

**City of South Lyon
Planning Commission Meeting**

January 8, 2009

Chairman Weipert called the meeting to order at 7:04 p.m.

All present recited the Pledge of Allegiance to the Flag

PRESENT: Commissioners Bradley, Weipert, Leimbach, Subotich, Tartaglia, and Culbertson. Commissioners Kurtzweil, Lanam and Mosier were excused.

Also present were Ben Tallerico (Planning Consultant), Joe Veltri, Building and Kristen Delaney, Director of Community and Economic Development

APPROVAL OF AGENDA:

Motion by Bradley, supported by Culbertson

To approve the Agenda for January 8, 2009.

VOTE

MOTION CARRIED UNANIMOUSLY

APPROVAL OF MINUTES:

Motion by Culbertson, supported by Leibach

To table Approval of the Minutes for December 11, 2008.

VOTE

MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT

There was no public comment.

NEW BUSINESS

Discussion: Consent Judgment Modification – Charleston Park

Joe Kheder of Kheder Homes was present for the discussion.

Veltri stated the development came in under a consent judgment which means for anything to change the city and developer must have a signed agreement that is then written into the judgment by the court. The builder is requesting the change for lot coverage. The builder wants to increase the lot coverage by five-percent. The city is

against this so if a change is recommended the city asks that the percentage of lot coverage be separate so the twenty-five percent as lot coverage stays but then allow for another separate amount to provide for additional structures. He provided some examples.

Culbertson asked how this relates to pools. Veltri noted pools are all different sizes and shapes. There is no average size pool just like there are no average size decks. He reminded the Commissioners that residents can still apply for a variance. He noted this will change the consent judgment with the developer but it is the builder making the request.

Bradley noted the ZBA has seen the builder three times and he has received approval for each variance. In his opinion he thinks the Commission should recommend approval. Veltri asked Mr. Kheder how many residents have gone to the ZBA. Kheder replied he represented three residents but he did not know how many others. Veltri guessed twenty-five percent of the residents. There was a general discussion variance regarding requests approved by the ZBA.

Leimbach asked for a history on the development. Veltri explained how the process for a consent judgment. Leimbach stated his feeling is when a developer gets a consent judgment whatever hardships that come with that they should have to live with. He would not want to change the coverage of the lot for a bigger home or more coverage.

Subotich asked how a patio is considered in lot coverage. Veltri stated if a patio is under nine inches or at grade level than it is not lot coverage; more than nine inches and/or raised then it is counted in lot coverage. Subotich asked if the resident has the option of nine inches at grade level or a variance. Veltri replied yes. Subotich stated he agrees with Mr. Leimbach and is concerned about changing an ordinance. Veltri clarified they are not considering changing an ordinance they are considering changing a court order. Tartaglia stated since a lot of the residents are already appearing at ZBA he does not really have a problem since the building size itself is not changing. He agrees with the city's recommendation. Subotich asked if floor plans allow any flexibility. Veltri replied some plans leave room for lot coverage but they are all site specific. He provided some specific examples.

Subotich asked the average square feet of the homes. Kheder replied the range from one-thousand six-hundred square feet to three-thousand one-hundred square feet. Veltri noted some homes do not fit on every lot. Veltri stated these lots cannot have separate structures, i.e. detached garages or shed. The pools and decks also have to be approved by the homeowner association. Kheder stated he purchased the site on option from Singh. His intent is not to make bigger homes and he's not looking at changing the setbacks, or building envelopes. He works closely with the residents in picking appropriate sized homes in relation to the lot size and the neighboring homes. He provided some examples of problems for people who might want a deck and a three car garage. Kheder noted the model home had to be canter-levered over the foundation to make it fit. The hardship occurs because the envelope works relative to the set back but the lot coverage is the

same as the rest of the city. Weipert stated it seems like they are trying to build too big of a house on the lots. She has a hard time saying they can use thirty-five percent but another development can only have twenty-five. Kheder stated the consent judgment only looked at setbacks and he was not involved.

There was a general discussion regarding garages and restrictions by the homeowners association and how the calculations affect the addition of garages, decks, and etcetera.

Leimbach noted if the Planning Commission does nothing then the residents would have to get a variance. Veltri explained the process for appearing at ZBA. Tallerico noted it was a buyer-beware issue. Veltri noted the residents are residents of the city and while he was not for or against the request he did recommend that it be limited to decks, pools, and patios. There was a general discussion regarding the number of pools in the neighbor, whether or not Jacuzzis were counted, and how structures over Jacuzzis and pool houses would count.

Culbertson stated he was not in favor of changing the judgment. He would rather see each case come in individually for a variance than try to come up with language to accommodate everyone. Tartaglia asked how many residents are coming in to the ZBA. Veltri replied it was difficult to say but maybe as many as eighty-percent. Tartaglia stated he did not feel it was the ZBA's job to deal with that many. Subotich doubted it would be eight-percent. There was a general discussion regarding how many could appear before the ZBA.

Subotich noted the builder could build smaller homes. Tallerico stated any developer or builder could use the same argument. It was not unique because he has been the only one to come forward. Weipert stated it was a consent judgment but that also means it was still a site plan. She does not want to send the message that the change from twenty-five percent to thirty-percent could send. Tallerico stated the Commissioners want the developer and the city to be successful and that should be weighed into their values for the city as part of the decision.

Kheder stated the trend has been smaller homes that are nicely appointed. He did not tell his clients there was a consent judgment and they have to get a variance to build a deck. If he did that he feels they would walk away. His priority was to build homes and sell the lots.

Tallerico noted he was not recommended but suggested another option to recommend the ZBA give a blanket variance. There was a discussion regarding how that process would work and whether or not it would work with the consent judgment. Kheder stated he was trying to simplify things.

Motion by Bradley supported by Tartaglia

To recommend increasing the lot coverage by five-percent for the building of decks, pools, and raised patios.

VOTE

MOTION DENIED (Four Nay; Two Yea)

Motion by Culbertson supported by Subotich

To recommend no change to the lot coverage.

VOTE

MOTION CARRIED (Two Nay; Four Yea)

Discussion – Movie Ordinance

Weipert asked if they should include an outdoor gathering ordinance as a separate matter. Veltri replied no it should be included with the movie ordinance because if it was an outside scene with a big name star there will be crowd watching. This ordinance is a big insurance package for the city to have some control and cover costs. The only things up for grabs are the numbers. The city will recommend fees to City Council for their approval.

Weipert asked if the shoot was in more than one location would they need a permit for each location. Veltri replied no, just one for the whole production.

Veltri noted the language still needs to go through the legal department for their review and changes but asked for any other questions or suggestions or corrections from the Commissioners.

Culbertson asked about shooting videos for education purposes. Veltri replied that was covered and would not require a permit.

Weipert asked for clarification on the type of non-profit classifications. Veltri stated he would check with the city's attorney as part of their review.

Tallerico asked for clarification regarding the timing of the permit issue. Veltri stated the intent was to fast track the permits. Tallerico suggested specifying how far in advance it should be requested.

Tallerico noted some of the language seems redundant. Veltri replied that was letting the production company know up front what the limitations are because they are not going to look at other ordinances. The redundancy was intentional.

There was a general review of typographical errors and what the city's attorney should review. Bradley noted this was a good start.

Veltri stated he will make changes and send it to the city's attorney then it will come back to the Commissioners before a public hearing.

Tallerico suggested fast tracking the movie ordinance and not allowing the public gathering question slow down the process.

STAFF REPORTS

Veltri stated there will not a second meeting in January. The next meeting will be February 12th or maybe the 26th.

Veltri complimented the Commissioners on a good discussion regarding the request to change the consent judgment. Their input and discussion in general was good for the applicant to hear.

Bradley provided an update of the last ZBA meeting.

ADJOURNMENT

Motion by Culbertson supported by Bradley

To adjourn the meeting at 8:45 p.m.

VOTE

MOTION CARRIED UNANIMOUSLY

Pam Weipert, Chairperson

Jennifer Knapp, Recording Secretary

Keith Bradley, Secretary