

**ITEM NO. 6 PRELIMINARY PLAT; HALLMARK ADDITION; 5.252 ACRES; 151 MCDONALD DR (MKM)**

**PP-6-6-10:** Consider a Preliminary Plat for Hallmark Addition 3<sup>rd</sup> Plat, a three lot subdivision containing approximately 5.252 acres, located at 151 McDonald Drive and a waiver request from the requirement in Section 20-811 to provide sidewalks along all street frontages. Submitted by Paul Werner Architects for Downtown Equities II, LC, property owner of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

Commissioner Dominguez asked why the applicant wanted the waiver for the sidewalk.

Ms. Miller said they felt it was not needed because there was no destination on the north side of the street and there was also a large drainage easement.

**APPLICANT PRESENTATION**

Mr. Paul Werner, Paul Werner Architects, said he agreed with most of the staff report but did not really like with conditions 2 and 3. He suggested rewording condition 1i to say something along the lines of '...sidewalks to be constructed with the structures of each lot.' 'Or within a year of filing the Final Plat.' He said it was not about the money, it was about timing. He would prefer to build the sidewalks with the structures on each lot. He said the only thing north of the site is Hallmark and the KTA tollbooths and does not go anywhere. He also stated there is a drainage easement under McDonald Drive.

Commissioner Carter asked if he anticipated all three lots being developed within a year.

Mr. Werner said he would think so and that is his hope.

Commissioner Carter said it sounded reasonable to do the sidewalks as each lot is built. He was concerned that the applicant might be back in year though asking to extend the request due to the economy and not being able to build.

Mr. Werner said he would commit to building the sidewalks within a year or as the property is developed.

Mr. McCullough said the sidewalks are part of the public improvements and it is easiest to think about it in terms of a residential subdivision. He said he was not sure the Planning Commission has the authority tonight to depart from the Code. Staff interprets the Code to require public improvement plans prior to the Final Plat being recording which has financial guarantees that all the public improvements will be made and that there are plans for those public improvements before building permits are issued. He said those are the triggers that staff uses to guarantee the public improvements. Staff can and do work with developments in terms of timing issues, like Mr. Werner was discussing, so staff often allow building to begin before complete improvements are made because the assurance is there that they will be completed. There is also the last trigger of a Certificate of Occupancy.

Commissioner Finkeldei inquired about striking condition 10 all together.

Ms. Miller said typically staff asks sidewalks to be shown on plats and Mr. Werner said he would rather a note that says they would be installed with the Site Plan. Staff then requested a note that says they will be shown and constructed with the public improvement plans.

Mr. McCullough said if it is a matter of timing staff will issue building permits while they are working on the public improvements, so that they can be constructed together, versus completing the street, sidewalks, and utilities and then get a building permit. It can happen concurrently.

Mr. Werner said the sidewalk plans are done anyway so he can turn them in with the other public improvements. He said the sidewalks will just have to be installed by the time the first building is done or they will not get their Certificate of Occupancy.

Commissioner Finkeldei asked Mr. Werner if he was okay with the existing wording of conditions in the staff report.

Mr. Werner said he was okay with the conditions as is.

## **PUBLIC HEARING ON VARIANCE**

No public comment.

## **ACTION TAKEN**

Motioned by Commissioner Harris, seconded by Commissioner Dominguez, to approve:

Forwarding of the waiver from the requirement to provide sidewalks along McDonald Drive to the City Commission with a recommendation for approval subject to the following condition:

1. Execution of an Agreement Not to Protest the Formation of a Benefit District for future installation of sidewalk.

Preliminary Plat of the Hallmark Addition 3<sup>rd</sup> Plat and forwarding the plat to the City Commission for acceptance of dedications of easements subject to the following conditions:

1. Provision of a revised plat with the following changes:
  - a. Relocation of the waterline within the access/utility easement with a connection at North Iowa Street and Princeton Boulevard.
  - b. Re-labeling of 'access easement' as 'access/utility easement'.
  - c. Provision of the following notes regarding the access easement and the joint use driveway: "*The access easement and joint use driveway will be privately-owned and maintained.*" and "*The access easement is provided for the purpose of establishing onsite multi-modal circulation. The easement shall not be gated and shall remain unobstructed for vehicles, pedestrians and bicycles.*"
  - d. Revision of General Note 8 to indicate that the drainage easement will be privately maintained *unless* the City accepts ownership.
  - e. Show Fire Hydrants located no further than 500 ft apart as required in the International Fire Code.
  - f. Revision of legal description to identify the property as Hallmark Addition 3<sup>rd</sup> Plat.
  - g. Provision of a note which states that access to McDonald Drive, Princeton Boulevard, and N Iowa Street is restricted as shown on the plat.
  - h. Revision of the sanitary sewer to extend straight to the west across N Iowa Street.
  - i. Revision of General Note 10 to indicate that the 6 ft wide sidewalks will be installed with the public improvements.
2. Submittal of Public Improvement Plans to the Public Works Department for acceptance prior to the recording of the final plat.
3. Provision of certification that the public improvements have been completed or one of the means listed in 20-811(h)(2) for ensuring completion of required public improvements prior to the recording of the final plat.
4. Execution of an Agreement Not to Protest the Formation of a Benefit District for sidewalk, stormsewer or street improvements prior to the recording of the final plat.

Unanimously approved 10-0.