

EXCERPTS

PLANNING AND ZONING COMMISSION MEETING

OCTOBER 6, 2016

IV) SUBDIVISIONS

Case No. 16-206

A request by Hinshaw Family Partnership, L.P. (owner) to consolidate three lots into a single lot by a replat to be known as "Anthony's Addition Plat 2". The 0.91-acre subject site is located on the northeast corner of Anthony and Dorsey Streets, and is addressed as 1401, 1405 and 1407 Anthony Street.

MS. LOE: May we have a staff report, please?

Staff report was given by Mr. Pat Zenner of the Planning and Development Department. Staff recommends approval of the proposed final plat.

MS. LOE: Are there any questions for staff? I had one. Mr. Zenner, is there any proposed new use for the site that's coming forward with this application?

MR. ZENNER: Not at this point. As I indicated, this is a -- it's for lack of better terms, a preemptive replatting of the existing lots to ensure that it is a single parcel so at a point in the future, and we don't know if that will ever occur, the ability to build on a single tract that has been platted in accordance with the new standards, where there are no property lines intervening, is already created. The new UDC provision does not allow an individual to build a structure over a property line and have it considered a single lot as it is today. So that is why this plat has been presented. It's more of a preemptive, corrective action to ensure that in the future, should they redevelop, they have the ability to utilize the entire parcel without going through a different platting action at that time.

MS. LOE: Thank you. Any additional questions for staff? Seeing none. Even though this is not part of the public hearing portion of the meeting, if there is anyone in the audience that would like to speak on the matter, we would welcome that. If you feel you have any information that would be helpful to our understanding or in reaching a decision, please approach the podium and please give your name and address for the record.

OPEN PUBLIC DISCUSSION

MR. AKERS: My name is Jeff Akers; I live at 1411 Anthony, which is directly adjacent to the properties in question. I've lived in East Campus for more than 20 years and I live in an R-1 house, family dwelling. And I see this action just as was stated, as a preparation for ultimately a structure being built for student housing, which I oppose. In general -- I am very well acquainted with the nature of the neighborhood in general and the infrastructure that exists, and the addition of another such property would be detrimental to the overall nature of the neighborhood as well as putting considerable strain on the existing infrastructure, including sewage, electricity, the actual parking facilities available. Looking at the property and having an understanding of -- of how it probably would be utilized, I would expect to see

impermeable surfaces for parking being included in that area. Knowing the problems that we have had with storm water and the considerable effort that we have put forth on my house to alleviate what already exists, I'm quite concerned about that as well. So I don't see much of a benefit, only a downside to this, including the addition of noise and additional issues that would be associated with the ultimate facility that would be put in that place. I like the neighborhood as it is. I understand change must occur, but to totally disrupt the nature of the neighborhood, I don't see that as a positive thing. That's what I wish to say. Thank you.

MS. LOE: Thank you. Are there any questions for this speaker?

MR. MACMANN: I do, sir, if I may. Hi, Michael MacMann. Could you exemplify for me the storm-water issues that you currently have?

MR. AKERS: When we initially arrived in the East Campus Neighborhood Assoc-- or pardon me -- East Campus neighborhood, when we would have a very substantial rain, we would see a significant amount of water coming down the incline from the upslope going back -- literally coming up against the side of our house as much as, oh, an inch or so thick sheet of water. Now, that has been alleviated a little bit, but it was aggravated again when additional parking was put back there, and so the problem was aggravated even more at that point. And we would see a very substantial amount of water literally coming down the hill and going up against the side of our home where we ultimately ended up building a large drainage system specifically to accommodate that water on the side of the house so the house would not be damaged.

MR. MACMANN: You did this personally or the City did this?

MR. AKERS: No. We had -- we paid to have it done.

MR. MACMANN: That's -- that's where I was going.

MR. AKERS: I didn't dig it out, no.

MR. MACMANN: I used to be your neighbor before you -- before you lived there, I lived -- I lived next to where you live.

MR. AKERS: Okay.

MR. MACMANN: So you're saying the storm water issues are significant now?

MR. AKERS: They are. And the thing is it's -- it was improved with what we did to the point to where our basement, for the most part, is dry where it used to be regular running water down there.

MR. MACMANN: And one of your concerns -- I'm sorry, I didn't mean to interrupt --

MR. AKERS: Well --

MR. MACMANN: -- is that there will be more impervious surface --

MR. AKERS: Additional --

MR. MACMANN: -- and more runoff?

MR. AKERS: -- impermeable surfaces added in, you're going to see more. It's -- it's a simple matter of -- you know, but there are things that can be done to alleviate that. I'm not saying that engineering solutions are not available, I'm just simply saying that if that's not kept in mind, that is an

issue.

MR. MACMANN: Let me go a little further. I don't mean to keep you too long. Do you have any sewer -- sanitary sewer issues where you live?

MR. AKERS: The interesting thing about Anthony is you've got systems on systems which have accumulated over years. Our property is a hundred or so years old. And I have seen instances where there has been backup of the sewage system in that area. I have seen a number of different things that have happened and also it appears to me, and I don't know this for sure, that the City is not exactly sure what exists at that point. I know that there is an older system that exists there. And for all I know, there may be some houses along that are still using that.

MR. MACMANN: Are you on a private common collector?

MR. AKERS: I am not.

MR. MACMANN: Is part of the sewer yours? That's what I'm asking.

MR. AKERS: No. No. No. No. I do not own part of it.

MR. MACMANN: Okay. So the -- you're totally on the City line where you are?

MR. AKERS: As far as I'm aware, yes.

MR. MACMANN: When is the last time you had a sewer issue on the -- on your area of the street?

MR. AKERS: About -- don't quote me on this, but I think about six years ago.

MR. MACMANN: All right. I have no more questions of you. Any of you other Commissioners? Thank you.

MS. LOE: Thank you, Mr. MacMann. Thank you, Mr. Akers.

MR. AKERS: Thank you. Is that it?

MS. LOE: Is there anyone else that wished to speak on this matter?

MR. LUECK: Members of the Commission, I'm Ron Lueck; offices at 914 North College. I'm the land surveyor on this plat, as well as the next one. And to answer some of your questions or one pertinent one, there is no development plan for this, nor is there any sale pending or anything that I know of on this, to the best of my knowledge. This is a replat consolidating three lots into one and conforming to the subdivision regulations and not any site plan, so there is no plan for this at the moment. If this passes all the concerns of the City staff, there is not really any reason to deny it. The time to oppose any kind of future development on this would be a presentation of a site plan, some kind of a -- all the plans that go with that -- storm water, sewer, street, sidewalk, those things. But at this point, we're just consolidating it into a single lot. It's a rooming house, a triplex, and a duplex combined on this place. If you've got any questions, I can answer them.

MS. LOE: Are there any questions for this speaker? Thank you, Mr. Lueck.

MR. LUECK: Thank you.

MS. LOE: Is there anyone else who would like to speak on this matter?

MS. HAMMEN: Hello. I'm Janet Hammen; I live at 1844 Cliff Drive. And the replat of Lots 19,

20, and 21 of Anthony's Addition that will consolidate these three lots into one raises several issues. First, this speculative replat would be detrimental to other property in the neighborhood and detrimental to the property in the neighborhood outweighs the benefits to the developer. In fact, what our -- what is the benefit to the developers or the public in this replat? There is not an updated infrastructure in the neighborhood and the replatting of the subject site would result in the formal creation of a single lot which could be redeveloped, adding a great burden to the old outdated infrastructure. I believe part of the subject site has a private sewer line. I'm not sure. Maybe it's on Dorsey Street, but I think it might come across onto to the Dorsey side of the lot. Second, if the front yard is determine to be Anthony, and I did just learn that staff could or the director could, at the developer's discretion, change the front yard to Anthony Street, I don't see that the median setback, as clearly shown by this plat map, would be recognized. You can clearly see that the three structures, the five on Anthony on that block, are more than 25 feet back, and we have no indication form the staff report, from this plat map as to what the median setback actually would be for a new structure. So to me that leaves just enough of a question even, what would go into the recorded record if this plat map showing or the -- the final plat showing a 25-foot building line, and I see that as a -- as a big red flag even though it might be, and it would be in the minutes, it would be somewhere that the median setback could be and should be met. But again my experience is unless -- unless the issue is raised, it's not routinely followed that there is a -- a median setback for the block in the neighborhood. The third issue is, according to the staff report, several of the structures will become nonconforming in relationship to the new setbacks. Section 29-28 on nonconforming uses deals extensively with existing nonconforming uses of buildings and lines at the time of passage of Ordinance 9958 -- I don't know what that is -- or annexation. It lists various ways that nonconforming uses can continue or must be discontinued. There is nothing I can find that says it is okay to create nonconforming uses or buildings. Why would you approve a replat that creates nonconforming buildings? So I ask you to deny this final replat of Lots 19, 20, and 21 of Anthony's Addition. Thank you.

MS. LOE: Thank you, Ms. Hammen. Are there any questions for this speaker? I had one. On the median setback, is your concern that the median setback for the block is actually greater than the 25 feet?

MS. HAMMEN: I'm sorry. Yes, indeed. As you can see, all three of these houses are sitting back further than 25 feet. There is an allowance for a front porch to encroach into a building setback, but the houses sit back further, and I believe the other two to the south, one of which is Mr. Akers', and the other which is the corner of Shockley and Anthony is also zoned R-1. I -- I didn't measure. I don't know the measurements. I'm not sure who provided measurements, but I'm fairly confident that they sit back at least as far as these three do.

MS. LOE: Thank you. Is there anyone else wishing to speak on this matter?

MR. LUECK: Do I get a second shot?

MS. LOE: You do. Please -- please approach the podium.

MR. LUECK: I can respond to that front yard median setback. It probably should be another foot

or so back.

MS. LOE: Oh. Mr. Lueck, can you repeat your name and address?

MR. LUECK: Sorry. I'm Ron Lueck, the land surveyor; 914 North College Avenue here in Columbia.

MS. LOE: Thank you.

MR. LUECK: And I can probably agree with her on that. Their median setback probably should be another foot back. I've measure the three -- the other two houses. There's only five on the block, and I can come up with a median setback and establish that along there if it pleases the Commission.

MS. LOE: Thank you. Anyone else who would like to speak to this matter? If not, I'm going to close public discussion.

PUBLIC DISCUSSION CLOSED

MS. LOE: Any discussion amongst the Commission? Mr. MacMann?

MR. MACMANN: Thank you, Ms. Loe. I have concerns about -- Ms. Hammen called it a speculative replat. I -- that's how I see this, as a speculative replat. The expedited nature, Mr. Lueck notwithstanding, Mr. Hinshaw is a businessman. He'll have a plan quite soon, I would imagine. I'm inclined to vote no on this because I see the speculative and creating a nonconformity. I appreciate -- we'll address this issue again when the plan comes up, if it -- if we get to that point. But, right now, I'm going to withhold my approval. I just wanted to say that.

MS. LOE: Mr. Stanton?

MR. STANTON: I think some good points were made this evening. I guess where I'm at is that if any future plans for this -- this plat occurred, doesn't it have to conform to the overlay of the neighborhood? And if -- how much -- how much teeth does that have, how much weight does that have in the future development? That's my concern. I definitely see it as a business move and my concern is will it -- will it -- will it have to conform to the overlay?

MS. LOE: Mr. Zenner, can you help us out with that question?

MR. ZENNER: Yes, it will have to conform with the overlay and all of its standards, and it will also need to conform with any zoning requirements that exist at the time that redevelopment occurs.

MS. LOE: Do you happen to know if the East Campus Overlay has requirements for developments in the R-3 zoned lots?

MR. ZENNER: There are provisions within the East Campus Overlay that refer to lots created prior to 2002, legal lots created prior to 2002 having an option to follow either the existing R-3 zoning regulations or the overlay standards. Those lots that are then created after 2002 are required -- do not have the option -- they are required to comply with the -- the R-3 zoning standards as they exist today. That is the -- that is the interpretation that has been provided to us. The Code, again this is impacted by the Unified Development Code and provisions that exist within it for neighborhood transitions and protections that would, in essence, require particular design features, as well as setbacks and stepbacks from adjacent property lines given that the R-1 property is immediately to the east that would have to be

complied with. Therefore, the replatting of the property doesn't relieve this individual of those future requirements, nor those that exist today under the East Campus Overlay.

MS. LOE: Thank you. Ms. Rushing?

MS. RUSHING: I agree with Mr. MacMann. I -- I really don't understand this request at this point in time. If the property owner were to decide to sell one part of this property, he would be back here asking to -- to separate the lots. As long as they have three individual buildings on them, I don't see the need to consolidate them. If they want to develop it as a single lot, then they could do the consolidation at that time, and then we wouldn't be creating a nonconforming uses.

MR. MACMANN: I'm fine right now. Go ahead.

MS. LOE: Ms. Russell?

MR. MACMANN: Go ahead, please.

MS. RUSSELL: I am going to support doing this. I think that after the consolidation, it will have to meet all the requirements of any new Code we may approve, any storm-water regulations. They will be back in front of us for some kind of final determination. So I think it's -- it's a property rights thing also. The owner wants to consolidate it into one lot, and I'm going to support that.

MS. LOE: Mr. Harding [sic]?

MR. HARDER: I feel that I'm going to support it, as well, too. It is -- all three of the lots are theirs and they have -- have ability to request a replat. I -- I like the East Campus area as it is now, but I feel that they should have that ability to at least try to consolidate into one lot, and I'm sure that, in the future, if there is, you know, potential for something new, it'll go through some pretty strict scrutiny and stuff. So I'm going to go -- I'm going to tend to support it.

MS. LOE: Mr. Zenner, when a proposal is made, will that come back before Planning and Zoning?

MR. ZENNER: No, it will not.

MS. LOE: Okay.

MR. ZENNER: This is a nonplanned district property. Under the provisions of the East Campus Overlay, that is reviewed internally. The neighborhood association is notified of that review in order to be able to provide comment on its compliance prior to the building permit being issued. So, no, you will not see this project again unless there is a request to rezone to permit some other type of use on the property. Under the proposed UDC, again, this will go to RMF. It will be subject to all RMF zoning standards, design requirements, screening, storm water. So, I mean, there are other provisions that will apply to this in addition to those that are design driven through the East Campus Overlay itself. I would like to also, if I may, Ms. Chairman, remind the Commission this is a technical item. This is what we refer to, as we have talked before, administrative action. The nature of how this property will be used in the future is really not relevant to the discussion. If the project does comply with our requirements within the subdivision regulations which we have identified that it does with potentially the exception of a median setback on what will become a side-yard lot line at this point, other than that one issue, it does comply.

And just to speak to the fact of Ms. Hammen's question as it relates to nonconformity for the corner lot, it has been standard practice for many years that the replatting of a property that through our application of additional right-of-way or the application of a setback standard and a structure becomes a nonconforming as a result of that is not an illegal action. It is a result of the desire of the property owner to replat and reconfigure their lot and, therefore, it is not addressed, as Ms. Hammen has pointed out, but it is not also then an issue that we have denied the ability to do it. We have recently done it on three plats that I can think of. So that issue, unfortunately, I don't believe is one that is -- is relevant either. This structure will allow -- be allowed, until it is removed, to exist in its current location and operate as it does today. Upon removal or destruction greater than 75 percent, it will need to become compliant. And again we are unaware of any development plans at this point that have been submitted to redevelop this site for anything other than the existing structures that are here. This is a replatting action that, with the exception of a front-yard median setback on Anthony Street, is compliant. And if you would like to make a motion, the motion, if it is your desire to require that the median setback be applied to Anthony Street, you will need to include that in your motion, if you would, please.

MS. LOE: Thank you, Mr. Zenner. Would anyone care to frame a motion?

MS. RUSSELL: I will.

MS. LOE: Ms. Russell?

MS. RUSSELL: In the case of 16-206, Anthony Addition Plat 2, I recommend approval of the final plat with the requirement of the median setback of 25 feet.

MR. ZENNER: It would be -- if I may? Median setback applied to the Anthony Street --

MS. RUSSELL: To Anthony Street. Right.

MR. STANTON: Second.

MS. LOE: Thank you. So, the motion made by Ms. Russell, second by Mr. Stanton. May we get a vote, please?

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Russell, Ms. Loe, Mr. Harder, Mr. Stanton. Voting No: Ms. Burns, Mr. MacMann, Ms. Rushing. Motion carries 4-3.

MS. BURNS: We have four votes in the affirmative, three votes no. The motion carries.

MS. LOE: Thank you, Ms. Burns. Recommendation for approval will be forwarded to City Council.