

ROY CITY PLANNING COMMISSION

September 11, 2007

Minutes of the Roy City Planning Commission Meeting held in the City Council Room of the Roy City Municipal Building on September 11, 2007, at 6:00 p.m.

The meeting was a regularly scheduled meeting designated by resolution. Notice of the meeting was provided to the *Standard Examiner* at least 24 hours in advance. A copy of the agenda was posted.

The following members were in attendance:

Bill Merx, Chairman	Tony Reynolds, Community
Doug Allred	Services Director
Dave Collins	Mark Larson, Planner
Brad Hilton	Michelle Drago, Secretary
Gennie Kirch	
Tom Stonehocker	
Karlene Yeoman	

Others present were: Jane Day; Ted Day; Josh Rolph; Debbie Thompson; Robyn Simmons; Sylvia Carter; Sterling Gardner; Dana Gardner; and Lisa Ann Stary.

Pledge of Allegiance: Tom Stonehocker

1. APPROVAL OF AUGUST 28, 2007, MINUTES

**Commissioner Collins moved to approve the minutes of August 28, 2007, as corrected. Commissioner Yeoman seconded the motion. Commission members Allred, Collins, Hilton, Kirch, Merx, Stonehocker, and Yeoman voted "aye." The motion carried.**

2. PUBLIC HEARING TO CONSIDER VACATING A CITY WALKWAY LOCATED AT APPROXIMATELY 3050 WEST 4800 SOUTH

**Commissioner Collins moved to open the public hearing at 6:02 p.m. Commissioner Hilton seconded the motion. Commission members Allred, Collins, Hilton, Kirch, Merx, Stonehocker, and Yeoman voted "aye." The motion carried.**

Mark Larson stated that there was a 4-foot wide walkway located at approximately 3025 West between 4800 South and 4850 South. The City had received two petitions regarding the walkway. The first petition requested that the walkway be vacated; the second objected

to the closure of the walkway. Some of the surrounding property owners became concerned about the lack of maintenance and school children using the walkway to access 4800 South where there weren't any crossing guards. There were two crossing guards and a light at the 4800 South 3100 West intersection. There weren't any crossing guards or lights at the 2875 West 4800 South intersection. In 1984, the City required the developer of the Pheasant Run Subdivision to install the walkway. The walkway was 282 feet long and only four feet wide. The walkway was dedicated to the City when the subdivision was recorded. In order for the City to vacate the walkway, public hearings had to be held by both the Planning Commission and the City Council. Mr. Larson said both the Police Chief and Public Works Director supported vacating the right-of-way.

Commissioner Collins asked if the City required the developer of the Pheasant Run Subdivision to dedicate the walkway to the City. Mr. Larson said that was correct. The dedication of the walkway meant the developer had to purchase property beyond the subdivision boundaries.

Chairman Merx asked who owned the fence along the walkway. Mark Larson said the developer was required to hard surface the walkway and fence it. Now that the fence was in, it was jointly owned by Roy City and the adjoining property owners.

A gentleman in the audience asked if the land for the walkway was taken by the power of eminent domain. Mark Larson said it was not. He felt the developer probably negotiated the sale of the property.

Commission Collins stated that he spoke with the developer of Pheasant Run. In order to get Pheasant Run approved, they had to provide the walkway with a fence and hard-surfacing.

Chairman Merx opened the floor for public comments.

Josh Rolf, 3011 West 4800 South, stated that he had owned parcels on either side of the walkway along 4800 South - 3011 and 3027 - for over 10 years. He had repeatedly asked the City to maintain the walkway. He recently had his property surveyed and discovered that a portion of the walkway was actually located on his property.

Commissioner Allred stated that the survey marks might not have been incorrectly placed.

Josh Rolf said the City did not maintain the walkway. The walkway was a nuisance to him. Kids hid in the walkway and smoked and drank. People using the walkway threw trash onto his properties.

Robyn Simmons, 3056 West 4850 South, thanked the Planning Commission members who took the time to actually look at the walkway. When the walkway went in the Midland Elementary principal did not want children to use the walkway because of its mid-block location. She wanted all of the children to use the crosswalk. The walkway was not listed on the school's current Safe Route Plan. The City did not maintain the walkway. It was a place for kids to hang out.

Sylvia Carter, 3046 West 4850 South, stated that she was an original owner. The City had never maintained the walkway. The owner of property currently owned by Josh Rolf didn't want to take down his wooden fence so the developer installed the walkway fence 18 inches away. The original footings where the fence and sidewalk were supposed to have gone were still there. Because of the curve in the walkway, you couldn't see from one end to the other. There was almost constant trouble from the walkway - broken bottles, trash, and garbage being thrown into her yard. The walkway was too narrow.

Lisa Ann Stary, 2948 West 4850 South, said the covenants in Pheasant Run said fences were jointly owned by the property owners. The property owners were responsible to maintain the fence along the walkway. The sidewalk in the walkway did require maintenance. The covenants also said homeowners had to maintain a 3% grade because they were in a flood plain. If Roy City was going to start giving away land she wanted to be the first on the list. Only three sides of the 4800 South 3100 West intersection had sidewalk. If the City vacated the walkway, children would be walking in the street. The walkway was maintained by periodic visits from the boy scouts. She was willing to help maintain it. Despite all of the complaints about bullying and nuisance problems on the walkway, there were no police reports on file, except for one in August. Older citizens used the breeze way to access the nearby the UTA bus stop and the park. When Mrs. Carter blocked the walkway and told everyone it was private property, the City received 102 complaints.

Robyn Simmons stated that there had never been a bus stop at the end of the walkway. The bus stop was at Midland Elementary.

Sylvia Carter, 3046 West 4850 South, stated that she didn't block the walkway. The City closed the walkway at the end of June.

Tony Reynolds stated that in December 2006, the Public Works Department sent out a letter indicating they intended to close the walkway, which they did. Then the City Attorney said the City could not close the walkway because it was a public right-of-way. The walkway had to remain open until the City vacated it. The fence blocking the walkway was taken down.

Ted Day, 2913 West 4850 South, asked that the walkway be left alone. He used it. He didn't understand those who didn't want something and tried to take it away from others.

Chairman Merx asked if the 4800 South 3100 West intersection was finished. Tony Reynolds said the curb and gutter improvements were in on all four corners. There might not be sidewalk on all four corners. Lisa Ann Stary said there wasn't sidewalk on the southwest corner of the intersection.

Chairman Merx stated that the public hearing allowed the Planning Commission to gather information and then make a recommendation to the City Council. In this case, the City Council would hold a public hearing as well.

**Commissioner Collins moved to close the public hearing at 6:33 p.m. Commissioner Kirch seconded the motion. Commission members Allred, Collins, Hilton, Kirch, Merx, Stonehocker, and Yeoman voted "aye." The motion carried.**

Commissioner Allred asked if there was a UTA bus stop on 4800 South. Lisa Ann Stary said Route 640 would be running on 4800 South again as soon as the upper portion of 4800 South was reopened. The bus stop was just east of the walkway.

Commissioner Kirch said the traffic on 4800 South had increased since this subdivision was built. There was not a crosswalk at the 2875 West 4800 South intersection.

Commissioner Allred said the walkway was narrow, and it had a curve. It might not have been constructed the way it was supposed to have been. The walkway was made even narrower because adjoining property owners allowed their plants to grow through the fence. If the walkway was vacated, how would the property be divided up? Who would be responsible to take out the sidewalk and move the fence? Would it be sold or deeded? There was a process for disposing of property.

Commissioner Kirch stated that the Public Works Department's December 8<sup>th</sup> letter addressed some of Commissioner Allred's questions. Roy City would remove the sidewalk. Homeowners would move their fences. She felt the current condition of the walkway was not acceptable. The fence was in disrepair. The walkway had to be fixed or vacated.

Commissioner Allred said the fence was the responsibility of the property owners. If the walkway was installed incorrectly, would the City tear it out and put it in correctly?

Chairman Merx stated that there were a number of issues, such as fencing, curb, and UTA ridership. Did the fact that Midland Elementary had not named the walkway as part of its safe walking route make the walkway unsafe?

Commissioner Kirch stated that even if the walkway was pristine, you could not see from one end to the other because of the curve. The walkway was 282 feet long, which was over half the length of the maximum cul-de-sac depth.

Commissioner Yeoman stated that the walkway was not maintained. She personally wouldn't want her children to use the walkway.

Commissioner Allred stated that the walkway did not meet current standards. It didn't seem to serve the surrounding neighborhood. It might even be in the wrong location. To keep the walkway open seemed a lot of work. It had to be straightened out, and the plants had to be cut off the fence. There were also a lot of issues and cost involved in closing it. The question was, which would be most beneficial to the City. He felt the Planning Commission should recommend that the walkway be vacated. The legislative body could then determine what to do with it. Just fencing it off on both ends would make the situation worse.

Josh Rolph said he would take out the fence and sidewalk on his property.

Commissioner Kirch agreed that the walkway did not meet current standards.

Tony Reynolds reviewed Planning Commission and City Council minutes from 1984. The minutes provided the Planning Commission with information about why the walkway was required. When Pheasant Run was originally proposed, it did not have access from 3100 West. The Public Works Department recommended the walkway to allow school

children to have access to the elementary school. The Planning Commission recommended the 4-foot width of the walkway to prevent motorcycles and vehicles from using it. Even though the school district opposed the walkway, the Public Works Department continued to support it.

Commissioner Collins felt the safety of school children was important. Children using the walkway would cross 4800 South at that point rather than walking to the intersection where there was a crossing guard. Midland Elementary did not include the walkway in its safe school routes. Roy City wanted to close the walkway, but it could not do so without following the property procedure. As a citizen, he didn't want to pay to maintain the walkway. He felt the walkway should be closed before someone got hurt and the City ended up in lawsuit. He would support a motion to close the walkway.

Commissioner Hilton appreciated the comments about the safety of children. Public safety was also important. If the City had not responded to requests to maintain the walkway in the past, it would not do so in the future. The safety concerns outweighed any advantage of having the walkway. He wholeheartedly agreed that the walkway should be abandoned.

Commissioner Kirch stated that the safe school route was voted upon by a community council and had to be filed with the school district. The walkway was not a safe route for children. For that reason she would support the vacation of the sidewalk. Just because there weren't police reports on file did not mean there weren't nuisance complaints about the walkway. Unfortunately, a report may not be generated until an arrest is made. She felt the walkway should be vacated or fixed.

Commissioner Allred agreed that the walkway should be vacated or fixed. If it was fixed, it needed to be straightened out. If the City kept the walkway, it was encouraging people to walk where there wasn't a crosswalk.

Chairman Merx said it appeared the Planning Commission felt it would be less of a hassle to close the walkway than fixing it would be.

**Commissioner Kirch moved to recommend that the City Council vacate the walkway located at approximately 3025 West 4850 South based on the finding that there were public safety and maintenance issues**

**and that the walkway was sub-standard. The Planning Commission felt the walkway should be vacated or fixed, which would require significant changes for it to meet the current ordinances. Commissioner Collins seconded the motion. Commission members Allred, Collins, Hilton, Kirch, Merx, Stonehocker, and Yeoman voted "aye." The motion carried.**

Tony Reynolds stated that the City would notify all property owners within 300 feet, all those who signed the petitions, and all those who had attended the Planning Commission's hearing about the date and time of the City Council hearing on this issue.

Commissioner Allred stated that the Planning Commission felt the City's tax dollars would be better spent closing the walkway than maintaining it.

4. ADJOURN

**Commissioner Collins moved to adjourn at 7:19 p.m. Commissioner Allred seconded the motion. Commission members Allred, Collins, Hilton, Kirch, Merx, Stonehocker, and Yeoman voted "aye." The motion carried.**

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Bill Merx  
Chairman

Attest:

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Michelle Drago  
Secretary

dc:psep1107