

**CITY OF KIRKWOOD**

**PLANNING AND ZONING COMMISSION**

**December 15, 2021**

**PRESENT:** **ABSENT:**

Jim Adkins, Chair Mary Lee Salzer-Lutz

James Diel, Vice Chair

David Eagleton, Secretary/Treasurer

Ron Evens

Allen Klippel

Tom Feiner

Sandy Washington

Darrell Scott

Pursuant to notice of meeting duly given, the Planning and Zoning Commission convened on Wednesday, December 15, 2021, at 7:00 p.m. in the City Hall Council Chambers. Planning and Development Services Director Jonathan Raiche, Planner II Amy Lowry, and Administrative Assistant Patti Dodel also attended the meeting.

**1.** Chair Adkins called the meeting to order at 7:08 p.m.

Chair Adkins read the ground-rules for public comment regarding petitions requiring Site Plan Review and announced that Commissioner Salzer-Lutz was absent and her absence was excused.

2. Motion was made by Commissioner Evens and seconded by Commissioner Feiner to approve the minutes for the November 17, 2021, meeting as written. The minutes were unanimously approved by the eight members present.

3. **PZ-09-22 SUBDIVISION WITH DRIVEWAY EASEMENT – 141 HORSESHOE AND 1334 WEST ADAMS AVENUE**

 Submitted: 11-2-2021

 Petitioner, West Jefferson Properties (Steve Meskill)

 (Subcommittee - Commissioners Diel, Feiner, and Washington)

Planner II Amy Lowry stated the lot at 1334 West Adams Avenue contains 2.37 acres and is zoned R1 and the adjoining lot to the south at 141 Horseshoe contains 0.83 acres and is zoned R3. The unimproved lot on Adams Avenue is not considered a flag lot since it has 292 feet of frontage along Adams Avenue. The R1 Zoning District requires a 50-foot rear yard setback and 25-foot side yard setbacks for a new house at 1334 W Adams and the R3 Zoning District requires a 35-foot rear yard setback and 12-foot side yard setbacks for a new house at 141 Horseshoe Drive. In addition, the building line shall in no event be less than 15 feet from any road maintenance easement. The front yard setback for both houses would be determined by averaging the front setback of the adjacent houses. The house to the west (1394 West Adams) has access from a bridge and driveway easement that provides access to four houses. The house to the east has access from a bridge and driveway easement that provides access to two houses. Since the Code allows no more than two houses to be served by a common driveway easement, the proposed house at 1334 West Adams cannot be included in those driveway easements. The applicant applied for a demolition permit for 141 Horseshoe on October 8, 2021, and the Landmarks Commission declared the Sugar Creek Ranch Subdivision a Landmark District on October 13, 2021. Therefore, the demolition is not subject to the demolition procedures for a house in a Landmark District. The Kirkwood Fire Department will review the building plans in relation to the Fire Code.

In response to Commissioner Eagleton’s question, Director of Planning and Development Services Raiche responded that the Fire Marshal has jurisdiction over the enforcement of the Fire Code and Fire Department access to the new house.

In response to Commissioner Adkin’s question, Mr. Raiche responded that while staff reviews proposed subdivisions, staff is not responsible for designing subdivisions; however, a road, probably a private road built to City standards, would likely be required if the owner wanted to subdivide 1334 W Adams into two lots and that may or may not be physically possible. There are multiple restrictions that would also prevent a hypothetical subdivision in the future or that might require variance requests (street frontage, setbacks, etc.). The current lots are conforming and the Commission must focus on the issue before them which is a proposed private shared driveway access to 1334 W Adams Avenue through the property at 141 Horseshoe Drive.

The Commission did not have questions for the petitioner; and the petitioner, Steve Meskill, did not wish to address the Commission at this time.

Chairman Adkins asked if there were any comments from the audience and the following responded:

Terry Wolf, 269 Horseshoe, stated she is opposed to a cut-through from Horseshoe to access a house on Adams Avenue. This cut-through would divert traffic from a St. Louis County-maintained major street and onto a Kirkwood-maintained minor street.

Vinnie Warner McMaster, 169 Horseshoe, wants to protect the beautiful and quiet area in which she lives, there is one way in and out. She believes the construction equipment and trucks will affect the subdivision’s serenity and will ruin the streets. She believes the petitioner has not investigated all of his access options.

Dory Poholsky, 177 Horseshoe, believes the petitioner is taking advantage of Sugar Creek Ranch owners to rectify his incomplete research to develop the property prior to his purchasing the property. In addition, it’s impossible for large vehicles to drive on the street when vehicles are legally parked on both sides of the street.

Kathleen Herring, 1388 Lark, purchased their home as-is in 2019 and spent eight months renovating the interior and adding a primary bedroom. The renovations were completed without compromising the mid-century modern exterior.

Karen Adams, 1459 Lark, SCR is one of the safest neighborhoods because there is only one way in and one way out. Homeowners on West Adams have built eight bridges to provide access to their homes. She believes the petitioner should not be allowed to have access to their neighborhood. On October 13, 2021, the City honored the SCR as a Landmark neighborhood.

Valery Starr, 1300 West Adams, stated she lived at 145 Horseshoe in the 1980’s and is concerned that sewer access for the proposed house would be lower than Horseshoe Drive and would require a pumping station. Connecting to Adams Avenue sewers would require a bridge to attach the pipe. This driveway easement could change the character of the neighborhood.

Mark Muellner, 275 Horseshoe, is opposed to the easement because the petitioner purchased 141 Horseshoe as a means to access the property at 1334 W Adams Ave to avoid the cost of building a bridge. Construction traffic will infringe on the subdivision. He believes the house on Horseshoe should be rehabbed and the profit from that sale could be used to pay for a bridge off Adams Ave.

Laura Moore, 170 Horseshoe, was fortunate to grow up in Sugar Creek Ranch, in a subdivision that was their playground. Granting this easement will affect the character of the neighborhood.

Brian Lucas, 254 Horseshoe, believes the streets are safe without concern for being hit by a vehicle. If the driveway easement is approved, one of the original homes in SCR is torn down, and tons of concrete and debris will be hauled away by dump trucks. Even more trucks will come in delivering materials for the new houses.

Laurie Astroth, 1320 West Adams, objects to the proposed house not having access to West Adams. She believes there would be confusion by delivery vehicles and she will be inconvenienced by drivers coming to her house looking for 1344 West Adams.

Dave Robbins, 1402 Lark, said there are 56 families living in SCR and 28 families on Lark Avenue and Embassy Lane who all access their houses off Couch Avenue. He does not want a driveway to this house through their subdivision and increase the risk to the current home owners.

Barb Theerman, 507 Taylor Young, said when at the subcommittee meeting, everyone witnessed the clear cutting of the land prior to the required tree audit. She expressed concern regarding the lack of containment of the sediment. This affects the welfare of the entire Sugar Creek valley, bridges. A new bridge over Sugar Creek will help slow erosion.

David Anderson, 521 Taylor Young, SCR is a strong, historic neighborhood. This district preserves historic mid-century modern charm. He believes this application is not consistent with this neighborhood’s aesthetic and historical designation.

Gwyn Wahlmann, 1002 West Adams. She was not present when her name was called.

Commissioner Washington read the underlined portions of the subcommittee report:

CITY OF KIRKWOOD

**PLANNING AND ZONING COMMISSION**

**SUBCOMMITTEE REPORT**

###### DECEMBER 15, 2021

***PETITION NUMBER:*** PZ-09-22

***ACTION REQUESTED:*** APPROVAL OF PRELIMINARY AND FINAL SUBDIVISION PLATS FOR MIMI’S GARDEN SUBDIVISION WITH WAIVER FOR PRIVATE DRIVEWAY EASEMENT

**APPLICANT:** WEST JEFFERSON PROPERTIES, PROPERTY OWNER

**PROPERTY LOCATION:** 141 HORSESHOE DRIVE AND 1334 W. ADAMS AVENUE

**CURRENT ZONING**: R-3 SINGLE-FAMILY RESIDENTIAL (141 HORSESHOE DRIVE) AND R-1 SINGLE-FAMILY RESIDENTIAL (1334 W. ADAMS AVENUE)

**DRAWINGS SUBMITTED:** PRELIMINARY PLAT PREPARED BY WIND ENGINEERING “RECEIVED NOVEMBER 2, 2021, CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT”

FINAL PLAT PREPARED BY WIND ENGINEERING “RECEIVED NOVEMBER 2, 2021, CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT”

***DESCRIPTION OF REQUEST:***

The applicant has submitted an application for a subdivision waiver to create a private driveway easement at 141 Horseshoe Drive and 1334 W. Adams Avenue for access to the lot at 1334 W. Adams from Horseshoe Drive. The proposal does not include an increase in the number of lots. The lot at 1334 W. Adams is a 2.37-acre vacant lot upon which the applicant would like to build a single-family residence. The applicant proposes to access the lot at 1334 W. Adams from the rear through 141 Horseshoe Drive (a .83-acre lot) due to cost and environmental concerns for a driveway directly from West Adams. The Subdivision Code does allow a private driveway easement for a common driveway to serve not more than 2 lots if approved by City Council after recommendation from the Planning and Zoning Commission. No other changes to the 2 lots are being requested.

**DISCUSSION:**

Zoning Matters signs were placed on both properties on November 12, 2021. The proposal was introduced at the November 17, 2021 Planning and Zoning Commission meeting and a subcommittee was appointed. The subcommittee meeting was held on site on November 30, 2021. See Exhibit B for a list of people in attendance. Notice of the meetings was properly posted. During the subcommittee meeting, the applicant discussed his plans to build an 1800 square foot, one-story house on the Adams lot. He had already applied for demolition on the Horseshoe lot of the house that has been vacant for a number of years and is in a deteriorated condition. The subcommittee walked the site to evaluate the proposal and observe the topography of the site from Adams Avenue. The applicant said that dead trees and honeysuckle had been removed from the Adams lot; City Staff evaluated the need for a grading permit and determined a grading permit is required. The applicant subsequently applied for the permit and is in process of obtaining the necessary studies and plans for approval of the required permit. Property owners are allowed to remove trees from their property as long as a minimum 35% of the lot remains covered by tree canopy. It appears that the applicant will be able to comply with this requirement.

Also discussed were Kirkwood Electric and Fire Department access to the proposed new house on the Adams lot. It was confirmed by City Staff that the construction of homes on either lot is subject to the City’s adopted fire code. There are multiple design solutions that can be considered by the applicant to meet the fire code. At this time, it appears the applicant will be able to comply, however, if a subdivision waiver is granted and a fire code issue is identified during the permitting process, the building permit would not be issued until the project complies with the fire code. Much of this relies upon construction documents that would be submitted for City Staff review later in the process.

***LAND USE AND ZONING***:

The subject property addressed as 141 Horseshoe Drive is zoned R-3 Single-Family Residential and the subject property addressed as 1334 W. Adams Avenue is zoned R-1 Single-Family Residential. Surrounding land uses and zoning include the following:

To the north: Across West Adams Avenue, there are single-family homes zoned R-1 Single-Family Residential.

To the south: In the Sugar Creek Ranch subdivision, there are single-family homes zoned R-3 Single-Family Residential.

To the east: There are single-family homes zoned R-1 Single-Family Residential east of 1334 W. Adams Avenue, and single-family homes zoned R-3 Single-Family Residential east of 141 Horseshoe Drive.

To the west: There are single-family homes zoned R-1 Single-Family Residential west of 1334 W. Adams Avenue, and single-family homes zoned R-3 Single-Family Residential west of 141 Horseshoe Drive.

***DEPARTMENT/OUTSIDE AGENCY COMMENTS:***

Electric: Will need an electrical utility plan documenting the path for new electrical services for both 1334 W. Adams Avenue and 141 Horseshoe Drive.

Building: No comments

Fire:1. The fire apparatus access to the residence does not meet current requirements. Under 2009 IFC section 503, approved fire apparatus access roads shall extend to within 150’ of all portions of exterior walls of the first floor. Adjustments may be made based on alternative fire protection methods.

2. Fire apparatus access roads shall be a minimum of 20’ in width and designed / constructed to support the imposed loads of fire apparatus with an all-weather surface. Adjustments may be made based on alternative fire protection methods.

3. Dead-end fire apparatus roads in excess of 150’ shall be provided with an approved area for turning around fire apparatus.

4. Any grade exceeding 10% on the fire apparatus road is required to have approval of the fire official.

5. Need distances to the two closest fire hydrants.

6. Need fire hydrant flow test data.

Water: 1. Proper depth of waterlines shall be maintained per City Water Department specifications and DNR requirements.

2. Proper separation per City Water Department specifications and DNR requirements shall be maintained between waterlines and storm/ sanitary lines.

3. Neither curbstop valve nor meter shall be installed within the proposed driveway.

Forester: Any work that would impact trees on 141 Horseshoe to establish a driveway will require a complete Tree Study of the lot, meeting all requirements of the Ordinance.

 Engineering: No comments.

**ANALYSIS:**

Under Section 25-81(c)(5)(i)c of the Zoning and Subdivision Code, if a private driveway easement is approved by the City Council after recommendation from the Planning and Zoning Commission as a subdivision waiver, then the building line shall in no event be less than 15 feet from any road maintenance easement, and no more than two lots shall be served by a common driveway easement. This would require partial or full demolition of the existing house at 141 Horseshoe. The proposed preliminary and final plat for the Mimi’s Garden subdivision meet the conditions of the private driveway easement. Although the developer is required to show building locations on the preliminary plat to show that the development is feasible, the exact locations of future buildings may vary within the permissible buildable area as defined by the setback requirements. The proposed building footprints are indicated on the preliminary plat.

The purpose of a subdivision modification under Section 25-27(i) of the Zoning and Subdivision Code is to provide limited relief from standards that apply to the subdivision of land including standards for improvements such as roadway access. Subdivision modifications are intended for those cases where strict application of a particular requirement will create a practical difficulty prohibiting the use of land in a manner otherwise allowed under these regulations. The review criteria for a subdivision modification shall be the same as those for a variance as established in Section 25-24(c) of the Zoning and Subdivision Code.

The subcommittee has concluded that it is not practical to require that access be provided from West Adams Avenue. In the view of the subcommittee, strict application of this code requirement would result in a practical difficulty, effectively making use of the Adams parcel for residential development cost prohibitive, assuming that it could be done at all. In the view of the subcommittee, permitting ingress/egress from Horseshoe Drive to serve the property on Adams would have a negligible negative impact on the street and the Sugar Creek Ranch neighborhood. In the view of the subcommittee, the driveway easement solution is far preferable to a direct access driveway and bridge installation from West Adams Avenue from the standpoint of general esthetics, preservation of trees, and the impact on Sugar Creek.

***RECOMMENDATION:***

The Subcommittee recommends the preliminary and final plats be **approved** with the following conditions.

1. The subdivision shall be developed in accordance with the documents referenced in the “Drawings Submitted” portion of this report except as noted herein.
2. The proposed new drive shall be landscaped so as to lessen any adverse impact on the existing residence at 145 Horseshoe Drive that is situated adjacent to the proposed new drive. The landscape buffer shall start at the front property line, shall consist of no less than one evergreen tree every 25 feet and one shrub every 10 feet provided in groupings along the western edge of the driveway easement, and shall extend to at least the rear of the house at 145 Horseshoe Drive. A Performance Guarantee will be required to insure the completion and protection of required landscaping.
3. The use of the drive shall be strictly limited to one single-family residence on the Adams lot and one single-family residence on the Horseshoe lot
4. The driveway easement shall be terminated and physical vehicular access to 1334 W. Adams Avenue shall be removed if and when alternate access is provided from the Adams lot directly from West Adams Avenue.
5. Due to the placement of the existing home on the Horseshoe lot in the proposed 15-foot building line setback from the driveway easement, the existing home shall be modified, relocated or demolished to reach compliance with said setback prior to execution of the Final Plat by the City.
6. A subdivision plat approved by the City and recorded at the applicant’s expense in the St. Louis County Office of the Recorder of Deeds shall be filed in the Public Services Director’s Office within 90 days of City Council approval of the Final Plat.
7. The applicant shall comply with all standard conditions as listed on Exhibit A.

Respectfully submitted,

James Diel Tom Feiner Sandy Washington

Motion was made by Commissioner Diel and seconded by Commissioner Feiner to approve PZ-09-22, an application for a Major Subdivision Plat with a driveway easement at 141 Horseshoe Drive and 1334 West Adams Avenue subject to the conditions contained in the Subcommittee Report.

After comments, Chairman Adkins called for a vote on the motion. The motion passed six to two with Commissioners Eagleton and Scott dissenting.

**4. TEXT AMENDMENT – NURSING HOMES IN SINGLE-FAMILY RESIDENTIAL**

 **DISTRICTS**

To provide an update, Planning and Development Services Director Jonathan Raiche stated he has been discussing a text amendment to remove Nursing Homes from single-family residential districts with the City Attorney. After research and internal staff discussion is complete, staff will make a recommendation to the Commission which might include consideration of including Continuing Care Retirement Facilities and Domiciliary Homes, which are also permitted with a Special Use Permit.

**5.** Planning and Development Services Director Jonathan Raiche stated 4 Hands/Down by the Station project and the text amendment for parking rates for Educational Uses were approved by the City Council at their last meeting. Villa Di Maria project was approved in phases and they recently went to the Architectural Review Board. The temporary bank building for The James project went to the ARB and are continuing pre-construction work, i.e., performance guarantee and consolidation plat.

 Sugar Fire has announced plans to operate a restaurant at the properties at 459-471 North Kirkwood Road.

There being no further business, motion was made by Commissioner Diel and seconded by Commissioner Feiner to adjourn at 8:30 p.m. The next meeting will be held on January 5, 2022, at 7 p.m.

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 Jim Adkins, Chair

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 David Eagleton, Secretary/Treasurer

Upon request, these minutes can be made available within three working days in an alternate format, such as CD, by calling 314-822-5822. Minutes can also be downloaded from the City’s website at [www.kirkwoodmo.org](http://www.kirkwoodmo.org), then click on City Clerk, Boards & Commissions, Planning & Zoning Commission.