

Minutes

Audio Tape Nos. 545 & 546

The City Council of the City of Leawood, Kansas, met in special session in the Council Chamber, 4800 Town Center Drive, at 7:00 P.M., on Monday, March 25, 2002. Mayor Peggy J. Dunn presided.

Councilmembers present: Scott E. Gulledge, Gary L. Bussing, Jim Rawlings, Patrick L. Dunn, Shelby Story, Mike Gill, and Louis Rasmussen. **Councilmembers absent:** James E. Taylor, Sr.

Staff present:

Scott M. Lambers, City Administrator
Patricia A. Bennett, City Attorney
Diane Binckley, Planning/Development Director
Martha Heizer, City Clerk

Sid Mitchell, Chief of Police
Joe Johnson, Public Works Director
Bob Sadler, Internet Specialist
Deb Harper, Deputy City Clerk

- 140 **1. Roll Call**
- 255 **2. Resolution No. 1675 approving preliminary plat, preliminary plan, and special use permit [SUP] for United Methodist Church of the Resurrection, located south of 137th Street and east of Nall Avenue**

Doug Patterson spoke on behalf of the applicant, the United Methodist Church of the Resurrection.

360 Senior Pastor Adam Hamilton talked about the site plan and the many services, ministries, and programs the Church offered the community. He said the Church's master plan was its best understanding of the what the ultimate needs of the congregation might be, a road map to help the Church see the possibilities and opportunities for facilities and ministries into the future. He believed that the proposed plan was the right plan and the site on which it was located was the right land. Reverend Hamilton said that the Church 1) postponed the original vote on the plan in order to allow neighbors the opportunity to study the plan more carefully and give input at several meetings with the Church; 2) agreed to increase the setback from the required 25 feet to 70 feet from neighbors' property lines to the edge of the Church's streets, drives, parking areas, thus forcing the removal and relocation of 94 parking spaces; 3) developed plans for undulating berms 6 to 9 feet in height with landscaping on the berms as well; 4) developed plans to ensure that no water from the Church's property would run onto neighboring or adjacent home sites, guaranteed by the Church's engineers; 5) studied traffic around the Church, especially that which cut through neighborhoods, and was willing to add traffic control officers if

needed, and with thru lanes to be added in the future, the Church's consultants indicated that neighborhood traffic should be able to bypass the Church's traffic when services were released; 6) decreased the height of the spire from 250 feet to 155 feet which the Church understood was the City's height regulation for cellular towers; 7) decreased the height of the sanctuary from 125 feet to 105 feet; 8) moved the spire 500 feet away from its original proposed location so it was 800 feet away from the closest homeowner, and instead of marking the entrance to the Church as planned, the spire was placed on the far west side of the plan.

850 Dennis Wellner, principal architect on the project for HOK Venue/Shughnessy Fickel and Scott Architects, made comments about the height of the sanctuary and spire, the 70-foot setback, and the landscaping. He said that service to the public streets would be maintained at good levels at the ultimate development of the parcel; any inconvenience during peak traffic times of exiting the Church property, any diminishing of the performance of the street levels, would be noticed by the members of the congregation who utilized the site, so any slow down would be by individuals going off of the site and not from the flow of traffic on the streets around the site. Mr. Wellner said there was a stormwater analysis, prepared and approved by Public Works, that concluded that runoff from the project that went northerly to Tomahawk Creek would get to the Creek without flooding structures once an improvement was made to a box culvert at 133rd Street west of Nall Avenue. Improvements to the culvert were agreed to by the Church and the City of Overland Park. According to the Tomahawk Creek study prepared for Johnson County and Leawood, the Church development, in its ultimate development, was not located within the tributaries and the Church development had no impact on the flooding of the tributaries. Detention basins had been sized in the southerly watershed in accordance with City standards and would be reviewed during the final plan submittal; engineering verified that the existing stormwater system south of the Church property was sized to include the Church watershed.

990 Marsha Hoffman, Project Manager, said the Church agreed with all stipulations of approval.

1040 Councilmember Rasmussen asked questions about the spire and stormwater. Mike Shaughnessy of SF&S Architects told Mr. Rasmussen that the 155-foot spire would have lightning protection. Mr. Rasmussen asked why he didn't see a stormwater detention maintenance agreement in materials distributed to the Council. Roger Cassity of Phelps Engineering advised that there were proposed stormwater detention basins to the south of the project, but draft agreements hadn't been completed, and they would be part of the final development plans, and that the applicant had no objection to having a normal detention basin maintenance agreement. Mr. Rasmussen said that a statement was made that the stormwater from the north side of the Church would be headed for Cornerstone Village shopping center at 137th and Nall which would be designed to accept the runoff, and he wanted to know how that design would be guaranteed; it had to be built in somewhere. Mr. Patterson said the engineer had a seal that would guarantee the design. Mr. Rasmussen noted that the City Council had already approved a 12-story hotel in his ward which was close to 105 feet in height, so what the Church applied for was no different from what the Council had approved for a hotel.

- 1230 Councilmember Gullede asked if there were any plans to try to deter traffic from going south from the Church. Reverend Hamilton said the Church might agree to some signage. Dennis Wellner noted that in handling volumes of people, it seemed that the most effective method of control was with personnel because of the concentration of use prompted by the Sunday worship service specifically. Reverend Hamilton noted that the Church was removing almost 400 parking spaces on the east side (the Roe Ave. side) of the site, loading most of the parking on the west side (on the Nall Ave. side), so the Church anticipated that most of the entrances and exits would be on the Nall side, not on the Roe side, which should improve the traffic situation.
- 1335 Councilmember Gill asked if there would be a complete stormwater management plan and would it be part of final approval. Mr. Cassity said there would be as part of the final. Mr. Gill asked if there should be a revised stipulation to reflect the fact that there would be complete stormwater management plans and a detention monitoring plan; City Administrator Lambers felt there should be a revised stipulation. Mr. Gill was interested in rewording stipulation #9 relating to traffic to make it clearer and would think about how it should be reworded. The applicant confirmed for Mr. Gill that the Church planned to screen neighbors from car headlights and views of the asphalt parking lot. Mr. Gill asked about an outdoor activity area previously identified as an amphitheater; Planning Director Binckley verified for Mr. Gill that the Church would have to obtain an administrative special use permit in order to have an outdoor concert, revival, or similar event. Regarding the special use permit under consideration, Mr. Gill requested for clarity a wording change for the use of the property described, to read, "A Church facility and Church-related ancillary uses as provided in the stipulations." The applicant had no objection to the change.
- 1785 Councilmember Rasmussen asked if the absence of detention on the north side of the ridgeline that ran through the Church property would increase the flooding on Tomahawk Creek Parkway. Public Works Director Johnson said that the study of the Tomahawk Creek watershed that was done by Johnson County assumed that the land was currently undeveloped, looked at the City's land use plans, modeled the watershed with the area being built out based on the City's land use plan, with the assumption that there was no detention. So, the FEMA study showing the floodplain to date would not change with the development of the Church or the commercial property at 135th and Nall. Mr. Johnson said he had read and accepted the Phelps Engineering drainage report demonstrating the adequacy of the downstream system.
- 1980 The following residents spoke in favor of the Church expansion:
- | | |
|--|--|
| Greg Field, 14204 Granada | Steve Eginoire, 12512 Sherwood |
| Jon Schram, 5430 W. 140 th St., Overland Park | Jerry Adams, 4745 W. 138 th Terrace |
| Jack Wimer, 5422 W. 140 th St., Overland Park | Laura Gregory, 12205 Aberdeen |
| Rob Winger, 15457 Foster, Overland Park | |

They talked about the many valued services and benefits offered to the community by the Church and Reverend Hamilton; the increase in property values around the Church property; the desire not to have

a Walmart, Sam's Club, apartments, or bars which would directly impact the real estate appeal of the neighborhood; the willingness of Church members to fund the project entirely by themselves because they believed that the Church made a difference in their lives and in the community; the real measure of pride for the community would be what would occur inside the Church buildings, not what the Church buildings would look like on the outside; the Church was an investment in children, the community, and the future; the Church had addressed potential traffic and drainage problems and had made plan changes to accommodate neighbors' concerns.

Michael Hansen, 12601 Fairway, was neither for or against the Church expansion; he was interested in what the tax ramifications would be for the City with a Church using such valuable land even though he realized that the Church was valuable to the community. Leawood had very little retail tax base and he wondered if the City had done a tax study.

2755 The following residents spoke in opposition to the Church expansion:

| | |
|---|---|
| Randy Becker, 4800 W. 138 th St. | Steve Cyr, 4544 W. 140 th Terrace |
| Oscar Healy, 4544 W. 138 th Terrace | Anne Kaveski, 4548 W. 138 th Terrace |
| Richard Dechant, 13808 Cedar | Yvonne Braasch, 4549 W. 138 th Terrace |
| Jennifer Kelly, 4545 W. 138 th Terrace | Steve Kelly, 4545 W. 138 th Terrace |
| Joe Kaveski, 4548 W. 138 th Terrace | Lisa Rohlf, 13813 Fontana |
| David Hegarty, 4849 W. 138 th Terrace | Jay Oltjen, 4810 W. 139 th Terrace |
| Bill Pradierio, 13700 Fontana | Denise Roberts, 4009 W. 138 th St. |
| Dana McDole, 4609 W. 138 th St. | |

There were concerns that the Church was too big and too tall (sanctuary and spire exceeded building code heights), too close to residential areas, had too much traffic, didn't have enough screening/buffering. Many homeowners in Worthington subdivision were not opposed to the Church expanding responsibly, but were opposed to the proposed plan. Keeping a "neighborhood/family community" atmosphere, Church traffic cutting through residential areas, and drainage were other concerns. There was a request that the height of the spire be reviewed and governed by the Board of Zoning Appeals. Lack of sufficient landscaping (it was too sparse) and the size and ground cover of berms were still concerns. Because of some unanswered questions, some residents requested that the matter be remanded to the Planning Commission so that the Church, neighbors, and the Planning Commission could work together to come up with a mutually agreeable plan. The Church expansion project should be given the same scrutiny as any other development project that would have significant impact on neighborhoods. There was a request that any Councilmember with direct or indirect ties to the Church should recuse himself or herself from the vote. It was noted that the Church had stated that they had no plans to use the spire as a cell tower or for any other commercial purpose, and the Church was asked to state during their rebuttal towards the end of the meeting that they would not use the spire for any commercial purpose; failure to do so would seem to indicate ulterior motives in the request for a variance in the height of the spire. There was concern about light from the spire at night creating a nuisance.

- 4400 Reverend Hamilton explained why a smaller 5,000-seat sanctuary as suggested by one resident wouldn't meet the Church's needs. He stated that the Church would not use the spire for any commercial purpose. Regarding the lighting of the spire, Rev. Hamilton said that was several years in the future and those plans would have to go through the normal planning processes. Mr. Patterson reminded everyone that zoning elements of the plan including landscaping, berming, elevations of parking relative to residential lots, were subject to final site plan approval which the Church voluntarily agreed would be considered by the Governing Body, not just the Planning Commission.
- 4765 One resident had asked about tax ramifications to the City with Church use of the land. Councilmember Gill understood that those ramifications (the Church being tax exempt) were exactly the same as they were for any other religious facility, of which there were many, in the City. However, the Church was paying the same impact fees minus the sanctuary as any commercial development in the City would pay. In addition, the Church agreed to the traffic stipulation that if there was an unexpected impact, it would, at its expense, pay for whatever additional manual or automated remote processes were necessary to deal with the traffic.
- 4920 Planning Director Binckley advised Councilmember Bussing that the Church project received the same scrutiny and went through the same planning processes as any other residential/commercial development. He was also advised that the spire, in its location, would not cause any additional light on any of the neighborhoods; the lighting would be from within the spire, not projected out.
- 5155 Councilmember Story asked the applicant to address the sufficiency of the berming to take care of neighbors' concerns regarding their privacy. Dennis Wellner said that the studies that had been done were advanced to a level of detail as prompted by meetings with residents. One of the objectives that was set for the applicant's designers dealt with the issue of automobile headlights and a view of the parking area from the first floor of a residence. The objective was that that be precluded. The design was being advanced and would be submitted at the appropriate time. Mr. Wellner confirmed for Mr. Story that the final plan for the berming that would be submitted at a later date would in fact take into account the differing elevations along the property line and the steps necessary at those various elevations to stop headlights and other issues that might raise concern, and that the applicant at the later date would take reasonable steps necessary to address the concerns of the Governing Body and residents.
- 5315 9:40 P.M. 15-minute recess.

END OF TAPE NO. 545
NEW TAPE NO. 546

9:55 P.M. The meeting was reconvened.

An amended proposed resolution was distributed to the Governing Body with new stipulations 30, 31, 32, 33. Councilmember Gill wanted to add an 8.c. which would read “church exits onto Roe,” and in stipulation 9, wording change in the last sentence to read, “Specifically, the applicant shall be responsible for the cost of providing the above traffic control measures and installing the remote control equipment...” The Mayor read new stipulations 30 through 33.

30. Applicant shall, in accordance with the City’s requirements, submit a complete Stormwater Management Plan, at the time of final plan submittal for each phase.
31. Applicant shall submit a letter from the owner of the property located directly north of this property [currently known as the Cornerstone Tract], agreeing to provide stormwater easements and to otherwise provide design to handle stormwater runoff from this parcel at the time of final plan submitted for the First Phase.
32. Applicant shall submit an executed Stormwater Maintenance Agreement for the entire project at the time of final plan submittal for the First Phase.
33. Applicant agrees to the requirements of the City of Overland Park to resize the culvert located at or about 133rd Street, at such time as Overland Park mandates such improvement.

130 Councilmember Gullede asked that another sentence be added to stipulation 9 to read, “In addition, the applicant agrees to provide traffic measures to deter traffic exiting the Church onto southbound Roe.”

215 Councilmember Rasmussen moved to adopt the resolution as amended, seconded by Gullede. Councilmember Dunn stated that contrary to what had been stated in the press, the project had not been pushed through in any way at all. It was given the same scrutiny, if not more, than any other project brought to the City. It was considered for several months by the City’s professional staff prior to the required neighborhood interact meetings, it was then presented to the Planning Commission which was not a rubber stamp for any project, sent back by the Governing Body for 6 additional neighborhood meetings as well as 2 Governing Body work sessions. Mr. Dunn didn’t consider the application on the basis of the Church’s mission; he believed a fundamental right of American citizenship was the right to own property and that right meant very little if the property owners could not reasonably plan and development their property on the basis of zoning and other rules put in place by local government. He found the project to be well within the intended use designated for the area, found the requested variances very acceptable in light of the significant trade-offs given by the applicant to minimize the impact on the surrounding neighbors. He was fully in favor of the project.

330 Councilmember Story said that the scrutiny of the project wasn't over. It was an extraordinary project that would return to the Governing Body for final plan approval; ordinarily, the Governing Body didn't see final plans.

Reverend Hamilton stated that he agreed to all stipulations of approval.

Mr. Rasmussen's motion carried unanimously.

Adjourn

750 There being no further business before the Governing Body, the meeting was adjourned at 10:30 P.M.

Martha Heizer, City Clerk