**PLANNING COMMISSION MINUTES**

JANUARY 9, 2018

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, January 9, 2018 in the Municipal Building Multi-Purpose Room at 7700 Mission Road. Chairman Nancy Wallerstein called the meeting to order at 7:00 p.m. with the following members present: Jonathan Birkel, Jeffrey Valentino, James Breneman and Gregory Wolf.

The following persons were present in their advisory capacity to the Planning Commission: PJ Novick, City Planning Consultant on Meadowbrook Development; Jamie Robichaud, Assistant City Administrator, and Joyce Hagen Mundy, Commission Secretary.

###### **APPROVAL OF MINUTES**

James Breneman noted a period instead of a comma joining the two motions made at the bottom of page 10. Jonathan Birkel moved for the approval of the minutes of the December 5, 2017 regular Planning Commission meeting as corrected. The motion was seconded by James Breneman and passed by a vote of 4 to 0 with Mr. Wolf abstaining.

**PUBLIC HEARINGS**

There were no Public Hearings scheduled before the Commission

**NON PUBLIC HEARINGS**

**PC2018-101 Preliminary & Final Plat Approval – Meadowbrook Park, Second Plat**

**Meadowbrook Parkway & Nall Avenue**

Gregory Wolf questioned VanTrust’s relationship to this application. Judd Claussen with Phelps Engineering stated that VanTrust is currently the owner of this property that is being sold to Dial Realty. Mr. Wolf stated that as his law firm represents VanTrust, he would be recusing himself and left the meeting.

Judd Claussen with Phelps Engineering representing Dial Properties stated the requested replat of Lot 1 into four lots. This is the Senior Living portion of the Meadowbrook property. He stated that nothing has changed from the final development plan approved by the Planning Commission in October. The plat was being subdivided for the purpose of financing. Mr. Claussen stated they had received the staff report and were in agreement with the conditions of approval recommended by staff.

P.J. Novick noted that this application came as no surprise and is an outgrowth of the owner’s actions to develop the lot. The six (6) building, 222-unit senior project is being developed by Dial and branded as Silvercrest at Meadowbrook providing the following:

* 60 Assisted Living Units
* 20 Memory Care Units
* 142 Independent Living Units

As part of the review of the Final Development Plan, the applicant identified that the six (6) planned interconnected buildings would be constructed in 2 to 3 different phases and included a concept plan for the replat.

The Final Development Plan for Meadowbrook was approved in March of 2016. At that time, it was noted that Final Development Plans for the senior living center and the hotel would be submitted at a later date. The Final Development Plan for the Silvercrest at Meadowbrook Senior Living Center was reviewed and approved by the Planning Commission on October 3, 2017.

Mr. Novick stated there are no outstanding issues and the proposed Preliminary and Final Plats are consistent with what was reviewed and approved with the Final Development Plan for the Silvercrest at Meadowbrook.

When replatting was first proposed by the applicant during the Final Development Plan review, City staff acknowledged that the applicant would need to address two items. First, the applicant would need to ensure that any building and property line separation and clearance requirements contained in the building and fire codes be addressed. Second, the applicant would need to establish a lot owner’s association or other private consortium agreement to address issues related to these lots sharing utilities, parking, and storm water management as well as building and site maintenance and cross access rights.

The applicant stated that they will comply with the separation requirements of the building and fire codes and will be executing an Easement, Covenants, and Restrictions (ECR) document to cover shared utilities, storm water, parking and cross access.

Due to the relatively minor nature of the proposed replatting and the fact that plat does not include any public improvements, staff had no objections to the Commission taking action on both the preliminary and final plat at the same meeting. Each item will require separate action by the Commission.

Staff recommended the Commission first approve the Preliminary Plat and then the Final Plat as proposed for the replat of Lot 1 of Meadowbrook Park (Meadowbrook Park, Second Plat), both subject to the following conditions of approval:

1. As part of the building permit process, the applicant will verify compliance with all fire and building code fire separation requirements related to the new lot lines.
2. Prior to the release and recording of the final plat, the applicant must execute a private consortium agreement or covenant that addresses all issues related to the proposed lots sharing utilities, parking, and storm water management, including building and site maintenance and cross access rights.

Judd Claussen stated the ECR is currently being drafted and will be presented to the city’s attorney for review and approval. Once approved, that document will be filed and recorded simultaneously with the plat at the County. Mr. Claussen noted this same process was followed for the Dial senior living community in Lenexa.

James Breneman asked if all the driveways and parking areas are private. Mr. Claussen responded the only public area shown on the plat is Nall Avenue. The driveways and streets are private. Mr. Breneman noted that all of the sidewalks are located outside of the property and asked about the gas line along Nall. Mr. Claussen replied the gas line along Nall is within the property.

Mr. Novick stated that no public improvements are needed with the plat and that all proposed improvements were approved in the Final Development Plan approved by the Commission in October. Since there are no public improvements or easements to be accepted, the plat technically does not need to go before the City Council. However, since previous Meadowbrook applications have gone before the Governing Body, he would recommend that this be sent on to Council, as well.

Jonathan Birkel asked if the lots could be under separate ownership or if they are all under the same parent company and asked what would happen if one of the lots were sold. Mr. Claussen responded that the ECR covers common grounds and easements related to all lots, regardless of ownership.

James Breneman noted that the building lines are all shown more than 5 feet from the property lines. Mr. Breneman noted a discrepancy between the preliminary and final plats with 31’ depicted between lots 1 & 2 on the preliminary plat and 179’ depicted on the final plat. Mr. Claussen stated that would be corrected prior to submittal for signature.

Nancy Wallerstein stated she thought there were additional stipulations on the approval of the final development plan. Mr. Novick stated there were some; however, they were related to the final construction document. The plat has not changed at all from what was approved by the Commission

Jeffrey Valentino confirmed that the conditions of approval established in October are retained and that use of the driveways is addressed in the ECR. Mr. Novick added the ECR must be approved by the City Attorney prior to the execution and filing of the plat.

Nancy Wallerstein asked for clarification on the ownership. Mr. Claussen stated the holding companies for the different lots/buildings may be different, but all will fall under the ownership of a single master company.

Jeffrey Valentino asked what would happen if one section were not constructed. Mr. Novick noted that the project as presented and approved is to be phased in. Nancy Wallerstein asked if there were established deadlines for construction to be completed. Mr. Breneman noted that the developer indicated that lots 1 & 2 would be constructed in the first phase with lots 3 & 4 to follow either jointly or separately depending on the market demand. Mr. Claussen noted that this was very common in this industry.

Nancy Wallerstein noted that this was part of the TIF and she wanted to make sure the development is completed. Jamie Robichaud stated that the requirements for receiving TIF are typically addressed in development agreements, and the TIF funding is not a factor that needs to be considered by the Planning Commission when approving plats, as this is considered an administrative approval.

Jonathan Birkel stated he understands the concept outside of financing and is trying to understand why individual lots are needed. He was concerned that the sale of one of the properties would impact the function of the others. Mr. Claussen explained the ECR was similar to the restrictions governing townhomes with separate property owners and common grounds. He added that the ECR has been used successfully in the development of the Dial properties in Omaha, Belton and Lenexa.

Jeffrey Valentino suggested that a stipulation be added that the ECR be approved by the city’s attorney. Mr. Novick noted such a condition is not relevant to preliminary plat approval.

Mrs. Wallerstein asked why the multiple lots were necessary. Mr. Novick responded it would allow for different lenders to finance different parts of the project. He noted some lenders only finance specific types of facilities. Mr. Valentino stated he would be ok if it could be guaranteed that lots 1 & 2 were developed. Mr. Claussen noted that Dial Realty is a recognized and successful developer of senior living facilities. Mrs. Wallerstein asked if the Lenexa facility was a TIF project. Mr. Claussen replied it was not. Mrs. Wallerstein stated the Commission was seeking to protect the city. Mrs. Robichaud assured Mrs. Wallerstein that the Development Agreement between the City and the developer addressed the concerns expressed and these were not factors that needed to be considered by the Planning Commission.

Nancy Wallerstein stated that financing should not have been part of the presentation for plat approval and consideration by the Commission if it wasn’t something the Planning Commission should take into account, but since it was, the Commission feels compelled to do its due diligence. Mr. Claussen responded the reason the replat was necessary was to accommodate the financing, and that was the reason it was mentioned in the staff report, so that the Planning Commission understood why this was coming before them again. Jonathan Birkel confirmed there was one primary ownership body. Mr. Claussen stated it was Dial Realty.

Mr. Novick restated that the ECR remains with the land regardless of the owner of each lot.

Nancy Wallerstein reviewed the conditions of approval recommended by staff and asked for a motion.

Nancy Wallerstein moved the Commission approve the Preliminary Plat as proposed for the replat of Lot 1 of Meadowbrook Park (Meadowbrook Park, Second Plat), subject to the following conditions of approval:

1. As part of the building permit process, the applicant must verify compliance with all fire and building code fire separation requirements related to the new lot lines.
2. Prior to the release and recordation of the final plat, the applicant executing a private consortium agreement or covenant that addresses all issues related to the proposed lots sharing utilities, parking, and storm water management, including building and site maintenance and cross access rights.

The motion was seconded by James Breneman and voted on with Mrs. Wallerstein and Mr. Birkel voting in support of the motion and Mr. Breneman and Mr. Valentino voting in opposition. The motion failed for the lack of a majority.

James Breneman stated his opposition was that the project does not contain a skilled nursing component as he believed was promised by VanTrust. Mr. Novick noted that was not germane to approval of a plat. Nancy Wallerstein responded that Mr. Breneman is not supportive of moving forward with this project without the skilled nursing component, which she says was promised, and stated that Mr. Breneman has voted consistently against the project.

Jeffrey Valentino stated that he voted in opposition because he did not get clear answers regarding the ECR “Easement Covenant Restriction” agreement. Mr. Novick stated that condition number 2 can be amended to specifically require approval by the City Attorney.

Nancy Wallerstein reviewed the conditions of approval recommended by staff and asked for a motion.

Nancy Wallerstein moved the Commission approve the Preliminary Plat as proposed for the replat of Lot 1 of Meadowbrook Park (Meadowbrook Park, Second Plat), subject to the following conditions of approval:

1. As part of the building permit process, the applicant must verify compliance with all fire and building code fire separation requirements related to the new lot lines.
2. Prior to the release and recordation of the final plat, the applicant, executing a private consortium agreement or covenant that addresses all issues related to the proposed lots sharing utilities, parking, and storm water management, including building and site maintenance and cross access rights, as approved by the City Attorney.
3. Correct the dimension of the lot line between lots 1 and 2 on the final plat from 179.82’ to 30.60’ to be consistent with the preliminary plat.

The motion was seconded by James Breneman and voted on passing by a vote of 3 to 1 with Mr. Breneman voting in opposition.

Nancy Wallerstein moved the Commission approve the Final Plat as proposed for the replat of Lot 1 of Meadowbrook Park (Meadowbrook Park, Second Plat), subject to the following conditions of approval:

1. As part of the building permit process, the applicant must verify compliance with all fire and building code fire separation requirements related to the new lot lines.
2. Prior to the release and recordation of the final plat, the applicant executing a private consortium agreement or covenant that addresses all issues related to the proposed lots sharing utilities, parking, and storm water management, including building and site maintenance and cross access rights, as approved by the City Attorney.
3. Correct the dimension of the lot line between lots 1 and 2 from 179.82’ to 30.60’.

The motion was seconded by James Breneman and voted on passing by a vote of 3 to 1 with Mr. Breneman voting in opposition.

Jonathan Birkel stated that for something as complex as this, it would have been helpful to have the city attorney present to address the Commission’s legal concerns, noting his expertise falls in building and plan review.

Nancy Wallerstein stated she felt the amendment to condition #2 sends the Commission’s message of concern to the city attorney.

**NEXT MEETING**

The Commission Secretary announced the following items had been received for the February 6th meeting.

* BZA application for a side yard setback at 4111 West 73rd Terrace.       4111 W. 73rd Terrace, John Schutt, Variance from 19.08.025A, side yard setback.

**Planning Commission**

* 7930 State Line Road, TW Macon, LLC, amendment to preliminary development plan – car wash facility
* 7930 State Line Road, TW Macon, LLC, Special Use Permit and Site Plan Approval – car wash facility
* 7540 Reinhardt Street, John Moffitt, MoJo Built, LLC – rezoning request from R-1a to R-1b
* 7540 Reinhardt Street, John Moffitt, MoJo Built, LLC – lot split request
* 5200 W. 95th Street, Garren Miller – site plan approval – exterior and façade changes
* 4504 W. 69th Street, Duanne Pankratz (architect) – building line modification
* 4901 Meadowbrook Parkway, Van Trust Real Estate – final development plan for Meadowbrook Inn
* 4100 Homestead Court – Homestead Country Club – Special Use Permit for Country Club and Site Plan Approval

Jamie Robichaud reported that staff has been reviewing the Comprehensive Plan chapter by chapter noting items that they felt were still relevant, those that were no longer relevant, and those that have been completed. They will have completed their review by the February meeting, but due to the length of the agenda, it will not discussed at the Planning Commission meeting. It may be presented at a special work session in February or at the March meeting.

**ADJOURNMENT**

With no further business to come before the Commission, Chairman Nancy Wallerstein adjourned the meeting at 7:50 p.m.

Nancy Wallerstein

Chairman