

MAYOR'S STATEMENT REGARDING TRAMMEL CROW'S PROPOSED DEVELOPMENT

The issue of whether to veto the planned development proposed by Trammel Crow is one of the most difficult decisions I have ever had to make. In many ways, vetoing a budget or spending item is far easier because you can immediately assess the impact of the expenditure on the bottom line. That is not the case with an application of the Zoning Ordinance. And it is especially not the case when you are dealing with something which, in my mind, is far too subjective and leads to too much uncertainty both for developers and elected officials. No matter what my decision is tonight, we need to take a closer look at Section 5 of the Zoning Ordinance dealing with planned developments to see if that language can be tightened up and made less subjective so that all parties involved have a better idea of what is acceptable.

Nevertheless, I am faced with deciding whether to allow this planned development to go forward, and my decision must be based on the language of the ordinance as it exists today. I have traditionally been opposed to density variances, respectful of the concerns of neighbors and unconcerned with the economics of a proposal since that should not be a factor when dealing with land use and zoning issues. I can tell you that this is a very close call for me, and I have changed my mind a number of times.

Before I announce my decision, I want to give some background into my thought process so that people understand that I did give this careful consideration, and those who are unhappy with my decision at least will understand why I reached the conclusion I did. I have already spoken of a very real concern, easily my greatest concern, and a justifiable concern raised by

those opposed to this development, that allowing such a major variance in density will set a bad precedent and will be used in the future by other developers to justify equally substantial variance requests.

As a threshold matter, I reject out of hand the notion that a developer's projection of the number of people who will live in a development should preempt our traditional measurement using the number of units. In reaching my decision, I have ignored the projections by Trammel Crow that a certain number of people will be living in the finished project. Instead, I have used the number of units as my benchmark, meaning that the real issue in my mind is whether the offered amenities justify what would be an unprecedented 31% variance in density.

In making my own evaluation, I tried to place myself in the shoes of the members of the Planning and Zoning Commission. That meant applying the factors in the Zoning Ordinance's Planned Development section. That section includes 13 various factors to be considered in determining whether to grant an exception to the zoning district's bulk requirements which, in this case, only involves density. As Trammel Crow has pointed out, the development contains several of these amenities, such as underground parking, the LEED designation, and preservation of environmental features, specifically the old growth trees on the property. I also took into account the fact that Trammel Crow is a well-respected company, that the footprint of the building would be smaller than it could be and that Trammel Crow would be providing a new sewer outfall line at its own expense which staff says will save the City \$100,000.

Over the past couple of weeks, I have received a great amount of feedback from members of the public. The sentiment for or against the development has been running ever so slightly in favor of the development. Interestingly, it seems that the closer a person lives to the proposed development, the more likely they are to be in support of it. One of the factors in the ordinance section requires that the development not cause an adverse impact on neighboring properties. I took into account the fact that the people most directly affected by the proposed development, those neighbors to the north and east who will have to deal with the additional traffic and congestion, appear to be substantially, if not overwhelmingly, in favor of the project.

However, all of those amenities and the support of the neighbors was still not enough to convince me that letting a 31% variance in density go forward is in the best interest of the City as a whole, because it is the interests of the entire City that I must take into account. In my mind, those factors I just discussed merited some variance to the density limit, but not one of the magnitude sought by Trammel Crow.

Ultimately, the pivotal issue for me became whether the expansion of the City-owned storm water detention basin on the property satisfies the factor enunciated in the ordinance section regarding public infrastructure improvements which might justify a larger variance. So, I did more homework. I spoke with members of our Public Works Department and a member of the Flood Control Task Force who happens to live on Berry Parkway. They told me that the expanded detention basin should benefit many residents living on the west side of Berry Parkway by reducing storm water runoff from Executive Plaza onto their properties which has caused street flooding and some basement flooding. I have also been told that the expansion of the basin

will reduce the flow of storm water to the main sewer on Touhy during a heavy rain, something which should benefit residents whose sewage and storm water runoff feed into that sewer. Staff has also told us that the low-flow fixtures to be utilized by the development will tax our sewer system less than would an 88-unit development using standard fixtures. And the reduced footprint of the development and the underground parking allows for more permeable surface to absorb rain water.

But even given this substantial amenity which provides a benefit to neighboring properties, I still grappled with my concern that allowing this project to go forward would harm the integrity of our zoning ordinance and be viewed as a dangerous precedent.

And so here we are. It is still a very, very close call in my mind. However, in such a situation, I must place my faith in the hard work of the Planning and Zoning Commission and the efforts of our City's staff and the developer in reducing the original scope of the project and enhancing the storm water detention amenity. I well know that my decision will disappoint and even anger some and please others, no matter what I decide. But decide I must, and my decision is that I will not veto the proposal.

I do have one final thought. Any developer who believes that we have set a precedent which will now routinely allow 30% variances in density limits should put that out of their minds immediately. Staff should be careful to warn any other developers that this proposal, after being scaled down twice, still barely passed the Planning and Zoning Commission by the thinnest of margins and made it through the Council by an equally thin margin. And I can tell you the

proposal escaped a mayoral veto by an even thinner margin. But given our City's overall need to deal with the problem of flooding in as many different ways as possible, this is a deal which I am unwilling to walk away from.

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