

EXCERPTS
PLANNING AND ZONING COMMISSION MEETING
March 5, 2020

Case 61-2020

A request by Crockett Engineering Consultants (agent), on behalf of On the Ninth LLC (owner), for approval of a major amendment to the On The Ninth PUD Plan, located on PD (Planned Development) zoned property, to permit the replatting of Lot D2 into 5 single-family lots as well as approval of an associated design adjustment to Section 29-5.1(d) of the Unified Development Code to waive sidewalk construction on the west side of Bunker Loop. The 5.68-acre property is located on the east side of Old Hawthorne Drive West, approximately 1,300 feet north of Route WW.

MS. LOE: May we have the staff report please.

MR. SMITH: Yes. Thank you, Ms. Chair. As you stated, this is a major amendment to an existing PD plan. In addition to that there is a request for a design adjustment. Part of the major amendment is that they are resubdividing an existing lot within that PD plan. The design adjustment is addressing a request to waive the sidewalk construction along the west side of Bunker which is a requirement of the subdivision regulations. This is a public hearing. Public information meeting was held and the hearing information was advertised as shown there on the bottom of the screen. It's kind of the aerial view of the site. As you can see we're kind of located generally northeast of Rolling Hills Road and Highway WW. That would be the intersection there in the kind of bottom left-side corner. This is the Old Hawthorne development as a whole with a specific PD plan for On the Ninth as the highlighted area there in the center of the screen. And this is a little bit closer-up view so you can kind of see a little more of the detail of the site. So a lot of the site has been developed already. It is generally developed as a single family attached development alongside the golf course on the east side of its boundary. The piece we're discussing most specifically in the plan is the area in the center there of the Loop Road. It's generally undeveloped at this time. As you can see, generally there's -- you get the single family attached along the eastern side of it which was originally proposed for the kind of inner loop there as well. The proposal here would basically eliminate the single family attached design and replace it can with single family attached. So on the left of the existing current plan, as you can see again, the middle loop, we've got two sets of buildings, four units each, similar to what we had on the east side. So those would be removed and replaced with the configuration on the right side of the screen, which is basically five freestanding lots, single family detached lots, so one unit on those lots with a common lot in the middle. As you notice on the left side of the screen too, the plan was approved with no sidewalk on the west side of Bunker Loop. The proposed plan is requesting basically to continue that feature on the new revised plan as well. And that is the design adjustment that's required. And that is required because as a major amendment to the PD, they are required then to come fully compliant with UDC standards. So really, in essence, we're reviewing it as it's a new plan. So waiver of the sidewalk would be considered a design adjustment, so they need to further justify the design adjustment through the design adjustment standards as per typical. Again, I kind of went through this already. They're subdividing that lot into five single-family lots. This is generally going to go down from eight units, eight single-family attached units on

the site down to the five really that would be permitted afterwards. The design adjustment again is for the sidewalks on the west side of Bunker Loop. Just to kind of quickly go through the standards. Generally with sidewalks as we've kind of consistently said in the past, three of those standards generally revolve around does this design adjustment cause safety or impact pedestrian travel. Generally when sidewalks are asked to be waived, we're going to say yes, that does impact them. There is a -- there is a safety issue. It does make getting around more difficult. The other kind of substantial design adjustment standard there is the design adjustment being proposed to address some kind of unique situation or a design element to the site. There's no clear design element here that's being addressed. So after reviewing all the standards, there doesn't appear to be clear evidence that design adjustment is warranted in this case. So Staff is recommending denial of the design adjustment. And since the sidewalk is not shown on the plan, we're also recommending denial of the plan itself. I would say alternatively another recommendation that might be appropriate is approval of the plan with an condition that the sidewalk be added as well. So just to keep that in mind. So with that, just to paraphrase again, we are recommending denial of the request. I'd be happy to answer any questions.

MS. LOE: Thank you, Mr. Smith. Before we move on to questions for staff, I'd like to ask any commissioner who has had any ex parte prior to this meeting related to this case to please disclose that now so all commissioners have the same information to consider on behalf of this case in front of us. Seeing none, are there any questions for staff. I see none. Oh, Mr. Strodtman.

MR. STRODTMAN: Mr. Smith, can you -- do you have any information as to when it was approved before without sidewalks? Was that a -- due to a design factor, or is it just something that --

MR. SMITH: That's a fair question. So we did -- I did go back and review the case from 2014. There was very little to no information on the decision not to have that sidewalk on the west side. Generally the standards at that time were sidewalks should be constructed on both sides of the streets as if it was a public side- - a public street and it should -- I don't think I -- I kind of didn't mention that specifically; it's in the staff report, but this is considered a private street, I should note that. So it's not necessarily clear why that was approved. There's not a lot of information in the review or the minutes of the meetings, so it may have just been something that was overlooked at that time. It's not clear that it was specific design element. There's nothing in the plan that would address it either.

MR. STRODTMAN: Thank you.

MS. LOE: Additional questions for staff? Seeing none, we will open it up to public comments. If anyone does have any comments they'd like to share on this project, please give your name and address for the record. You'll have three minutes to speak. If you're speaking for a group, you'll have six minutes.

MR. CROCKETT: Madam Chair, members of the commission, Tim Crockett, Crockett Engineering, 1000 West Nifong. I'm here tonight representing Ben Galloway, the developer of the On the Ninth project in Old Hawthorne. And again, just a real quick overview. This is a PD plan that was originally approved in 2014. It originally had 32 attached single-family units on that property. I think the revised plans contains a mix of 28 -- I think it's actually 27 attached single-family and detached single-family units. So it does conform to the original statement of intent, and we are asking for this variance tonight, design modification due to the sidewalk. This is the original plan that was proposed, that was approved back in 2014. And I think Mr. Smith is correct in the fact that there wasn't a lot of discussion with regards to sidewalks on both sides because really it wasn't -- it wasn't an

issue at that time. Additional units as shown here, the center portion has eight residential units. And it really wasn't an issue, wasn't a topic in 2014 with regards to not having that sidewalk on the west side of Bunker Loop. Bunker Loop is a private drive. It isn't necessarily the main thoroughfare through there so it is private, it is small, doesn't have a lot of traffic; the volumes on that are relatively small. And it wasn't an issue at that time. These right here, the green lines illustrates the sidewalks that are out there at this time. Of course we have them along Old Hawthorne Drive and we do have them along the east side of Bunker Loop as it circles the private drive. This is the proposed plan we're coming back with. You have seen this before. Mr. Smith showed you this plan. We're taking out the eight internal units and replacing them with five single-family residences. Those residences are very similar in nature to the multi-family attached, it's just a little different product out there in the same type of development. So Mr. Galloway's got some interest in that, so he's decided to propose that at this time. Going back to the sidewalk just a little bit, it's not really uncommon for Old Hawthorne to have sidewalks on one side. Several of the smaller PUDs similar to On the Ninth have sidewalks on one side. One of them doesn't have sidewalk at all internal to their development. So it's not really uncommon in this location for that to be the case, so -- and when the staff says it's not a unique situation, I'd agree with that. It's not unique, particularly for this, but it's certainly not unique in the development itself. So this map right here again, we're going to show the existing sidewalk. All of those five residences have direct access to the sidewalk across the street. They also have access to the sidewalk behind their house. It's not that we're asking for sidewalk variance that's dislocated or disconnected altogether from residential development. It is right there; it's just simply right across the street. We're looking at a smaller product line in this location with two-car garages, and we're trying to minimize the amount of concrete, just amount of -- just the physical appearance, the aesthetics of the lots themselves. And so we feel that the sidewalk that's there is ample, it suits the area well, and it's -- it will work for the proposal. And with that, I'm happy to answer any questions that the Commission may have.

MS. LOE: Mr. Toohey.

MR. TOOHEY: So with that being a private road out there, is that road more narrow than what's typically out there?

MR. CROCKETT: It is a little more narrow, yes. I can't recall off the top of my head. I believe it's -- I believe it's 24, it maybe 28, Mr. Toohey. I can't recall. But if it is narrow, it's not by much. It's maybe a little bit. I can't recall off the top of my head. I apologize.

MS. LOE: Additional questions? Ms. Carroll.

MS. CARROLL: You may have mentioned this already. The units that are going in, those are facing the circle drive --

MR. CROCKETT: That is correct.

MS. CARROLL: -- with the shared property?

MR. CROCKETT: That is correct. They will have access. They'll have their driveway access off the private drive and not on the public street that's to the west.

MS. LOE: Additional questions for this speaker?

MR. CROCKETT: Thank you.

MS. LOE: Mr. Crockett, which streets don't have any sidewalks?

MR. CROCKETT: There's a development to the south of here and the name escapes me, but there -- and Mr. Smith could go back.

MS. LOE: In Hawthorne?

MR. CROCKETT: In Old Hawthorne, yes.

MS. LOE: In Old Hawthorne.

MR. CROCKETT: I can show you I think in one of those schematics. I believe the development there to -

MS. LOE: But Trellis has sidewalks on both sides.

MR. CROCKETT: I believe they do. The development that's the two-unit development that's further to the -- straight south and to the west just a little bit, that development doesn't have sidewalks.

MS. LOE: With two units on it.

MR. CROCKETT: With -- well, they're two-unit buildings, but they're -- it's a development of two-unit buildings.

MR. STANTON: Mr. Crockett.

MS. LOE: Mr. Stanton. Sorry.

MR. STANTON: I vaguely remember a similar case to where we had an issue with the sidewalk butting up against that easy back curve and a big issue. Is this the same development or is this --

MR. CROCKETT: No.

MR. STANTON: Wasn't that in Old Hawthorne too?

MR. CROCKETT: No. This is -- I believe, Mr. Stanton, the -- I believe the development you're referring to is one on the other side of the two holes further to the east.

MR. STANTON: Okay.

MR. CROCKETT: I believe that location is the -- is that development I believe that you're referring to. Certainly not this development.

MR. STANTON: Okay.

MR. CROCKETT: We haven't had a sidewalk issue in this development.

MS. LOE: Additional questions? Thank you, Mr. Crockett.

MR. CROCKETT: Thank you.

MS. LOE: Any additional speakers on this case? Seeing none, we'll close public hearing. Commission discussion.

MR. TOOHEY: I'll go ahead and say something. I know we've been trying to approve more sidewalks recently, but I feel like this one might be a little bit different since there actually is a sidewalk across the street where some of the other projects there wasn't any sidewalk at all. And is it really worth adding that much more concrete for just five more lots when there is sidewalk already there essentially. And there wasn't a sidewalk required before when there was even more dense application for it.

MS. LOE: Ms. Burns.

MS. BURNS: My comment would be that in 2014, the City had engaged Clarion & Associates to overhaul the development code. And I think that anyone who had projects that would be coming forward probably was aware that there would be changes to the development code and that would include sidewalks and connectivity

and walkability. So I guess I'm inclined to support staff on this because I see us passing development code, and I want to support that development code.

MS. LOE: Any additional comments? Ms. Rushing.

MS. RUSHING: Well, I walk a lot and I am very much for sidewalks, but there are some areas where they don't really seem to be necessary. And to me, I agree with Commissioner Toohey. There is a sidewalk all along one side of this street. These five houses are not going to be adding much to the pedestrian traffic. It's an enclosed area. It's not a through street. And I believe that without the sidewalk on the other side, on this side, that it's still going to be a quite walkable area in through there.

MS. LOE: Additional comments?

MR. TOOHEY: I'll go ahead and make a motion.

MR. ZENNER: Before we do that, Mr. Toohey, let me advise the Commission. There is a design adjustment here and pursuant to procedures that we've been asked to follow with our law development for purposes of ensuring Council's complete understanding of the actions taken by the Commission as it relates to development, we will need two motions. The first being on the design adjustment as it relates to the waiver of sidewalk construction, and then the second as it relates to the development plan. In relationship to the development plan should you recommend denial of the sidewalk adjustment, you will also need to recommend denial of the development plan as it is inconsistent then with the development requirements. If you should choose to approve the design adjustment, you will need to approve the development plan subject to approval of -- Council approval of the design adjustment as well. Otherwise the development plan is not consistent with the development regulation, so should it fail at Council, the development plan would then likewise fail as well.

MS. LOE: Mr. Toohey.

MR. TOOHEY: So should we vote on the design adjustment first?

MR. ZENNER: Yes, please.

MR. TOOHEY: Okay. I'll go ahead and make a motion, or at least I'll try. In regards to Case No. 61-2020, I'd **make a motion to approve the associated design adjustment to Section 29-5.1, Section D of the Unified Development Code to waive sidewalk construction on the west side of Bunker Loop.**

MS. RUSHING: Second.

MS. LOE: Second by Ms. Rushing. We have a motion on the floor. Any discussion on that motion? Seeing none, Ms. Burns, may we have roll call please.

MS. BURNS: Yes. My vote is no. Ms. Carroll?

MS. CARROLL: No.

MS. BURNS: Ms. Loe.

MS. LOE: No.

MS. BURNS: Mr. MacMann.

MR. MACMANN: No.

MS. BURNS: Mr. Stanton.

MR. STANTON: Yes.

MS. BURNS: Mr. Strodtman.

MR. STRODTMAN: Yes.

MS. BURNS: Ms. Rushing.

MS. RUSHING: Yes.

MS. BURNS: Ms. Russell.

MS. RUSSELL: Yes.

MS. BURNS: Mr. Toohey.

MR. TOOHEY: Yes.

MS. BURNS: Five to four. Motion carries.

MR. TOOHEY: Okay. I will go ahead and make another motion. **In regards to Case No. 61-2020 I make a motion to approve the request by Crockett Engineering Consultants on behalf of On the Ninth, LLC for approval of a major amendment to the On the Ninth PUD plan located on PD-zoned property to permit the replatting of Lot D2 into five single-family lots.**

MS. RUSHING: Second.

MS. LOE: Second by Ms. Rushing. We have a motion on the floor. Any discussion on that motion? Seeing none, Ms. Burns, may we have roll call please.

MS. BURNS: Yes. My vote is no. Ms. Carroll?

MS. CARROLL: No.

MS. BURNS: Ms. Loe.

MS. LOE: No.

MS. BURNS: Mr. MacMann.

MR. MACMANN: No.

MS. BURNS: Mr. Stanton.

MR. STANTON: Yes.

MS. BURNS: Mr. Strodtman.

MR. STRODTMAN: Yes.

MS. BURNS: Ms. Rushing.

MS. RUSHING: Yes.

MS. BURNS: Ms. Russell.

MS. RUSSELL: Yes.

MS. BURNS: Mr. Toohey.

MR. TOOHEY: Yes.

MS. BURNS: Five to four. Motion carries.

MS. LOE: Recommendation for approval will be forwarded to City Council.