


**REQUEST FOR CITY COUNCIL ACTION**

**TITLE: RESOLUTION NO. 15-2020 – A RESOLUTION APPROVING A MAJOR SUBDIVISION PLAT ON PROPERTY ZONED MIXED USE – NEIGHBORHOOD (MU-N) AND LOCATED AT 6230 W. 38<sup>TH</sup> AVENUE (CASE NO. WS-18-04 / WANG SUBDIVISION)**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> ORDINANCES FOR 1 <sup>ST</sup> READING |
| <input type="checkbox"/> BIDS/MOTIONS              | <input type="checkbox"/> ORDINANCES FOR 2 <sup>ND</sup> READING |
| <input checked="" type="checkbox"/> RESOLUTIONS    |   |

QUASI-JUDICIAL:       YES       NO

  
\_\_\_\_\_  
**Community Development Director**

  
\_\_\_\_\_  
**City Manager**

**ISSUE:**

The applicant is requesting approval of a major subdivision for property located at 6230 W. 38<sup>th</sup> Avenue that is 0.684 acres in size. The purpose of this subdivision request is to establish lot lines, tracts, easements, and right-of-way dedication for a 15-lot mixed-use development consisting of an office building and townhomes; these are permitted uses in the underlying Mixed Use – Neighborhood (MU-N) zone district.

**PRIOR ACTION:**

Planning Commission heard the request at a public hearing on February 20, 2020 and recommended approval of the major subdivision for the following reasons:

1. All requirements of the subdivision regulations (Article IV) of the zoning and development code have been met.
2. All agencies can provide services to the property with improvements installed at the developer's expense.

Attached is a copy of the Planning Division staff report, which provides a detailed description of the application. Draft meeting minutes from the February 20, 2020 public hearing are also attached.

**FINANCIAL IMPACT:**

Fees in the amount of \$1,361.72 were collected for the review and processing of Case No. WS-18-04. Fees in lieu of parkland dedication in the amount of \$28,302.68 will be due prior to issuance of building permits. Permit fees and use tax will be paid for each building permit and for all site work and right-of-way permits.

**BACKGROUND:**

The subject property is located on the south side of W. 38<sup>th</sup> Avenue between Kendall Street and Jay Street and is currently vacant. It is approximately 0.684 acres in size.

The site is zoned Mixed Use – Neighborhood (MU-N) which allows a variety of uses including office, retail, and townhomes up to a density of 21 units per acre. The subject property and the vast majority of properties on 38<sup>th</sup> Avenue between Sheridan and Wadsworth were rezoned to MU-N in 2011 by City Council.

There are a mix of zone districts and uses in the area. The property to the east on 38<sup>th</sup> Avenue, zoned MU-N, contains a six-unit apartment building. Single-family homes on small lots are located to the east and southeast along Jay Street, and are zoned Residential-One C (R-1C). The property to the west is zoned MU-N and contains the Christopher House nursing home, a multi-unit institutional use. Highland West Planned Residential Development, an 11-story apartment building, is located further to the west. The north side of 38<sup>th</sup> Avenue contains a mix of uses, zoned MU-N, including a property with multiple residential units, a vacant commercial building, and a childcare center.

Key components of the subdivision are described below. The plat document and additional details are included in the attached Planning Division staff report.

The purpose of a subdivision plat is not to review specific site plan or architectural details, but rather to confirm appropriate lot configuration, access, rights-of-way, easements, and utility service to the site in order to create developable parcels for a land use that is already permitted by the underlying zoning. The site plan for this property was approved by the Community Development Department on February 6, 2020 and the proposal adheres to all of the MU-N zone district requirements. While the site plan application is related, it is not part of the platting request and may not influence City Council's decision on the subdivision.

*Proposed Plat*

The proposed plat document consists of two pages (*Exhibit 3, Wang Subdivision*). The first page includes a legal description of the property; signature blocks for the owners, City, surveyor and County; and standard declarations and notes. The second page includes the plat map and data table.

The lot configuration corresponds to the proposed development approved under the site plan application. There will be 14 townhome lots (Lots 1-14), with 7 lots/units per townhome building. These residential lots are located on the southern portion of the site behind Lot 15

which is located along 38<sup>th</sup> Avenue and designed to accommodate a commercial/office use. Tract A, located at the south of the site, is dedicated as open space and is largely encumbered by utility easements. The site is accessed by an alleyway in an access easement that travels north-south, around the west side of Lot 15, and then bisecting the townhome lots. The MU-N zone district does not include lot dimension standards, but the subdivision regulations require that lots be designed appropriately to accommodate the permitted uses; in this case the lot configuration is appropriate for the approved site plan.

#### *Easements*

Three major easements are created by this plat to allow adequate infrastructure and access:

- A 26-foot wide emergency access, private access, and utility easement providing access/utilities to all lots (described above)
- A 10-foot utility easement along the east side of the site and the south side of Lots 13 and 14
- A stormwater drainage easement in Lot 15 to accommodate underground water detention

#### *Required Agreements*

The applicant is responsible for installing an 8-foot wide detached sidewalk and 6-foot amenity zone along the 38<sup>th</sup> Avenue frontage and on-site improvements including the drainage system, utilities, alley, and landscaping. At the edges of the property, the sidewalk will tie into the existing attached sidewalk. These obligations will be memorialized in a Subdivision Improvement Agreement (SIA) between the City and developer. The SIA dictates construction and maintenance responsibilities as well as the timing of permit issuance relative to the completion of public improvements. A condition of approval is included to this effect.

#### **RECOMMENDATIONS:**

A subdivision plat is a technical document and review is a ministerial action. The plat complies with the requirements of the subdivision regulations (Article VII in Chapter 26 of the Municipal Code) and is consistent with the Mixed Use – Neighborhood (MU-N) zoning requirements. For that reason, staff is recommending approval of the request.

#### **RECOMMENDED MOTION:**

“I move to approve Resolution No. 15-2020, a resolution approving a major subdivision plat on property zoned Mixed Use – Neighborhood (MU-N) and located at 6230 W. 38<sup>th</sup> Avenue for the following reasons:

1. City Council has conducted a proper public hearing that meets all public notice requirements as required by Section 26-109 and 26-407 of the Code of Laws.
2. The requested subdivision has been reviewed by the Planning Commission, which has forwarded its recommendation of approval.
3. The subdivision plat has been found in compliance with Article IV of Chapter 26 of the Code of Laws.
4. All agencies can provide services to the property with improvements installed at the developer’s expense.

and with the following conditions:

1. Prior to issuance of building permits, the applicant shall pay the required fees-in-lieu of parkland dedication.
2. The developer shall enter into a Subdivision Improvement Agreement and a lot sale restriction covenant agreement prior to recordation of the subdivision plat.
3. Prior to issuance of building permits, the developer shall provide owner association covenants for review by staff.

Or,

“I move to deny Resolution No. 15-2020, a resolution approving a major subdivision plat on property zoned Mixed Use – Neighborhood (MU-N) and located at 6230 W. 38<sup>th</sup> Avenue for the following reasons:

- 1.
- 2.
3. ”

**REPORT PREPARED/REVIEWED BY:**

Scott Cutler, Planner II

Lauren Mikulak, Planning Manager

Ken Johnstone, Community Development Director

Patrick Goff, City Manager

**ATTACHMENTS:**

1. Resolution No. 15-2020
2. Planning Division Staff Report with Plat Document
3. Planning Commission Draft Meeting Minutes