**

Stephen Kraft

### **Staff Present**

Ray Lai, Deputy Director of Planning, Zoning, and Economic Development  
Zach Greatens, Planner

### **Approval of Minutes**

Mr. Halpert asked for a motion to approve the minutes.

Mr. Senturia made a motion to approve the February 22, 2012 Plan Commission Meeting minutes. The motion was seconded by Ms. Moran. The motion was approved unanimously.

### **Public Hearing: Conditional Use Permit Application – 6277 Delmar Boulevard**

The Chairperson announced that a public hearing was scheduled for Conditional Use Permit application 12-02504. The Chairperson stated that the public hearing notification requirements had been met in accordance with Article 15 of the Zoning Code. The Chairperson noted the Commission's procedures and criteria for reviewing Conditional Use Permits and amendments to them (Zoning Code Section 34-132.2). The Chairperson stated that the Plan Commission must consider whether the use: a) Complies with all applicable provisions of the University City Zoning Code; b) At the specific location will contribute to and promote the community welfare or convenience; c) Will not cause substantial injury to the value of neighboring property; d) Is consistent with the Comprehensive Plan, neighborhood development plan (if applicable), and any other official planning and development policies of the City; and e) Will provide off-street parking and loading areas in accordance with the standards contained in Article 7 of the University City Zoning Code.

Staff provided an overview of maps and pictures of the site.

Mr. Aboud Alhamid, the applicant, provided an overview of the proposal. Mr. Alhamid stated that he is the owner of Ranoush Restaurant in The Loop. He stated he owns a hookah lounge on the St. Louis City side of The Loop, near the Moonrise Hotel, and would like to move it to the proposed location, 6277 Delmar, in University City.

Mr. Senturia asked if he intends to close the existing hookah lounge location if approved. Mr. Alhamid stated he did intend to close it.

Ms. Greening asked why he is moving. Mr. Alhamid stated it would be more convenient for the hookah lounge to be located closer to the restaurant. The hookah lounge used to be at the restaurant. Ms. Greening asked if they will serve drinks. Mr. Alhamid stated just tea and coffee.

Ms. Greening asked about the St. Louis County smoking ordinance.

Mr. Greatens stated that as he understood the St. Louis County Indoor Clean Air Ordinance, there is an exception for businesses that do not serve prepared food or alcoholic beverages. Which was the reason smoking was no longer allowed in the restaurant.

Ms. Moran asked about the potential for smoke or aromas to affect the space upstairs.

Mr. Alhamid stated there was not. He added that The Loop is unique because they have everything. He stated they lost a lot of business because of the smoking ban. He wants The Loop to be successful and to attract a variety of customers.

Mr. Halpert asked the applicant if they allow other smoking such as cigars or cigarettes. Mr. Alhamid stated that typically when people come to have a hookah, they usually do not smoke cigars or cigarettes. They come specifically for the hookah. Mr. Halpert asked if they turn people away if they want to smoke a cigar or cigarette. Mr. Alhamid stated that they prefer that people do not smoke cigars, but was undecided about the cigarettes.

Mr. Halpert asked if inside the space, they intend to provide any additional ventilation. Mr. Alhamid stated they have machines that are installed on the ceiling to address that.

Mr. Greatens provided staff comments. The reason for the request is that a non-retail business is proposed in a ground floor space with frontage on Delmar, which requires a Conditional Use Permit. It is staff's opinion that the proposal meets intent and purpose of CC – Core Commercial District. Staff recommends approval with conditions set forth in Attachment B of the Staff Report.

Mr. Halpert asked for any further questions or comments from the Plan Commission members.

Mr. Halpert opened the public hearing. No members of the public spoke.

Ms. Greening made a motion to approve the Conditional Use Permit application with the conditions set forth in Attachment B of the Staff Report. The motion was seconded by Ms. Lewis and passed unanimously.

### **Public Hearing: Parkview Gardens Neighborhood Sustainable Development Plan**

Mr. Halpert announced that a public hearing was scheduled for the draft Parkview Gardens Neighborhood Sustainable Development Plan to consider its adoption and incorporation as an amendment to the 2005 Comprehensive Plan Update. He stated that the public notice requirements set forth in Article 15 of the Zoning Code have been met.

Mr. Lai stated that the planning process has taken about 14 months, much shorter than the Federal Government had envisioned. The consultants were given 3 years, and after 14 months, they are able to come before the Plan Commission for consideration of adoption. Public meetings and other public engagement forums have been held previously as part of the process. The consultants have also presented updates previously to the Plan Commission. University City is one of 13 communities in the country that received a joint grant from the U.S. Department of Transportation and the U.S. Department of Housing and Urban Development. Several planning partners have been involved in the process. It is before the Plan Commission in accordance with the State Statute that a public hearing be held. This public hearing is in addition to previous opportunities for public input. After comments are received this evening, the consultants will make any necessary revisions and the Plan will be on the agenda next month for consideration of adoption if it is ready to be adopted.

Mr. John Hoal with H3 Studio, project consultants, provided a presentation summarizing the Plan, covering the key components of Plan and implementation items. [A copy of the presentation is in the project file.]

Comments/questions from the Plan Commission following Mr. Hoal's presentation:

Ms. Greening asked about funding. She stated that there are new parks, sidewalks, and streets proposed. She asked where the money will come from and if it will come from taxes.

Mr. Hoal stated that specific taxes are already being collected and there is a source of funding. The market study showed a market for new housing, including affordable housing. Funds are currently being collected; it is up to potential developers to use it.

Ms. Greening stated that every plan she's seen has a budget.

Mr. Hoal stated there is no funding plan.

Ms. Greening stated that if Washington University were to have more student housing, they would not be paying taxes on those properties. She added that she would like to see some type of funding plan including costs and revenue.

Mr. Senturia stated that it is a good plan and a lot of work has gone into it. He stated that there were some issues and challenges mentioned. One of the items mentioned was that housing is affordable. Low rates limit capital improvements to make housing competitive. He asked what that means in terms of affordability. He stated that it was mentioned that 76% of the residents are renters. He asked if they know what average income would be and what average rents would be.

Mr. Hoal stated that they don't have those figures for 20 years from now. He added that they have recommended that affordable housing be looked at in further detail. They recommend maintaining the level of affordable housing. There is currently no policy in University City pertaining to affordable housing. They recommend an affordable housing policy. He added that affordable housing should be addressed and be part of the recommended form-based code.

Mr. Senturia added that they are meeting the need for capital but must maintain affordable housing by including a provision for affordable housing in the future.

Mr. Hoal stated that it could be done through a set of guidelines or code requirements.

Mr. Halpert opened the Public Hearing.

Mike Geiger – 830 Vanderbilt

Mr. Geiger stated he is the president of the Parkview Gardens Neighborhood Association and the Special Business District. He stated this is the first plan since urban renewal in the 1960s. He stated that as part of the 20-year plan they have tried to maintain diversity. He added that Parkview Gardens Association owns several properties in the area and offer affordable housing. In addition, they support neighborhood parks, operate vegetable gardens, offer scholarships, and have a newspaper.

Mary Hart – 6901 Cornell

Ms. Hart stated that this is an opportunity to move forward fast. It is a 20 year plan but there are things that can move forward immediately. Sustainability, transit-oriented development, and green living are all important. She added not to get hung up on having a fiscal plan with it and there are broad strokes that can be included on how to pursue financial ends such as grant opportunities. There are many funding opportunities out there. She added that as people get older, there is more of a need for transit.

Donna Leach-Heimos – 7700 Amherst

Ms. Heimos asked what percentage will be owner vs. rental. All rental is not a good idea and ownership is better for taxes. Ownership also helps to strengthen the neighborhood. 20 years is a long time, so we cannot look at 20 years of rental.

Mr. Hoal stated that typically in planning documents they do not look strictly at for-sale vs. rental but rather at the economic plan such as rental units becoming for sale. They do not address the ownership condition of the housing.

Commissioner Greening asked what the current percentage of ownership is in the area.

Commissioner Senturia stated that 76% of the residents in the neighborhood are renting.

Ms. Heimos stated that might be top-heavy for rental. There must be a more balanced mix, perhaps 50/50. She added that she has sold condos at the corner of Westgate and Vernon. She stated it is vital to keep a mix of owners and renters, as well as both commercial and residential uses.

Tim Breihan with H3 Studios stated that the market study indicates a strong market for “for-sale” units in the area. Current market trends show more for-sale units in the future.

Elsie Glickert – 6712 Etzel

Ms. Glickert stated that she was involved in urban renewal in the 1960s. In 1962, an urban renewal bond issue was passed which resulted in development of Ackert Walkway, Metcalfe Park, and current student housing on Enright. She added that we must be practical; it will take a lot of money. There has been improvement in the area. Condominiums bring roots to the neighborhood. The neighborhood must have a base. Tenants are great, but they are transient. It is important to have ownership present.

Cheryl Adelstein – Washington University

Ms. Adelstein mentioned proposed \$80 million private investment in redevelopment project. She mentioned the additional \$20 million investment in other housing renovation in the area. These investments are catalytic in the neighborhood. Affordability of units in the area is a major concern to Washington University. There is a lot of graduate student housing in the neighborhood and it is a preferred location of international students. It is critical that the neighborhood stay affordable. Residents can walk to and from many destinations and it is sustainable. Ms. Adelstein added that the plan is setting a national model. It has also triggered applying for funding for street improvements.

Commissioner Moran asked about the \$20 million investment mentioned and if it was for property acquisition.

Ms. Adelstein stated that it is for renovations to buildings the University already owns.

Commissioner Greening asked about a non-profit entity not paying taxes and the potential burden to police and fire protection.

Ms. Adelstein stated that Washington University is a willing community partner. The University is not intending to buy more property. They recently created a for-profit subsidiary putting properties back on the tax rolls. The program is in its first year and they have put four buildings, 32 units, back on the tax rolls due to layout of the units not meeting the needs of grad students. She stated that in the future they might like to sell some of those properties.

With no further comments from the public, the Public Hearing was closed.

Mr. Halpert stated that the next step is that it would be considered for adoption at the Plan Commission meeting scheduled for May 23.

#### **Zoning Text Amendment – Proposed amendment to Article 8 of the Zoning Code**

Mr. Halpert stated that the next agenda item is a proposed amendment to Article 8 of the Zoning Code, the sign regulations. It pertains to an incident involving the display of political signs.

Mr. Lai stated that the Code Review Committee met one week ago to discuss the proposed text amendment. A memo was then sent to the Plan Commission. Since the Code Review Committee meeting, and the distribution of Plan Commission material, a couple items were revised. At the Code Review Committee meeting, there was some concern about language regarding public safety. Mr. Lai stated that the City Attorney is present to answer any questions. The Code Review Committee asked to get an opinion from the City Attorney. The revised document provided includes the Code Review Committee recommendation in conjunction with the opinion of the City Attorney. Mr. Lai added that the issue is with placement of signs and having a better definition of where signs can be placed. At the Code Review Committee meeting, there was a question about public safety. Mr. Lai stated that it was the opinion of the City Attorney that the police can do whatever necessary for public safety. The language pertaining to "each street frontage" has remained.

Mr. Halpert stated it was his understanding that the language proposed at the committee level gave too much discretion to the City as far as what is necessary to preserve public safety and that was the issue raised. He added that it was his understanding that the intent of the question was to figure out what was allowable and constitutional. He asked Mr. Paul Martin, the City Attorney, to explain the legal analysis.

Mr. Martin stated that it came about because of an incident involving removal of signs on the past election day, following the City Ordinance. This created potential conflict with first amendment rights. He added that when a limited public forum is established, people may come to that forum to express viewpoints without ordinances telling them they cannot. Candidates, supporters, or opponents may come to those locations and display signs for people who are voting to see. Limited public forum means that people can do this on those specific days, times, and places. The challenge in this case was to craft an exception to the ordinance that would permit placement of signs so there were no inconsistencies with sign ordinance and the limited public forum. The first attempt included strikethrough language, that a prohibition will not be enforced on any election day to the extent of preserving public safety. Mr. Martin added that after further thought, some new language was proposed and that is what was distributed to you. The new language states that the prohibition will not be enforced on any election day in any sign display area. Mr. Martin explained that the sign display area was the area within 5 feet of walkways and/or driveways, etc. This excludes any area within 25 feet of the door to the polling place, which is in accordance with State law.

Mr. Martin added that he had some additional thoughts including possibly addressing the size of signs if someone were to set up a large sign obstructing the view of drivers. Perhaps language could be added addressing temporary signs on public land that would limit the size. Mr. Martin stated that another possible change would be to add an exclusion for any area within 10 feet of public right-of-way to prevent display of signs that are technically within the sign display area but also in the public right-of-way that could block the view of drivers.

Ms. Moran asked about the original wording that addressed public safety and if there is any discretion given for public safety if a sign were to fall down or block the line of sight.

Mr. Martin stated that generally sign codes already address issues like that and assumed it is in the Code.

Mr. Greatens confirmed that it is addressed in the Code.

Mr. Kraft asked about the example if signs were to be placed in the sidewalk and who would be called to address it.

Mr. Martin stated it would be prohibited under the proposed language and officers can use their discretion to maintain public safety.

Mr. Senturia asked about the language, "In no event may more than one sign be placed for each street frontage," and asked if having only one sign could be limiting.

Mr. Martin stated that would apply to on-premises yard signs and might not apply to these signs. He added that the proposed language in Section 34-104.2 was not meant to control anything in Section 34-104.1.

Mr. Lai stated that the Sign Code addresses issues with placing objects within the sight distance triangle. For example, near an entryway, a sign cannot obstruct the view of drivers, so signs like that would not be allowed near entryways.

Mr. Kraft stated that if free speech is the overriding concern, how does the State ban sign display within 25 feet of the door? He added that using 25 foot buffer, a potential solution could be that on an election day, within 300 feet of the front door, it's open for any sign placement and we would not be concerned with the number. If it's a free speech zone, political speech is free speech, so within 300 feet, the suggestion would be to have no prohibitions at all.

Mr. Martin stated that it was possible that the 25 foot prohibition had always been in place. He added that political speech on election day at polling places is a recognized limited public forum. If it was opened up to any speech that has nothing to do with the election, it would be expanding the limited public forum and they could do that if they wanted to.

Mr. Kraft added that if a property owner who owns a polling place made it difficult to place signs, or for example decided on their own to not allow signs; this prohibition only applies to municipal property.

Ms. Moran asked if there was a contract with Board of Elections to use the property.

Mr. Martin stated not for public property; the Board of Elections has the right under state law to commandeer public property for polling places. If they wanted a polling place at City Hall, they could do so. There is a form to designate the polling place and the form states that signs are not allowed within 25 feet of the door. He stated that as far as he knows, a document has never been approved, so it is not a contract with binding authority. Basically, it states that this will be a polling place, here are the rules that are supposed to be followed.

Ms. Lewis stated that a lot of effort has been made for an isolated situation and if it's about polling places and not removing signs before the election is over, we've already been accommodating that. She added that signs will continue to be displayed in the same places at future elections and doesn't see the point to adding more language.

Mr. Martin stated this was what he was asked to do. He added that he thought it accomplishes the goal to eliminate any confusion in the future.

Ms. Greening stated that the process has already started.

Ms. Lewis stated that if something had to be done, she understands.

Mr. Halpert stated that it seems the issue is to ensure that signs for candidates are not removed at the discretion of someone other than candidate. He added that maybe to make it easier than using all these measurements, allow signs of candidates and have an exception for election day for signs of candidates and not deal with commercial signs, just say that if it's public property, you can place a sign as long as it's not 25 feet from door; you can place it anywhere and it is an exception on an election day. He added that the language is there, but removing language rather than refining more language could make it less complicated and would eliminate all the measurements listed.

Mr. Kraft stated that if signs are allowed anywhere outside of 25 feet, the polling place is in Heman park, which would mean you can place a sign anywhere in Heman Park on election day. He added that this might be a problem. He stated that, based on his interpretation, content is an issue and recalls that case law states you can regulate signs but not based on content. For example, if we state that political signs are okay but no other signs, it may be a problem, based on his interpretation.

Mr. Halpert stated that he recommends that staff reconvene with the Code Review Committee to try to simplify the provision to strip out all measurements, unless they are necessary. The exception would be on election day for political signs. He added that the Commission is probably not ready to approve anything, even though they have addressed some of the issues. He stated it was his understanding that we want it to be an amendment that excludes election day for political signs. It would be helpful to know what polling places are applicable.

Mr. Halpert asked for motion to postpone a motion and continue the discussion after more review from the Code Review Committee.

Mr. Senturia made the motion. The motion was seconded by Ms. Lewis. The motion carried unanimously.

#### **Plan Commission Committees**

Mr. Halpert stated that Ms. Carr is no longer on Plan Commission. He asked Mr. Greatens about the new Plan Commission member and timing of them being appointed and sworn in.

Mr. Greatens stated that after appointment, they can be sworn in in the City Clerk's office.

Mr. Halpert stated that the committees are currently Ben Senturia, Deidre Lewis, and Lisa Greening on the Comprehensive Plan Committee and Cirri Moran and Nova Felton on the Code



Review Committee. Mr. Halpert asked if any member would be interested in moving to the Code Review Committee, either permanently or for a period of one or two months.

Mr. Senturia stated he is willing to temporarily serve on the Code Review Committee.

Mr. Halpert appointed Ben Senturia to the Code Review Committee until further notified, noting that Mr. Senturia wants to be on Comprehensive Plan Committee, and will serve on the Code Review Committee until the Plan Commission is fully staffed. The committees may be rearranged when fully staffed.

Mr. Senturia asked about the Comprehensive Plan process.

Mr. Lai stated that the Parkview Gardens Plan, after it goes through the Plan Commission and then to the City Council, there are a lot of items to address. The budget process is also ongoing for next year's budget. When the City Council adopts a final version of the budget, we will know how much money is available for the project. If more staff is necessary, we can only do so much. There is no specific timetable at this point.

Mr. Kraft stated that he was speaking only for himself, but there has been a lot of reorganization among City Staff. The question will be if we have the resources to do it. He stated he would not say no to a request for the money to do it. It will depend on where it fits in on the priority list. He added that he was impressed with the Parkview Gardens process. There may not be the same amount of detail, but the process should be similar. He added that he was not speaking for anybody else and this was his view alone. He would like to see it happen.

Mr. Lai stated that the 2005 Plan still has elements to be implemented and it is not always necessarily a matter of updating the plan but implementation.

Councilmember Paulette Carr stated it should be a priority in her opinion. She added that the City Charter states it should be updated every five years. For the biking and walkability plan they had a consultant from Trailnet. She stated she would support a consultant do the Plan and for the Plan Commission to be involved in how to proceed.

Mr. Halpert asked if there was a way to let City Council know we had these discussions and he was curious about the next steps. He added that the Plan Commission is ready for the next step in the process.

Mr. Kraft stated it could be included as an agenda item as part of Council Liaison report. He added it could also be topic for the budget discussions. A lot of it depends on whether they have money for it or not.

Mr. Halpert stated that maybe this is a way to show City Council we are concerned and ready to start the process.

Ms. Moran stated it seems like the Parkview Gardens process could serve as a model that could be followed. They seemed like a group of people who know the ins and outs of the process. We have that resource to tap into.

Mr. Lai stated that the Parkview Gardens study area is a small area compared to the entire City. It was a three year process compressed in to 14 months. That was also a \$600,000 process.

Mr. Halpert agreed that money will be one of the main issues. He requested to bring it up to City Council.

Mr. Halpert asked for motion to adjourn.

A motion was made by Ms. Lewis to adjourn. The motion was seconded by Ms. Moran. The meeting adjourned at 9:20 pm.