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JUN 17 2009

City County Planning Office  
Lawrence, Kansas

June 16, 2009

TO: Mayor Rob Chestnut and the City Commissioners  
The City of Lawrence, Douglas County, Kansas

In re: PP-04-01-08  
A Preliminary Plat for Fifth Street Bluff 0.29 Acres Subdivision  
Consisting of One Lot Located at 427 Country Club Court.

Mayor Chestnut:

This letter will serve as an objection to the dedication of easements and rights-of-way of a 0.29 acre lot located in the Fifth Street Bluff at 427 Country Club Court. The preliminary plat was submitted by JMC Construction, Inc. The objections are from all property owners in the Grandview Heights area, and are all represented by this office. Two of the objecting property owners are adjacent owners, one just north and one just to the south of the 0.29 lot in question. A list of all the objecting owners with their addresses is attached to this letter as "Exhibit A" and incorporated herein.

The objecting property owners object to the approval of the preliminary plat and any and all dedications of easements and right-of-ways appurtenant to the described 0.29 acre lot for the following reasons:

1. Firstly, and most significantly, the exact specifications of the existing right-of-way cannot be verified at this time because of unresolved physical data discrepancies. A preliminary letter from All Points Surveying, L.L.P., a licensed surveyor, confirms this and that letter is attached and incorporated herein as Exhibit "B". The implications of this are significant, including the possibility that until the exact positioning, location, and measurements of the right-of-way are verified, the right-of-way may intrude on the property of two of the property owners adjacent to the property in question. This is a threshold issue regarding the application for dedication of a right-of-way.

The Planning Department's suggested fix for the inadequate frontage is to dedicate a right-of-way, which moves the frontage of the lot up the triangular lot

until 40' of frontage is reached. This flies in the face of the Code's definition of frontage, which is found at Sec. 20-815. "The boundary of a lot or Residential Development Parcel that abuts a street or a road." Words in the Code have the standard dictionary definition unless they are defined in Sec. 20-815, i.e., frontage. The "frontage" definition dictates that the frontage is that boundary of the property in question that "abuts" a street or road. Webster's dictionary definition of "abut" is "to touch along a border or to border on". In short, the frontage of the lot must touch 5<sup>th</sup> street. To move the frontage by using a right-of-way to meet the frontage 40' requirement is totally inconsistent with the definition of frontage in the Code. See overview attached and incorporated herein as "Exhibit C". Moreover, the use of a right-of-way to accommodate frontage requirements is simply a misuse of a right-of-way.

2. Selecting out a single property for dedication of additional right-of-way thwarts the purpose of a right-of-way, which is public travel, not as a device to save the developer from his lack of due diligence in determining the frontage specifications. Two existing plats indicate the frontage of the lot in question to be either 36 or 38 feet, far short of the required 40 feet required frontage. Rules of Construction of The Code would dictate the most restrictive 40' requirement. See RS10.20-601(a). The Developer is required to provide the Planning Director with accurate data, which he clearly has not done. 20-802(f)(g).
3. The purpose and intent of the subdivision regulations are to contribute to conditions conducive to health, safety, aesthetics, prosperity and convenience, 20-801(1)(ii), and, to provide for the conservation and protection of human and natural resources, 20-801(1)(iii), and, finally, to provide for the conservation of existing neighborhoods... 20-801(2)(ii). [Emphasis supplied.] The objecting landowners submit that the developer has generally ignored these purposes by destroying a number of mature canopy trees on the property in question. This particular area of the city is well known for its dense mature trees lending a tranquil character to the aesthetics of the area. Moreover, the Code emphasizes, if not dictates, canopy trees to abut the streets. 20-811(g). The haphazard destruction of the canopy trees may in fact cause substantial drainage problems to the down-stream neighbors.
4. The developer has inflicted substantial potential safety problems for the neighboring users of 5<sup>th</sup> street which fronts the lot in question. The developer plans a driveway at the frontage line of the lot, which would place a significant additional hazard by automobiles entering and exiting this proposed driveway. This lot lies at the base of a blind hill with a steep grade and an uncurbed street. It is an additional example of the lack of planning by this developer. The developer purchased this property with a natural north-side exit on 427 Country Club Court. With just a little vision, an aesthetically pleasing and much safer design could have been utilized by facilitating a joint-use driveway for both lots at the Country Club Court location.

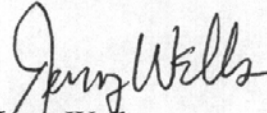
5. The developer's march through the platting process underscores the apparent disregard for Grandview Heights' unique character, terrain and environment and for the stated purposes of the Code.

The objecting property owners understand the lure of in fill development as a goal of this Commission, but they do not understand why the unique character of their neighborhood should be sacrificed on that alter to accommodate a developer who systematically ignored good planning, vision and the stated purposes of the subdivision regulations.

In summary, the objecting property owners would emphasize two crucial points:

- Until the exact measurements of the property in question are verified, this process cannot move forward. It is the threshold issue.
- The use of a right-of-way to accommodate a 40' frontage is a misuse of a right-of-way. Again, the primary purpose of a road right-of-way is for public travel. A right-of-way is the land dedicated to the State, County or City for travel by the general public. *Kansas University Transportation Center Right-of-Way Guide*, 2007.

Very truly yours,

  
Jerry Wells

JW:rw  
Attachments

Grandview Heights Homeowners Opposed to "5th St. Bluff Subdivision"  
& Any Related "Dedication of Additional Right of Way"

Jacqueline Schafer,  
1930 W. 5th St.

Tom Boxberger,  
2002 W. 5th St.

Sheri Boxberger,  
2002 W. 5th St.

Mrs. H.P. Jones,  
1912 W. 5th St.

Barton Yost,  
1924 W. 5th St.

Georgette Yost,  
1924 W. 5th St.

Dean Radcliffe,  
1921 W. 5th St.

Sue B. Radcliffe,  
1921 W. 5th St.

Richard Hernandez,  
2008 W. 5th St.

Nancy M. Hernandez,  
2008 W. 5th St.

Deborah K. Johnston,  
1918 W. 5th St.

Joett Hass,  
1918 W. 5th St.

Lance Antle,  
1908 W. 5th St.



# ALL POINTS SURVEYING, LLP

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June 12, 2009

To Whom It May Concern:

As of today's date, there is not sufficient physical evidence of the boundary of the proposed "Fifth Street Bluff Subdivision" plat to accurately determine the relationship of the proposed street right of way to the paved portion of Fifth Street that the proposed plat gains access from.

A handwritten signature in black ink, appearing to read "Steven D. Williams", is written above the typed name.

Steven D. Williams, PLS 1391  
All Points Surveying, LLP

