

ITEM NO. 1 PRELIMINARY PLAT; FIFTH STREET BLUFF SUBDIVISION; W 5TH ST (MKM)

PP-7-6-11: Consider a one lot Preliminary Plat and variances related to dedication of rights-of-way and frontage for Fifth Street Bluff Subdivision, approximately 0.29 acres, located on W 5th Street near the connection of Iowa Street and W 5th Street. Submitted by Paul Werner Architects, for JMC Construction, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Paul Werner, Paul Werner Architects, agreed with staff that the neighbors were not happy. He said he agreed with staff that the variances were more appropriate. He said the bank previously attempted to negotiate the land being purchased by the neighbors.

Mr. McCullough said there could be public comment on the variances.

PUBLIC HEARING

Ms. Jacqueline Schafer expressed opposition to the plat. She felt it would be unsafe to allow a driveway to be built at this location. She said she was also opposed to the cutting down of trees to allow for visibility. She said when she purchased her house 10 years ago she specifically asked the real estate agent if that property would be developed and was told no, that it served as the backyard for the house on Country Club Court. She said when the issue went before the Traffic & Safety Commission in July of 2009 one of the commissioners said it made no sense to put a driveway at the location. She felt the best use for the property was its original use, the backyard for 427 Country Club Court. She said the owner of 427 Country Club Court would like to purchase the land and has approached the bank about it but that there were discrepancies about the purchase price. She suggested instead of granting variances that Planning Commission encourage an agreement be reached between the bank and buyer. She felt this would keep the neighborhood safe and restore goodwill.

Mr. Chris Caldwell said the staff report makes reference to zoning district regulations, requirements and minimal specifications but does not indicate the proposed variances being reviewed by the Board of Zoning Appeals. He stated the property was unsightly and truly distressed. He said Ms. Schafer invested in the landscaping. He said the drainage was unpredictable with standing water. He requested direct answers to questions such as who was being bailed out? And why? How much public money would be spent to support any development? He suggested allowing the property to remain unplatted and subject to normal market valuation as an unplatted tract.

Mr. Tom Boxberger agreed with what Mr. Caldwell and Ms. Schaefer said. He felt it would change the entire neighborhood if the trees were removed. He stated the street was unsafe already and to add more traffic would be harmful to his family.

COMMISSION DISCUSSION

Commissioner von Achen inquired about traffic calming devices.

Mr. McCullough said it went through Traffic & Safety Commission.

Mr. Uddin said it did go through Traffic & Safety Commission in 2009 but he did not recall the outcome. He said one issue that was discussed was concern about the steep slope and that a speed hump could create more danger. He said there was also concern about funding.

Mr. McCullough said it sounded like traffic calming was explored through the Traffic & Safety Commission.

Ms. Schafer said she believed the Traffic & Safety Commission said it was not warranted.

Mr. Werner said the Traffic & Safety Commission voted 5-0 to not do anything on 5th Street.

Commissioner von Achen inquired about the recommendation to put the driveway to the far northeast of the lot. She said a neighbors letter expressed concern about increased danger for her.

Mr. Uddin said the idea for moving the driveway to the northeast was to split the available sight distance as much as possible. He said the area within the sight line, R-O-W, and all obstructions would be removed. He said it was a matter of detail location of the driveway. He said it could be kept where it was and that moving it was only a small improvement.

Commissioner Liese said he visited the site and it was a blighted property. He said he was more concerned about safety issues than blight. He said it was not an easy street to navigate and that the grade of the property was such that you could not see in both directions.

Commissioner Hird said it was his understanding that City Commission approved it and sent it back to Planning Commission.

Mr. McCullough said City Commission did approve it in 2009 but the plat expired.

Commissioner Hird asked if this version of the plat was what City Commission approved and then it expired.

Mr. McCullough said yes.

Commissioner Singleton said she voted to approve this in 2009. She felt it was a good location for infill. She said the developer did not have any problems with installing a circular drive. She said there was no guarantee that this would be purchased by a neighbor. She stated one more driveway was not going to increase the use to that road substantially. She said the hazards of that road were going to stay that way and one more single-family home was not going to solve that but would solve some of the blight issues.

Commissioner Blaser said he would also support this and felt it may improve the neighborhood for that lot to be cleaned up. He did not feel there was a good reason to deny it.

ACTION TAKEN

Motioned by Commissioner Singleton, seconded by Commissioner Blaser, to approve the following variances:

- 1) From Section 20-810(d)(4)(i) which requires 60 ft of right-of-way for local streets to permit the right-of-way to remain at 50 ft in this location.
- 2) From Section 20-810(a)(2)(i) which requires that lots be designed to comply with all applicable zoning district regulations to permit the creation of a lot with 37.35 ft of frontage in the RS10 Zoning District, rather than the required 40 ft.

And approval of the Preliminary Plat of the Fifth Street Bluff Subdivision and referring it to the City Commission for acceptance of dedication of easements and rights-of-way subject to the following conditions of approval:

- 1) The preliminary plat shall be revised with the following changes:
 - a. Add the following note and include on the final plat: "The driveway shall be located as far to the northeast as possible and the property owner shall remove all obstructions within the sight triangle of the driveway."
 - b. Show the sight distance triangle for the driveway.
 - c. Show the Blackhills Energy gas line on the north side of W 5th Street.
 - d. Revise the existing trees shown on the plat to reflect the current site condition.
 - e. Provide 10 ft wide utility easements along the east and south sides of the lot.

- f. Revise the floodplain note to reference the August 5, 2010 FEMA map and panel.
- g. Remove the note regarding the changes made in June 2009 to eliminate the right-of-way.
- h. Revise the information shown for the lot to the north to remove JMC as owner and to provide subdivision information for this lot.

Commissioner Belt agreed with the comments Commissioner Liese made earlier about traffic safety. He also expressed concern about stormwater mitigation. He said he would vote against the motion.

Commissioner Blaser said the last time they saw this item stormwater was discussed and the city stormwater engineer would look at stormwater during the site planning stage.

Commissioner Culver said he would be in favor of the application because of the enhancements that would be made by platting the property. He agreed with Commissioner Singleton's comment that adding one more driveway for a single family home would not dramatically change the safety of the street.

Commissioner Hird said it was a difficult decision because the neighbors want it to stay an undeveloped lot. He said if Planning Commission did not approve the variances and allow the infill project then they would be taking the value of someone else's property and saying they could not use it for its highest and best use because the neighbors like their view. He said he wished the neighbors would buy the lot and that it was not within the Planning Commissions power to force a deal with the bank. He stated the elected officials, City Commission, said yes to this. He stated that unless there was a compelling reason that had changed since 2009, he needed to be consistent with his vote in 2009, which was a reluctant vote in favor.

Commissioner Liese said he would vote against the motion but that in doing so he was running the risk of doing a disservice to the owner/developer/bank. He said they had a responsibility to do good infill and enable people to build homes. He stated he wished he could vote in favor of it. He said he was not an overly cautious driver but it would be a challenge to pull/in out of. He said a circle drive did not guarantee people would drive forward out of it. He urged Planning Commission to think carefully.

Commissioner von Achen said she would like to vote with the neighbors but felt it would be unfair without a concrete reason to deny the owner the opportunity to build on the property. She said she would regretfully support the motion.

Commissioner Britton said the property had to be put to some use and every time someone develops a property there were positives and negatives. He said in the end the externalities could not be removed. He said he would support the motion.

Motion carried 6-2, with Commissioners Belt and Liese voting in opposition. Commissioner Finkeldei was not present for the vote.