

ITEM NO. 4A PRELIMINARY PLAT; ROCK CHALK PARK ADDITION NO. 2; W 6TH ST & K-10 (MKM)

PP-12-00223: Consider a Preliminary Plat for Rock Chalk Park Addition No. 1, a 2-lot subdivision of approximately 90 acres located in the NE quadrant of the intersection of W. 6th St/Hwy 40 & Kansas Hwy 10 (K-10) and associated variances from the Subdivision Design and Improvement Standards related to street right-of-way dedication and improvements. Submitted by Paul Werner Architects, for Fairway, LC, Property owner of record.

~~**ITEM NO. 4B PRELIMINARY PLAT; ROCK CHALK PARK ADDITION NO. 2; W 6TH ST & K-10 (MKM)**~~

~~**PP-12-00224:** Consider a Preliminary Plat for Rock Chalk Park Addition No. 2, a 1-lot subdivision of approximately 19 acres located in the NE quadrant of the intersection of W. 6th St/Hwy 40 & Kansas Hwy 10 (K-10) and associated variances from the Subdivision Design and Improvement Standards related to street right-of-way dedication and improvements. Submitted by Paul Werner Architects, for Fairway, LC, Property owner of record.~~

Item 4B was deferred prior to the meeting.

ITEM NO. 4C SPECIAL USE PERMIT; RECREATION CENTER; W 6TH ST & K-10 (MKM)

SUP-12-00225: Consider a Special Use Permit for an Institutional Development Plan for development of General Entertainment and Spectator Sports, Active Recreation, and Outdoor and Participant Sports & Recreation uses on approximately 90 acres located in the NE quadrant of the intersection of W. 6th St/Hwy 40 & Kansas Hwy 10 (K-10). Submitted by Paul Werner Architects, for Fairway, LC, Property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Paul Werner, Paul Werner Architects, agreed with the preliminary plat staff report. He said to extend George Williams Way to Mr. Jack Graham's property line would impact the road and only be a temporary extension. He said the applicant agreed not to protest future improvements so when and if the time arrives the applicant would still pay for their half of the street. He said regarding the concern for tractor pulls, the list of uses did not come from the applicant, it came from staff and the applicant agreed it would require a Special Event Permit. He felt planning staff had a good answer regarding alcohol sales. He said an amphitheatre was off the table for now. He showed plans on the overhead.

PUBLIC HEARING

Mr. Thomas Johnson, Petefish, Immel, Heeb, & Hird law firm, representing Mr. Jack Graham, went over the comments from the letter he sent. He said they do not object to the Sports Village but do object to non-sports uses on the property. He did not feel the property was appropriate for many uses. He also felt the Special Event Permit process was not a good tool to control property and protect the neighbors. He wondered who would manage the property and what the intention would be. He objected to all future uses being shown on the plat as well as alcohol being sold on the property. He requested a condition be added for the installation of a perimeter fence on the eastern part of the property to keep people using the trails off private property. He also requested the road be extended to Mr. Graham's property line.

Mr. Jim Bowers, White, Goss, & Bowers law firm, representing Tanglewood LC, agreed with Mr. Johnson's comments regarding the use issues. He expressed concern about access and parking. He said access would have to come from 6th Street to the south up along George Williams Way to the project. He said the City portion of the project does not have direct access to George Williams Way and was through a shared parking

arrangement yet to be devised. He said to the south George Williams Way was only two lanes, not four lanes. He said the number of cars driven to the site would exceed a two lane road and that 5,000 parking spaces were anticipated for the shared facilities. He said the access road on the east side of K-10, East 902 Road, was currently a gravel road. He said the staff report suggested it be a chip and seal road. He did not feel this was adequate for the number of persons anticipated to use the facility. He expressed concern about costs being transferred to others not directly involved in the project. He felt parking agreements should be worked out before Planning Commission made a recommendation. He felt a deferral would be appropriate to allow for additional information to be developed.

APPLICANT CLOSING COMMENTS

Mr. Werner said he agreed that parking agreements should be done before a building permit was pulled. He said an extensive traffic study was approved by the City. He stated George Williams Way would operate in the current configuration. He said the developer and property owner would sign an agreement to help improve the chip and seal road, East 902 Road, even though it may not be their responsibility. He said regarding access The Links had submitted a new development plan just east of the property so there would potentially be even more streets of how traffic could get to/from the site.

COMMISSION DISCUSSION

Commissioner Blaser inquired about fencing on the east side.

Mr. Werner said he discussed that with Mr. Jack Graham and his counsel. He said he struggled with it because he was not sure where to start and stop it. He said he understood and respected Mr. Graham's comments but he struggled with how to build a fence to stop someone from going further north to get on his property. He said the other issue he struggled with was extending the road 600' to Mr. Graham's property line and at the same time putting up a fence to keep people out. He said extending George Williams Way was difficult because of the grade. He said The Links would not even be using George Williams Way for northern access.

Mr. McCullough said the Parks and Recreation Department did not typically fence in park property. He said this particular area was so heavily wooded that putting in a fence of substance, maintaining it, and not blocking wildlife corridors would be issues to consider.

Commissioner Liese asked Mr. Johnson to reiterate Mr. Graham's concerns.

Mr. Johnson said the primary concern was non-sports uses. He said other concerns included the special event permit process, fencing, road issues, future undefined uses, and lighting.

Commissioner Blaser inquired about the special event permit process for public property.

Mr. McCullough said the Code treats private property in contrast to public right-of-way. He said a number of events were held on public right-of-way, such as marathons and parades. He said events could be held on private property and sometimes the City owns private property. He stated many times things were programmed through the Parks and Recreation Department for actual park property. He said this did afford the City Commission, in his opinion, to establish a framework for non-sport/non-athletic related events that utilizes the City's special event permit process.

Mr. Randy Larkin said the distinction between public right-of-way and publicly held property was that the right-of-way was held in trust for the public. This would be land the City would own itself.

Commissioner Josserand asked if the special event permit process would require approval by the City Commission.

Mr. McCullough said there were different types of special events and the ones that were large in scope, mainly public entertainment venues, would require City Commission approval.

Commissioner Josserand said there was the potential for alcohol consumption at a fundraiser on the site, for example.

Commissioner Belt inquired about the public notification process for special event permits.

Mr. McCullough said the notice process was the City Commission agenda and that there was no notice to adjacent property owners.

Commissioner Belt said alcohol could be obtained on campus in the box suites during games but that KU did not sell it for the normal patron. He said because of the public/private nature of the entire project it made alcohol sales a little nebulous. He asked if it was an essential part of the project to make it work or if it was an amenity that would be nice to have.

Mr. Werner said it would be nice to have. He said it would be a case by case basis and depend on what type of event it was. He felt limiting alcohol sales would be a huge mistake.

Commissioner Burger asked when the traffic was evaluated and configured were their discussions or design allowances for tailgating that might occur prior to an event.

Mr. Werner said he had not studied tailgating for a track and field facility. He felt the amount of parking spaces should cover the venues. He said there would have to be some coordination with KU Athletics and the City in scheduling events.

Commissioner Burger inquired about public access to the recreation center during KU Athletic events.

Mr. Werner said George Williams Way was a public street and Rock Chalk Parkway would have an access easement. He said KU could not just close that permanent access easement.

Commissioner von Achen felt a reasonable approach would be to keep alcohol out of the recreation center except for special events in the evening.

Mr. McCullough said an important part of the special event permit or alcohol issue was that the owner controlled the alcohol issues. He said the City would own and control the recreation center as it does any community recreation center with a wide range of programming that goes into that. KU Athletics would control the KU Athletic events portion of the other lot. He said the nebulous area was that they may have an agreement with Bliss Sports to do some non-sport related activities that would be open to the special event permit. He said the ownership of the lots was important in terms of responsible ownership parties.

Commissioner von Achen asked who owned and would maintain the detention ponds.

Mr. McCullough said they were on private property and there would be maintenance agreements for the ponds. He said the agreements between the City, KU Athletics, KU Endowment Association, and Bliss Sports would determine who would maintain the ponds.

Commissioner Culver inquired about gas utility infrastructure.

Mr. Werner said this was out of Black Hills territory and would be serviced by Atmos. He said Atmos agreed to bring gas to the site but that they may be an all electric facility.

Commissioner Culver asked if it was premature to approve the preliminary plat before the agreements were executed.

Mr. McCullough said the conditions on the platting and special use permit had to be executed and implemented. He said it was a little outside the Planning Commission purview as a land use matter but that it would have to be done to the satisfaction of all the parties involved.

Mr. Werner said parking was a perfect example and that the City agreed early on to snow removal, for instance.

Commissioner Culver asked if there was a need to have the traffic impact study listed in the conditions.

Mr. McCullough said not in his opinion. He said as the staff report notes the only item still in the works was where E 902 Road would come out on 6th Street. He said the City had some stake in that with the 6th Street improvements.

Commissioner Blaser inquired about the City's expense for 6th Street improvements at George Williams Way.

Mr. McCullough said that was an issue that would not be an expense of the project, it would either be the City at large or a KDOT expense. He said the City was in negotiation with KDOT for a number of improvements.

Mr. Werner said George Williams Way, rightfully so, was built to the ultimate configuration so all that would be added would be lights.

Commissioner Liese inquired about the public concern regarding the role of the Bliss Sports entity.

Mr. Werner said this would be a KU Athletics operated facility and City recreational center. He said Bliss Sports and others in the community would help to bridge the gap between the \$25 million that the City would spend and the \$32 million cost of the project.

Commissioner Liese asked what Bliss Sports and others would get in return for their generosity.

Mr. Werner said they care about the community and see this as a viable option for economic development and give children a place to play. He said the City would be getting a \$32 million dollar project for only \$25 million.

Commissioner Burger said Mr. Werner indicated the amphitheatre was not really being considered at this time but he said some people were excited about it. She asked what they were excited about.

Mr. Werner said at the neighborhood meeting at Free State High School he was approached by several people who thought an outdoor amphitheatre was a great idea. He said many people had spent time working on an amphitheatre out by Clinton Lake but that there were no facilities, such as bathrooms, there. He said an amphitheatre was an attraction that people would drive to and would be good for the community.

Commissioner Burger asked how many lanes there would be for Rock Chalk Parkway.

Mr. Werner said they were designed as 31' wide collector streets. He said they tried to disperse the entrances and exits from the parking lots. He said there was a good path for buses to drop off and that there were good loops with an extra wide radius.

Commissioner Liese asked Mr. Johnson if there were any additional questions from the neighborhood that had not been addressed.

Mr. Johnson said he still did not understand the role of Bliss Sports. He said if Bliss Sports was simply donating the money it was not an issue but it was an issue if Bliss Sports had something to do with the management or the uses of the property. He said the concern was that KU would own the land but not the operators.

Mr. McCullough said there was no secret to it and that KU Endowment Association would own the land with an arrangement, in terms of leasing the land, between the KU Endowment, KU Athletics, and Bliss Sports. He said there was likely some arrangement that Bliss Sports would seek approval or agree to use parts of the facilities for non-sporting events. He said for their purview in terms of a land use perspective, KU Athletics had a vested interest in all of the facilities and that they would have some sort of input into what non-sport events and activities would take place there. He said there may be non-sport/non-athletic events that would be possible. He said they tried to build a list to guide their decisions in the future of when to allow a use by right or require it to go through a special event permit.

Commissioner Josserand said he still had lots of questions about what uses could be allowed and the potential impacts.

Mr. Monte Soukup, KU Endowment Association, said they were still in the process of negotiating the ground lease which would put some limits on what the uses would be, but at this point it was not a final agreement. He said KU Endowment would own the property and there would be a ground lease to Bliss Sports and, to his understanding, Bliss Sports would have an operation agreement with KU Athletics to operate the facility. He said they would also have a lease with Bliss Sports to lease the facility from Bliss Sports.

Commissioner Liese asked if it would be a profit making endeavor.

Mr. Soukup said no, the way the ground lease works was that it simply covers the cost of ownership of the land (property taxes, insurance, etc) so there was no profit involved in the ground lease with Bliss Sports.

Mr. Werner said it was a KU Athletic facility and that the ground lease was a financing mechanism.

Commissioner Liese asked if Bliss Sports wanted to run an event would they have to go through the same procedure of getting approval.

Mr. Werner said if someone wanted to use the facility they would talk to KU Athletics, KU Endowment, and then the Planning Department for a public hearing to obtain a special event permit from City Commission.

Commissioner Josserand wondered why Bliss Sports was even necessary.

Mr. McCullough said their questions were good but that they needed to bring it back to land use discussions.

Mr. Johnson said he was concerned about land use issues.

Commissioner von Achen said Mr. Johnson was inferring that it was a land use issue.

Mr. Johnson said yes.

Mr. McCullough said who does it was not the issue, it was what was being done that was the issue.

Mr. Bowers said he still had concerns about traffic impacts and offsite improvements that would be required in order to satisfy the traffic anticipated to be generated by these uses.

Commissioner Lamer inquired about the level of service for peak times in the traffic impact study.

Mr. Werner he said he did not recall but that it functioned very well and there were no issues. He said the only thing they were waiting on was what KDOT would do with the interchange.

Mr. McCullough said they viewed this in terms of the typical tournaments, not the large KU relays that may happen a few times a year. He said for example, the streets around the KU football stadium were designed for a typical traffic day, not for a football crowd.

Mr. Bowers read from the traffic study: *"The traffic impact study indicates that the intersection of George Williams Way and 6th Street was operating at a level E or worse during morning and afternoon peak hours of a typical day. The study recommends that a traffic signal be installed at this location to mitigate the existing operational deficiency."*

Mr. McCullough said that was the recommended improvement that would be required with the project.

ACTION TAKEN on Item 4A

Motioned by Commissioner Lamer, seconded by Commissioner Blaser, to approve the variance requested from Section 20-810(e)(2) to allow the property to be platted and developed without requiring George Williams Way to be constructed to the north property line subject to the following condition:

- 1) An agreement not to protest the formation of a benefit district for the future extension of George Williams Way, including planting of street trees and installation of shared use path, shall be executed and recorded prior to the recording of the final plat.

Motion carried 9-0.

Motioned by Commissioner Lamer, seconded by Commissioner Blaser, to approve the variance from Section 20-811(c)(1)(i) to allow Rock Chalk Drive to be constructed with a 10 ft shared use path along the north side and no sidewalk on the south side subject to the following conditions:

- 1) The location of crosswalks providing connections between the development to the south and the shared use path to the north of Rock Chalk Drive shall be shown on the plat.
- 2) A note shall be included on the plat that best management practices, such as raised pavement, pavement markings, or alternate pavement materials will be used to insure pedestrian safety at the crosswalks.

Motion carried 9-0.

Motioned by Commissioner Lamer, seconded by Commissioner Blaser, to approve the Rock Chalk Park Addition No. 1 Preliminary Plat subject to the following conditions:

1. Provision of a revised plat with the following changes:
 - a. Easement widths between Lots 1 and 2 and on the south side of Lot 1 shall be provided per Westar's requirement.
 - b. Addition of a note establishing the construction and maintenance responsibilities for the shared access drives.
2. Agreements not to protest the formation of a benefit district for street and sidewalk improvements and street trees for E 902 Road and George Williams Way (if Variance 1 is approved) shall be executed and recorded prior to the recording of the final plat

Motion carried 9-0.

ACTION TAKEN on Item 4C

Motioned by Commissioner Lamer, seconded by Commissioner Britton, to approve the Special Use Permit SUP-12-00225 subject to the following conditions:

1. Provision of a revised plan with the following changes:
 - a. Lots 1 and 2 shall be clearly identified and the boundaries delineated on the plan drawings. On Sheet SUP-3 identify Kansas Athletics Facilities identified as Lot 1, and City Facilities as Lot 2.
 - b. The named access drives, Rock Chalk Parkway and Rock Chalk Lane, labeled as 'access drives'.
 - c. Parking related items:

- i. Location of the racks for the 153 bike parking spaces shall be shown per standards in Section 20-913(g).
- ii. Uses and parking requirements revised in Parking Summary as noted in staff report; include the 700 overflow parking spaces in the summary.
- iii. Dimension parking lot islands to insure compliance with code standards.
- iv. Note that parking lot islands will be landscaped with a minimum of 2 of the following materials: trees, shrubs or ground cover.
- v. Provide 2 additional ADA parking spaces for a total of 32 spaces. Four of the 32 spaces shall be van accessible.
- vi. Note that the Planning Director approved the number of parking spaces provided on the plan and the use of shared parking based on the results of the parking study.
- vii. Addition of recording information for shared parking agreement and maintenance agreement.
- viii. Provide a landscape table listing the interior landscaping for each parking lot per standards in Section 20-1003.
- ix. Add the required shrubs to the interior parking lot landscaping plans.
- d. The bufferyard lengths shall be noted on the plan and a bufferyard landscaping table provided. Bufferyard landscaping, trees and shrubs, shall be noted in the table per standards in Section 20-1005.
- e. Addition of a note on the plan that existing vegetation where indicated on the plan can serve as the bufferyard landscaping, but that bufferyard landscaping as required in Section 20-1005 would be provided in the event the existing vegetation is removed during construction or damaged to the point the City Horticulture Manager determines it needs to be replaced. New trees may be planted within the southern bufferyard to create a new tree row per the City Forestry Manager's specifications.
- f. Show the sight triangles at all intersections.
- g. Utility easements shall be revised as necessary for City Utilities Department and Westar approval.
- h. Show graphically the stands of trees which will be protected.
- i. Addition of the following notes:
 - i. *"Uses and facilities noted as 'future' are approved conceptually as shown on this SUP; however, the addition of the use will require submittal and approval of a revised SUP application through the SUP process, including a public hearing before the Planning Commission and approval by the City Commission."*
 - ii. *"Trail locations shown on the SUP are approximate. Specific locations and surfacing will be approved by the City Commission."*
 - iii. *"Alcohol sales and consumption are permitted on the premises with appropriate liquor licensing."*
 - iv. *"The Planning Director administratively waived the requirement for a Type 1 Bufferyard for the west and north lot lines."*
 - v. *"The Planning Director waived the perimeter parking lot requirement for a wall or berm and approved the perimeter landscaping as shown on the plan."*
 - vi. *"The use of the recreation center building, soccer field, softball field, and track stadium shall be unrestricted for sport and athletic event related activities. Sport and athletic event related activities include, but are not limited to, the following, whether at the intercollegiate or other level:*
 - a. Softball, soccer, and track and field competitions, practices, and events;*
 - b. Parks and Recreation programmed events and athletic programs such as, but not limited, to:*
 - i. Basketball, volleyball, gymnastics, community recreation programs, etc. contained within the building,*
 - ii. Tennis play and tournaments at the tennis courts,*
 - iii. 3-on-3 basketball tournaments in the parking lot, etc.*
 - c. Recreational level sports – Ultimate Frisbee, flag football, etc. on the KA fields;*
 - d. Exhibition games and tournaments such as, but not limited to:*

- i. Kansas Relays,*
- ii. Football/softball/soccer games and tournaments,*
- iii. Special Olympics,*
- iv. Cross Country meets,*
- e. Marching band performances and practices.*

Non-sport and non-athletic related events, located within the facilities or in the parking lots, shall require approval through the city's Special Event Permit process. Non-sport and non-athletic related activities include, but are not limited to:

- a. Music concerts,*
 - b. Festivals,*
 - c. Fairs,*
 - d. BBQ cook-offs,*
 - e. Farmers' markets,*
 - f. Racing and vehicle exhibitions: BMX and Motorcross racing, truck and tractor pulls, etc."*
 - vii. *"Tennis court lights shall be shut off no later than 10:30 PM Sunday through Thursday and no later than 11:00 PM on Friday and Saturday nights. Stadium and other outdoor recreation lights shall be shut off no later than 11:30 PM throughout the week."*
 - viii. *"The detention pond/drainage easement will be privately-owned and maintained. The developer is responsible for establishing ownership and maintenance of same via individual owner maintenance. No fences or structures other than necessary retaining walls and/or guardrails will be allowed within the drainage easements."*
 - ix. *"All curb inlets will be constructed per City storm sewer standard details."*
 - x. *"Exterior ground-mounted or building-mounted equipment including, but not limited to, mechanical equipment, utilities boxes and meters, shall be fully screened from view of adjacent properties and from street rights-of-way (as measured 6 ft above ground level). Screening shall be in the form of landscape plantings or an architectural treatment compatible with the architecture of the principal building."*
2. A photometric plan for all exterior lighting shall be provided for review and approval by the City Commission prior to the release of the SUP plans for building permits.
 3. A shared parking agreement between the owner of Lot 1 and Lot 2 shall be executed prior to the issuance of building permits for any structure.
 4. A maintenance agreement between the owner of Lot 1 and Lot 2 shall be executed prior to the issuance of building permits for any structure.
 5. Provision of a revised drainage plan per the City Stormwater Engineer's approval.

Motion carried 6-3.