



CITY COUNCIL COMMUNICATION

November 12, 2013

SUBJECT: Consider granting an exception to Section 84-411 of the Unified Development Code in regards to filing a Conveyance Plat application for a portion of a 6.1715 acre tract of the Harwood Plaza Addition within the J.P. Halford Survey Abstract 711 within the 900 block of N. Industrial Boulevard.

SUBMITTED BY: Mike Collins, Director of Planning and Economic Development

REFERENCE NO: 13-06-CC

ACTION REQUESTED:

Approve an exception to Section 84-411 Conveyance Plat paragraph (b) Applicability to allow the filing of a conveyance plat for less than the required five (5) acres for a portion of a 6.1715 acre tract of the Harwood Plaza Addition within the J.P. Halford Survey Abstract 711 within the 900 block of N. Industrial Boulevard.

ALTERNATIVES:

- Approve the request with modifications
- Table the request
- Deny the request

SUMMARY OF SUBJECT:

Mr. Chris Lyons owns a preliminary platted 6.1715 acre parcel located on N. Industrial Boulevard, immediately to the south of the Professional Turf Products. The preliminary plat was approved by the Planning and Zoning Commission on September 17, 2013. City regulations require that before subdivided parcels are purchased, a final plat is required, and before a final plat is filed, site plans and public infrastructure must be installed. A buyer desires to purchase 1.17 acres out of this tract. While intending to construct a medical office building in the future, he does not have immediate plans to develop the property.

Sec. 84-411 – Conveyance Plat (b) Applicability establishes that “a conveyance plat may be used in lieu of a final plat to record the remainder of a tract created by the final platting of a portion of the property provided that the remainder is larger than five acres and is not intended for immediate development”. In this instance, a Conveyance plat cannot be used because the parcel is less than five (5) acres. Consistent with our current ordinance, the purchaser cannot close the sale without a recorded plat and the

City won't record the plat until the public infrastructure is in place.

The provision of the ordinance establishing a five (5) acre minimum for a conveyance plat was adopted several decades ago, and was put in place to encourage orderly growth and lessen the amount of "land flipping". This was a time when the city had large tracts of undeveloped land and there were circumstances in which there was not infrastructure extended to the tracts to support the development. The costs of providing the infrastructure to a development of five (5) acres or larger could be economically feasible, so there was not a concern that the property would be purchased and remain undeveloped for a long period of time. With Mr. Lyon's property, the required infrastructure is in place to support the parcel's development.

Staff is recommending that an exception be granted by the City Council to allow a conveyance plat to be applied, approved and filed for a tract less than the required five acres. The granting of an exception by the City Council is a process that is established in Section 84-26 and which reads as follows:

Sec. 84-26

(b) Variances, exceptions, and appeals to platting. The city council shall have the ultimate power to grant or reject variances or special exceptions to platting regulations which consist of articles IX, X, XI and XII of this chapter.

(1) Findings of extraordinary hardships or practical difficulties. Where the city council finds that extraordinary hardships or practical difficulties may result from strict compliance with the platting regulations or that the public interest may be better serviced by an alternative proposal, the council may approve a variance or special exception to the platting regulations of this chapter.

(2) Grounds for variances or special exceptions. The city council shall not authorize variances or special exceptions unless it shall make findings based on the evidence presented to it in each specific case that:

- a. The granting of the variance or special exception will not be detrimental to the public safety, health, or welfare or injurious to other property;
- b. The conditions upon which the request for a variance or special exception is based are unique to the property for which the request is sought and are not applicable generally to other property;
- c. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict terms of these regulations are enforced;
- d. The variance will not in any significant way vary the provisions of this chapter, zoning map, or comprehensive master plan.

(3) Petition requirement. A petition for any such variance shall be submitted in writing by the applicant at the time when the preliminary plat is filed for consideration. The petitioner shall state fully the grounds for the variance and all

the facts to be relied upon in reaching a decision.

(c) *Burden of proof.* The applicant shall have the burden of proving to the city council that the conditions supporting the allowance of a variance or special exception, as may apply and are set out in this section have been met.

If the City Council grants the exception, it can be certain the city's interests are protected. The purchaser of the property will be required prior to the issuance of a building permit to follow the final platting and site plan process that would lead to the construction of the public improvements and other infrastructure necessary to support the development of the property.

SUPPORTING DOCUMENTS:

- Petition from Property Owner
- Exhibit: Preliminary Plat

APPROVED BY:

_____ **LG** _____

City Manager's Office

_____ **KS** _____

City Secretary's Office