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EDMOND PLANNING COMMISSION MEETING

Tuesday, November 4, 2008

5:30 P.M.

The Edmond Planning Commission Meeting was called to order by Chairperson Suzy Thrash at 5:30 p.m., Tuesday, November 4, 2008, in the City Council Chambers at 20 South Littler. Other members present were Bill Moyer, Leroy Cartwright, Barry K. Moore and Ingrid Young. Present for the City were Robert L. Schiermeyer, City Planner; Jan Ramseyer-Fees, City Planner; Steve Manek, City Engineer; and Steve Murdock, City Attorney. The first item on the agenda was the approval of the October 21, 2008, Planning Commission minutes.

Motion by Young, seconded by Moore, to approve the minutes as written. **Motion carried** by a vote of 5-0 as follows:

AYES: Members: Young, Moore, Moyer, Cartwright and Chairperson Thrash

NAYS: None

The next item on the agenda was **Public Hearing and Consideration of Request by Joe Javadzadeh to extend the Hilltop Plaza Commercial Site Plan, located south of 15th Street, north of the Arrowhead Valley Addition.**

Attorney, Randel Shadid, representing Joe Javadzadeh is requesting an extension of the Hilltop Plaza project. This site plan was approved July 9, 2007 by the Edmond City Council; the minutes are attached. The site plan included two buildings; one contained 16,100 square feet and the other building contained 28,200 square feet. The property is zoned "D-1" PUD. In December 2007, MidFirst Bank purchased 2.103 acres on the west side of subject property. No lot split or deed approval was approved for that less than five acre division of land. A preliminary and final plat was submitted on the property in February 2007, but neither have been scheduled on a Planning Commission agenda because the plans have not been corrected, meeting the standards of the Municipal Code. No building permit has been requested for any of the property covered by the site plan. Mr. Javadzadeh has received a land disturbance permit. The request for the extension was submitted in August 2008. It is common with site plan extensions to allow for a hearing before the Planning Commission and City Council, rather than considering them void on the actual anniversary date. In this case, that would have been July 9, 2008.

Randel Shadid, representing the owner indicated how the economy had slowed and that more time was needed to try to find businesses for the Site Plan previously approved. Commissioner Bill Moyer asked if there would be more land disturbance. Mr. Shadid indicated there would be no additional work until a building permit was approved. Jim Terlip, 1705 Chickasha Circle indicated the owner said the dirt would not be removed from the site, it would be re-distributed on the site; that hasn't happened. He also

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understood the retaining wall would be constructed first and that hasn't happened. There is now a 14 foot difference in the elevation of the property adjacent to parts of Arrowhead Valley. He requested the extension be denied. Ray Harshman, Mowhawk Court, indicated that the retaining wall and the fence were not constructed as understood, that the western part of the properties had been sold to Midfirst Bank. He felt there was no actual plan or likelihood of building on the property as originally described. John Luton, 3912 Anadarko, represented persons who were unable to sell their home because they back up to the 14 foot cut. He felt the retaining wall needed to be built to avoid a long erosion occurrence in back of these homes. Mr. Shadid indicated they could not get a building permit without a Site Plan Extension and that the retaining wall would not be put in until the building permit is issued. Commissioner Ingrid Young asked when the retaining wall would be put up. Joe Javazadeh indicated that six months ago he met with the Homeowner's Association and their attorney and asked them to agree to no liability to work within the fifteen feet adjacent to their property so that he could work on the retaining wall but he has received no answer. He also indicated that an Energex pipeline needed to be lowered and he wasn't planning to start that until more construction was decided on the property. Commissioner Barry K. Moore asked if the discussions have been going on for over a year with the homeowner's and Mr. Javazadeh indicated yes. Commissioner Cartwright stated that Site Plans have been extended in the past and that if they are not extended, nothing will happen. Extending the plan that is already documented may be better than starting over. Commissioner Young indicated that the concerns raised could have been addressed better to resolve the appearance of the land as it sits at this time. Commissioner Moore indicated that it appears to be a difference of opinion between the developer and the homeowner and he felt like the neighborhood was being held hostage to live with existing conditions. The current procedures allow the developer to start, stop when he chooses to, and request an extension from year to year and the excuses are always the same as to why the project doesn't progress.

Motion by Moore, seconded by Cartwright, to approve this request. **Motion carried** by a vote of 3-2 as follows:

AYES: Members: Cartwright, Moyer and Chairperson Thrash

NAYS: Moore and Young

The next item on the agenda was **Case #SP050049 Public Hearing and Consideration of an Extension of The Falls Condominiums to include Site Plan for the Special Use Permit, located east of Vista Lane, south of Second Street. (The Falls, L.L.C)**

Attorney Randel Shadid, representing the applicant is requesting an extension on The Falls Special Use Permit for the condominiums. This location has been continued several times in the past and the minutes of the previous discussions are included. The applicant is not requesting any changes to the previous approval. One issue has

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changed regarding the Tuscany Villas IV Addition, planned immediately south of this project and that involves the provision for a street or public access to be extended north to connect with Wade Martin for a future access connection. The original Site Plan did not provide for the possibility of a connection to the south whether that is a public road, fire lane or access easement. The Falls project would need to be amended to address this issue as well as the future plats for the property.

Randel Shadid represented the applicant. He indicated this request is needed due to the current financial conditions nationwide. Staff indicated that the stub out from Tuscany Villas was critical, and required an amendment to the Site Plan under consideration. Mr. Shadid agreed that a public access will be provided through The Falls, connecting to Tuscany Villas IV at the stub out street shown on the plat or at the northeast corner, whichever is most feasible.

Motion by Cartwright, seconded by Moyer, to approve this request subject to a public access being provided through The Falls Condominium project connecting with the Tuscany Villas IV project to the south as an amendment to the previous Site Plan.

Motion carried by a vote of 3-2 as follows:

AYES: Members: Cartwright, Moyer and Chairperson Thrash

NAYS: Moore and Young

The next item on the agenda was **Case #Z080050 Public Hearing and Consideration of Edmond Plan Amendment from "A" Single Family and Multi Family PUD to "D-O" Suburban Office located on the east side of Coltrane less than one half mile north of Covell Road. (Fairfax Joint Venture, L.L.C)**

The following general planning considerations represent some of the factors evaluated in reviewing justifications for Plan Map Amendments.

1. Infrastructure: Water lines and sewer lines are adjacent to this property and would be sized to serve the offices uses allowed in "D-O".
2. Traffic: There are no current traffic counts on Coltrane, eventually this street will be approved as an arterial, requiring a minimum of 70 foot of right of way.
3. Existing zoning pattern:
North – "D-O" Office
South – "C-2" Multi Family
East – "A" Single Family
West – "A" Single Family
4. Land Use:
North – Undeveloped

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South – Developed as the Gardens II at Fairfax

East – Partially developed with homeowner's association improvements

West – Undeveloped

5. Density: Not applicable for the proposed use. Some of the land is projected for "C-2" Multi Family in the Edmond Plan.
6. Land ownership pattern:
 - North – Same ownership as the applicant
 - South – Individual lots in Gardens of Fairfax II
 - East – Developer owns the property
 - West – Land north of Asheforde Oaks, containing oil tanks
7. Physical features: The land has been graded in the past when used as a part of the Harper Ranch and has been improved as a part of the Fairfax Addition.
8. Special conditions: None
9. Location of Schools and School Land: Not significant at this location, Centennial is the nearest school a mile to the north.
10. Compatibility to Edmond Plan: The Edmond Plan suggests Single Family and Multi Family on 33,541 square feet. Additional office for such a small parcel, added to the adjoining office appears to offer some advantages as a land use rather than encouraging partial Single and Multi Family uses
11. Site Plan Review: Would be required if the property is zoned "D-O"

Randel Shadid represented the owner and indicated that an oil well had been plugged in this area and that the residents in Fairfax were knowledgeable of this application and cooperated with the closing of the common area. It is not appropriate for this area to be developed residential north of the brick wall to the south, defining the Gardens of Fairfax Addition. Dave Parquini, from the Asheforde Oakes Addition spoke in opposition to this rezoning. He indicated there were a considerable amount of offices in Edmond currently and the office zoned parcel north of this site is adequate for this areas.

Motion by Moore, seconded by Cartwright, to approve this request. **Motion carried** by a vote of 5-0 as follows:

AYES: Members: Moore, Cartwright, Moyer, Young and Chairperson Thrash

NAYS: None

The next item on the agenda was **Case #Z080051 Public Hearing and Consideration of Rezoning from "A" Single Family PUD to "D-O" Suburban Office located on the**

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east side of Coltrane less than one half mile north of Covell Road. (Fairfax Joint Venture, L.L.C)

Attorney Randel Shadid, representing J.W. Armstrong is requesting that .77 acres or 33,541 square feet be approved for "D-O" Office. The subject land is located north of the Gardens II at Fairfax, the Asheforde Oaks Addition is located to the southwest. The land immediately to the north is already zoned "D-O" Office. If this .77 acres was not adjacent to a larger (2.5 acre) office parcel, rezoning at this time might begin a new pattern of office commercial along Coltrane. The subject property was open space that is no longer needed for the overall Fairfax PUD and now a slightly larger office tract could be developed at this location. The land to the east will remain as open space for the Fairfax project. The request is reasonable in the staff's opinion because it is contiguous to existing office.

Randel Shadid represented the applicant.

Motion by Cartwright, seconded by Young, to approve this request. **Motion carried** by a vote of 5-0 as follows:

AYES: Members: Cartwright, Young, Moore, Moyer and Chairperson Thrash

NAYS: None

The next item on the agenda was **Case #PR080047 Public Hearing and Consideration of Preliminary Plat of Fairfax Office Park, located on the north side of Covell Road, just over 1/8 mile west of Sooner Road. (Armstrong Development, L.L.C.)**

Ernest Isch is representing Armstrong Development, LLC in requesting approval of a new plat on 6.4 acres. The property is zoned "D-0" PUD. Office buildings ranging from 4,000-8,000 square feet are planned. In some cases, the lots may be 80 feet by 85 feet (6,800 square feet). The lots could be sold individually. Each of the lots will have to be approved with a site plan. The potential office pad is shown on the preliminary plat for information purposes only. The common areas include the parking, access drives, and utility easements. A drive approach is planned on Covell Road and also two approaches on Fairfax Boulevard. A mandatory property owner's association will be required for the maintenance of the common area parking and driveways, as well as the medians on Fairfax Boulevard. The City Engineer will provide comments regarding the Covell right-of-way, utilities and drainage studies. **The plat needs to be amended to provide for 90 foot of right of way** along Covell Road, rather than the 70 foot shown on the plat. The Transportation plan reflects this standard and an ordinance was approved adopting the Transportation street classification system designating Covell as a parkway. The Transportation study also requires an additional right of way, 100 foot from the center line at the intersection corner (Sooner and Covell) for turn lanes. The Planning Commission does not have the authority to grant a variance from the Transportation

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Study right of way requirements. Mr. Armstrong will need to request an exception from the right of way Standard adopted in Ordinance 3097 from the Edmond City Council. The Standard for variances is stated in 21.08.030 of Title 21. Those Standards are attached. The Planning Commission may wish to continue the plat approval until the City Council has addressed the right of way issues.

Ernest Isch appeared representing the applicant, indicating that they would like to request an exception on the right of way from the transportation study and understand that has to be presented to the City Council.

Motion by Moore, seconded by Moyer, to approve this request subject to the resolution of the right of way requirements on Covell Road & Sooner through the City Council. The Planning Commission understood J.W. Armstrong wanted to discuss the 90 foot of right of way requirement with the City Council prior to the Final Plat being submitted. The right of way issue will be discussed November 24th at the City Council meeting.

Motion carried by a vote of 5-0 as follows:

AYES: Members: Moore, Moyer, Cartwright, Young and Chairperson Thrash

NAYS: None

The next item on the agenda was **Public Hearing and Consideration of an amendment to the original Commercial Site Plan for CVS Pharmacy on the southeast corner of 15th and Bryant, requesting twenty four hour business operation. (Armstrong Development, L.L.C.)**

Attorney Randel Shadid, representing Armstrong Development is requesting that the CVS Pharmacy be allowed to operate on a 24 hour basis. The store opened without a 24 hour business operation, but in May began 24 hours for both the drive in-lane and inside the store. I issued a wall sign permit identifying a 24 hour business. This action was taken because there was no prohibition for a 24 hour business in the PUD Design Statement. Additionally, there was no indication in the Site Plan approval motion to identify the 24 hour condition.

The representative for the property did state in the meeting on December 12, 2005 that the pharmacy will not be a 24 hour operation and the videotape record of the meeting indicated that could be placed in the minutes. There was also an indication that the hours would be addressed with the Site Plan. The Site Plan was discussed March 27, 2006 with no specific hours of operation reference. The City Attorney has reviewed the minutes and the tape and requested the Pharmacy no longer operate on a 24 hour basis. CVS and Armstrong Development are now requesting re-discussion and approval of the 24 hour operation.

Attorney Randel Shadid represented CVS and Armstrong Development. He indicated that the City Council did not feel strongly about the hours of operation when the Site Plan

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was discussed and that is why that was not added as a requirement in the motion made by the Council to approve the Site Plan. It was indicated that this issue would be discussed with the Site Plan but there was no decision when the Site Plan was considered. He indicated that Wal-Mart Stores and Walgreens are open 24 hours at numerous locations and CVS needs the 24 hour operation to serve their customers. He felt there was nothing in the PUD restricting the 24 hour business and that it was not necessary to receive approval but if this was a concern of the Council he was willing to provide an opportunity for the discussion. Lydia Lee, 1725 W. 33rd Street indicated her involvement began with the rezoning on this issue and has been consistent that 24 hour businesses were not planned and that is the way the Spring Creek Village and Spring Creek Plaza were approved. She indicated they were told that 24 hour service would not be used. Developers are trusted to follow the statements they make in the meeting and amend design statements, in this case to follow those promises but that doesn't get done. She indicated she notified the City three months after the opening when the banner was installed indicating "Opening Soon 24 Hours" and that the banner was removed. She said there had been a lot of discussion regarding the 24 hour operation standard for this property; she noted there were no other 24 hour operations within 1 mile. She felt the 24 hour operation was important to the quality of development at this location. Commissioner Moyer asked if the ATM machines at the banks qualified as a 24 hour business. Mrs. Lee indicated they were not manned stores and it was a different situation. Mr. Shadid indicated that they hadn't planned to open 24 hours but operational conditions suggest that that needed to change. He indicated there were a lot of comments in the minutes but the 24 hour prohibition was never placed in the motion. Commissioner Moore asked if he would amend the PUD. Mr. Shadid indicated the Site Plan was the best place for the discussion but there was no requirement to make that a 9th condition of the 8 conditions applied by the Council. Commissioner Cartwright asked if there were any property owners within 300 feet attending the meeting, no other property owners were in attendance. Commissioner Moore indicated he was going to vote no on this item from the information he studied but felt that it wasn't discussed with the Site Plan. He indicated that the discussions need to be tightened up at the meetings if these issues are important enough to be a minimum condition.

Motion by Moyer, seconded by Cartwright, to approve this request. **Motion carried** by a vote of 4-1 as follows:

AYES: Members: Moyer, Cartwright, Moore and Chairperson Thrash

NAYS: Young

New Business: Steve Murdock clarified the continuance of item #PR080045 for Cross Timbers Preliminary Plat. He indicated it was continued to November 18, 2008.

Motion by Moyer, seconded by Young, to adjourn. **Motion carried** by a vote of 5-0 as follows:

AYES: Members: Moyer, Young, Moore, Cartwright and Chairperson Thrash

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NAYS: None

Meeting adjourned at 6:45 p.m.

Suzy Thrash, Chairperson
Edmond Planning Commission

Robert Schiermeyer, Secretary
Edmond Planning Commission