

CITY OF FOUNTAINS
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KANSAS CITY
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City Planning & Development Department

Development Management Division

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STAFF REPORT

June 3, 2014

(25, 26 & 27)

RE:

- a) **Case No. 12209-P-10**
- b) **Case No. 14471-P**
- c) **Case No. 14471-P-1**

APPLICANT:

MSJJ Holdings LP
110 W 26th Avenue
North Kansas City, MO 64116

REPRESENTATIVE:

James C. Bowers, c/o Kellee Madinger
White Goss
4510 Belleview, Suite 300
Kansas City, MO. 64111

LOCATION:

South of NE 108th Street at or near future Shoal Creek Parkway

AREA:

- a) 57 acres
- b) 118.92 acres
- c) 118.92 acres

REQUEST:

- a) **Case No. 12209-P-10** - About 57 acres generally located south of NE 108th Street at or near future Shoal Creek Parkway, to remove said 57 acres also known as the west portion of the Pine Grove subdivision (limited Phase 2) from the remainder of the Pine Grove subdivision, said original plan as approved with Ordinance Nos. 000351 and 000352, Com. Sub., passed 6-8-00, amended as a result of arterial street impact fee ordinance by Ordinance No. 040100, passed 2-19-04.
- b) **Case No. 14471-P** - About 119 acres generally located south of NE 108th Street at or near future Shoal Creek Parkway, to consider rezoning the area from District R-80 (Residential 80) and District R-7.5 (Residential 7.5) to District R-7.5 (Residential 7.5).
- c) **Case No. 14471-P-1** - About 119 acres generally located south of NE 108th Street at or near future Shoal Creek Parkway, to

consider the approval of a development plan which also serves as a preliminary plat, for the creation of 169 single family lots and eleven (11) tracts.

PURPOSE: To allow for the removal of land from a prior plan and for the future construction of 169 single family homes.

LAND USE PLAN: The Shoal Creek Valley Area Plan identifies this area for residential land use.

MAJOR STREET PLAN:

- * Identifies Shoal Creek Parkway as a Parkway with four lanes of traffic, two through lanes in each direction.
- * Identifies NE 108th Street as a Local Link with two lanes, one lane in each direction, plus center turn lane.
- * Identifies N Indiana Avenue as a Local Link with two lanes, one lane in each direction, plus center turn lane.
- * Identifies N Brighton Avenue and N Hardesty Avenue as four through and two through lanes respectively.
- * Bike KC, recommends a Sharrow on NE 108th Street.

**ARTERIAL STREET
IMPACT FEE:**

The project is located within Impact Fee Zone B with a discounted fee of \$715.00 per single family residence.

PREVIOUS CASES:

Case No. 12209-CUP-7 - On February 3, 2004 the City Plan Commission Approved a final Community Unit Project Plan on the South side of N.E. Pine Grove Drive, approximately 1/2 mile west of N. Hardesty Avenue in District R-1a (One family dwellings) to allow for subdivision identification signage, landscaping and other improvements with the private open space tracts for 83 single family lots.

Case Nos. 12209-CUP-5 and 12209-CUP-6 - On March 4, 2003, the City Plan Commission Approved final plans for 2 phases on the north side of NE. Pine Grove Drive.

Case No. 12209-CUP-3 - On March 4, 2003, the City Plan Commission Approved a final plan for a phase know as Pine Grove Meadows, 1st Plat adjacent to the west, for signage, landscaping and other improvements within the private open space tract.

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Case No. 12209-A-4 - On May 13, 2003, the Board of Zoning Adjustment Dismissed without prejudice a request for a conditional use permit for 2 signs.

SD 0841C, Final Plat - Pine Grove Pointe, 1st Plat - Created 71 single-family lots and 2 tracts of private open space. (Ordinance No. 021094 passed 12-19-02).

SD 0841A, Final Plat - Pine Grove Limited, 1st Plat - Created 22 single-family lots and 2 tracts of private open space. (Ordinance No. 021095, passed 12-19-02).

SD 0841B, Final Plat - Pine Grove Meadows, 1st Plat - Created 22 single-family lots and a 3.5 acre tract for private open space including a pool and clubhouse. (Ordinance No. 021096, passed 12-19-02).

Case Nos. 12209-P-1 & CUP-2 - Rezoned approximately 361 acres from RA to R1a and approved a preliminary CUP plan for 799 single family lots and 3.7 acres of private open space, including a pool and clubhouse. (Ordinance Nos. 000351 and 000352, Com. Sub., passed 6-8-00, amended as a result of arterial street impact fee ordinance by Ordinance No. 040100, passed 2-19-04). (**CURRENT APPROVED PRELIMINARY PLAN**)

SD 0841D, Final Plat - Pine Grove Meadows, 2nd Plat - On April 1, 2003, the City Plan Commission recommended Approval of 83 single family lots and 2 private open space tracts. (Ordinance No. 040226, passed March 1, 2004)

Case No. 12209-CUP-8 - On March 16, 2004, the City Plan Commission Approved a final plan for a homeowners association pool and other amenities.

SD 0841E, Final Plat - Pine Grove Meadows, 3rd Plat - On December 6, 2005, the City Plan Commission recommended Approval of a final plat for 49 single-family lots and a stormwater detention tract. Approved by the City Council on February 20, 2014 with Ordinance No. 140103.

PLAN REVIEW:

The Pine Grove project was approved with Case Nos. 12209-P-1 and 12209-CUP-2 originally on June 8, 2000, and then amended as a result of the arterial street impact fee ordinance on February 19, 2004. The approved Pine Grove plan was approved for 801 single family lots on 361 acres in eight (8) phases although some of the phases have sub-phases. Some of these phases have been approved through platting.

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Phases one and two have been acted upon and include 296 lots of the 801 lots approved. In May 2014, 296 lots have been platted. Note that the Pine Grove Meadows 3rd Plat was recently approved with 49 additional single family lots. Completed platting includes the following:

	<u>Plat</u>	<u>Final Plat Ordinance</u>	<u>Lots</u>
*	Limited 1 st	021094; 12/19/02	22
*	Meadows 1 st	021096; 12/19/02	71
*	Meadows 2 nd	040226; 3/11/04	83
*	Pointe 1 st	021094; 12/19/02	71
*	Meadows 3 rd	140103; 02/20/14	<u>49</u>
		Total:	296

The Pointe 2nd plat was started but never finished or recorded. The initial Community Unit Project plan contained a traffic condition associated with a limitation on the development within the project due to expected impact on the roadway system. Condition No. 23 was based upon a traffic study done with the plan approval and states the following:

23. "no development shall occur beyond Phase two or an equivalent number of lots as shown on the Community Unit Project Plan until Shoal Creek Parkway is contracted or Staley Road is improved from the western boundary of the development to N Woodland Avenue".

This condition limits the size of the Pine Grove development to 358 total lots until the agreed upon roadway improvements are completed. Therefore, 62 additional lots remain to be platted within the subdivision before either of these roadway improvements become required, or a revised development plan with new condition is approved. A revised condition would likely be the result of a new traffic study. Following the platting and development of the first four plats, the 2008-2009 financial recession occurred and the developer lost the remaining Pine Grove land. Various entities such as Bank of Franklin County, Washington, MO, M&R Land LLC and MSJJ Holdings LP now own the remainder of the Pine Grove land.

PROPOSED PLAN:

The applicant (MSJJ Holdings LP) proposes to remove the northwestern 57 acres from Pine Grove Limited Phase 2 and combine this with 61.92 acres of land currently outside of the Pine Grove development to create a new 118.92 acre tract of land for 169 lots. The project extends from recently constructed NE 108th Street on the north, the Pine Grove Limited First Plat on the east, proposed Pine Grove Drive on the south and the Property Reserve, Inc. ownership on the west. The backing lots in Pine Grove limited First Plat scale about 180 feet wide.

The project proposes 169 lots, 11 tracts and 21 acres of dedicated right of way in six phases-- within 118.92 acres. There is strong north to south topographic relief on the western and central portions of the project. Drainage is from north to south. Due to this topography, the amount of open space in the project is high and the amount of buildable area is low, compared to other developments. The buildable area is in the north central portion and the eastern portion of the development. The eastern portion backs to Pine Grove Limited First Plat. The widths of the proposed lots range from about 72 feet to over 100 feet, but most widths are about 75 feet. Access to the north central portion will be from NE 108th Street with a single point of entry for these three phases containing 74 lots. The remaining phases 4, 5 and 6 containing 95 lots will be along the eastern side. The design will be proposed lots east and west from a long north/south street (N Norton Avenue). The south portion will tie N Norton Avenue into existing NE 104th Street. The plan also shows numerous tracts for detention, open space and open space for park purposes.

PARKLAND DEDICATION:

Parkland dedication is a requirement of platting for residential development. According to Section 88-405-17 the developer has three options for this dedication whenever residential development is proposed. Applicants can dedicate land to the City, provide private open space for park purposes or pay money in lieu of parkland dedication. The plan shows a proposal for 169 single family residential units. Therefore the money in lieu is calculated as follows:

$$* 169 \text{ SF units} \times 3.7 \text{ persons/unit} \times 0.006 \text{ acres/person} = 3.75 \text{ acres}$$

The applicant is proposing to plat 3.75 acres of tract space for private open space for park purposes satisfying this requirement. These include Tracts A (2.67 acres) B (0.72 acres) and E (0.67 acres).

ISSUE, LOCATION OF FUTURE SHOAL CREEK PARKWAY:

The Major Street Plan is used as a guide for both city departments and property owners to anticipate and locate the alignments of these major roads. The most recent MSP was approved by Ordinance No. 110249 on October 23, 2011. This approval amends all prior MSP plan approvals. The MSP is typically specific at starting and ending points but usually general in nature between these two points. Sometimes more specific alignment studies are completed which provide further clarification as to the anticipated right of way location. These alignments occasionally come into conflict with development when superimposed over property lines or when associated with various topographic issues.

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The proposed plan shows a 200 foot wide future Shoal Creek Parkway reserved (not dedicated) along the far western edge of the development. The applicant's representative states that this location is consistent with the Major Street Plan. In an analysis dated September 2013, City Parks and Recreation staff presented an alternative alignment to the Parks Board during a pre-Board workshop on September 10, 2013. The alternative plan, completed by the engineering firm Taliaferro & Browne, Inc. and endorsed by P&R staff proposes that the proposed alignment be shifted to the east, about 400 feet at the farthest point from the current plan alignment. If the plan were to be revised based upon P&R preferred alignment, the East Park plan would lose about 15 lots, unless the plan were revised to make these lots up in other locations. Parks staff provides the following time-line on the preferred alignment study. See below for a graphic of the preferred alignment.

** The preferred alignment was shared with representatives from MSJJ Holdings (Don Coleman, Joe Roetheli, Dave Barth) on August 30th, 2013.*

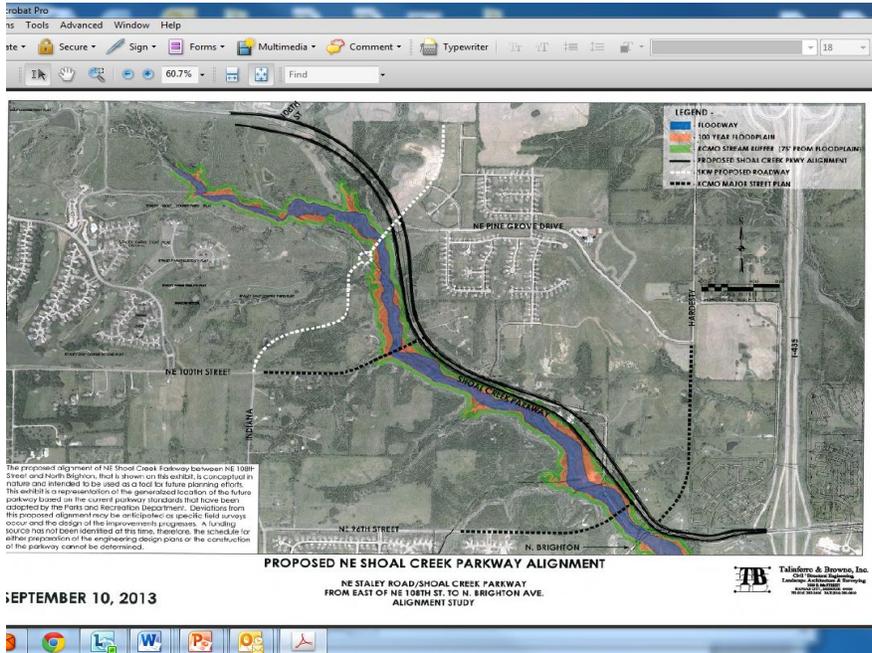
** The preferred alignment was presented to the Park Board during a pre-Board workshop on September 10, 2013.*

** The preferred alignment was presented to the Shoal Creek TIF Advisory Committee on September 30, 2013. Applicant's representative was present at the meeting.*

** The preferred alignment was sent electronically to Applicant's representative on October 14th, 2013 and again on April 4, 2014.*

** The East Park Subdivision sets aside 200 feet along their west property line. Their proposed alignment would force the construction of Shoal Creek Parkway to be built within the existing riparian corridor and within the 100 year flood plan, the floodway and stream buffer.*

** The Parks Department's preferred alignment locates the parkway to the east of the riparian corridor with minimal disturbance to occur within KCMO Stream Buffer and without any bridges.*



Following the submittal of the East Park plan, which did not following the preferred alignment, Parks Department staff responded with the following position regarding recommendations to deciding commissions and committees:

1. *The proposed Shoal Creek Parkway alignment, as shown on the development plan, must be modified to meet the Department's preferred alignment, as provided to the applicant's attorney in October 2013.*
2. *The developer must dedicate the right-of-way for the proposed Shoal Creek Parkway alignment, per the Department's preferred alignment, as it crosses through their property, as part of the platting process.*
3. *The development must include in the development plan a 50' wide landscaped no-build buffer along the Department's preferred alignment for the proposed Shoal Creek Parkway adjacent to their property.*
4. *The land being dedicated as private open space for parkland purposes must have a recreational use. Tract E for the proposed pool complex will not be accepted for this purpose until the pool is built.*

Due to this position, city staff will recommend denial of this case. Staff is however receptive to a continuance to allow the plan to be revised, resubmitted, re-evaluated by staff and re-heard by the City Plan Commission prior to City Council action.

For analysis of the remainder of the plan, city staff believes that the use of single family detached residential is consistent with the area plan and the proposed zone. Staff does however recommend that the proposed lots on the east side of proposed N Norton Avenue be widened so that their width is no less wide than one-half the width of the lots within existing Pine Grove Limited First Plat, adjacent to and east of the proposed lots. City staff recommends a 90 foot wide minimum for Lots 99 -145 and 149-153. Other modifications to the project are identified in the list of plan changes below, should the City Plan Commission decide to proceed forward with this case.

City staff has no issue with the first case (Case No. 12209-P-10) which removes 57 acres from the Pine Grove project but leaves the Pine Grove case intact.

RECOMMENDATION:

City Planning and Development Department Staff recommends in the following manner:

- a) **Case No. 12209-P-10 – Denial**
- b) **Case No. 14471-P – Denial**
- c) **Case No. 14471-P-1 – Denial**

Should the City Plan Commission decide to move forward on these three cases, City Planning and Development Staff recommends the following conditions of approval based on the application, plans, and documents provided for review prior to the hearing and subject to the following conditions as provided by the Development Review Committee at the May 21, 2014 meeting:

1. That six (6) collated, stapled and folded copies (and a CD containing a pdf file, a georeferenced monochromatic TIF file, and CAD/GIS compatible layer of the site plan boundary referenced to the Missouri state plan coordinate system) of (a revised drawing /all listed sheets), revised as noted, be submitted to Development Management staff (15th Floor, City Hall), prior to ordinance request showing:
 - a. Depict more of the concept for storm water management mitigation and performance level for the proposed site improvements area including proposed outlet structure and site discharge locations, DETENTION, BMP's, volume controls, pervious pavement, or treatment areas, etc., as appropriate to conceptualize ultimate stormwater management compliance with city standards. Show any off-site conveyance systems (enclosed, gutters, natural, or proposed whatever they are that are being utilized) for purposes of conveying conceptually how systems will be connected to or will convey of the 100-year post development flows from the site. Identify the private and public portions of the

storm water management system and conveyance system. Show conceptually required private permanent BMP's or surface drainage easements that are needed to address redevelopment disturbances and storm water mitigation/conveyance and their corresponding easements/covenant boundaries. BMP's and surface drainage easements require standalone maintenance obligation conveyance documents (Easement or Covenant), but are not required for site maintenance activities or voluntary BMP enhancements that are not regulatory obligations.

- b. Add name of person who prepared the plans.
- c. Add date plan prepared and any revision dates.
- d. Show and label the recorded ROW for 108th Street where it abuts the project.
- e. Revise the plans and make sure the edges of the ROW match (this comment is applicable to several locations).
- f. Show existing conditions of surrounding property within 500'
- g. Revise the preliminary stream buffer plan: The stream side zone must be measured from the edge of bank (not from the center line of the stream); show and label the 100 year floodplain; show the limits for reach 2.
- h. The proposed Shoal Creek Parkway alignment, as shown on the development plan, must be modified to meet the Department's preferred alignment, as provided to the applicant's attorney in October 2013.
- i. The development include in the development plan a 50' wide landscaped no-build buffer along the Department's preferred alignment for the proposed Shoal Creek Parkway adjacent to their property.
- j. Show the line on the plan which indicates the two zoning districts.
- k. State that Tract E is private open space is for park purposes.
- l. Increase the widths of proposed Lots 99 -145 and 149-153 to no less than 90 feet in width.
- m. Identify and show a 30 foot wide Private Open Space Tract along the backs of all lots backing onto NE 108th Street as required by Section 88-405-05-F.
- n. Reduce the number of monument signs along NE 108th Street as required by Section 88-445-06-A-6, whereby signs will be limited to one per street, no higher than 6 feet and no larger than 32 SF.
- o. Show a minimum 6 ft wide asphalt trail system with connecting NE 108th Street with N Mersington Avenue within Tract A along with other agreed upon park amenities within the tract.
- p. Show the triangular area to be vacated, between the northern limits of the property at N Norton Avenue and NE 108th Street.
- q. Revise the note on Pine Grove Drive to: *"The dedication and construction of Pine Grove Drive must be discussed and decided when phase 6 is reviewed for final plat"*.

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2. The developer shall cause the area to be platted and processed in accordance with Chapter 88, Code of Ordinances of the City of Kansas City, Missouri, as amended, commonly known as the Development Regulations.
3. The developer submit a Macro/Micro storm drainage study, including a BMP level of service analysis and the downstream capacity analyses, to the Land Development Division for review and acceptance for the entire development when the first plat infrastructure improvements are submitted, and that the developer secure permits to construct any improvements as required by the Land Development Division prior to recording the plat or prior to issuance of a Building Permit, whichever occurs first.
4. The developer dedicate additional right of way by separate deed or by plat for NE 108th Street as required by the adopted Major Street Plan and Chapter 88 so as to provide a minimum of 40 feet of ROW as measured from the centerline of NE 108th Street; show and label the additional ROW to be dedicated on the plans.
5. The developer design and construct all interior public streets to City Standards, as required by the Land Development Division, including curb and gutter, storm sewers, street lights, and sidewalks.
6. The developer pay impact fees as required by Chapter 39 of the City's Code of ordinances as required by the Land Development Division.
7. The developer obtain the executed and recorded grading consents and all city approved grading, temporary construction, drainage/sewer, or any other necessary easements from the abutting property owner(s) that may be required prior to submitting any public improvements crossing properties not controlled by the developer and include said document(s) within the public improvement applications submitted for permitting.
8. The developer subordinate to the City all private interest in the area of any right-of-way dedication, in accordance with Chapter 88 and as required by the Land Development Division, and that the owner/developer shall be responsible for all costs associated with subordination activities now and in the future.
9. The owner/developer submit plans for grading, siltation, and erosion control to Land Development Division for review, acceptance, and permitting for any proposed disturbance area equal to one acre or more prior to beginning any construction activities.
10. The owner/developer secure a Site Disturbance permit from the Land Development Division prior to beginning any construction, grading, clearing, or grubbing activities, if

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the disturbed area equals one acre or more during the life of the construction activity.

11. The developer must secure permits to extend sanitary and storm water conveyance systems to serve all proposed lots within the development and determine adequacy of receiving systems as required by the Land Development Division, prior to recording the plat or issuance of a building permit whichever occurs first.
12. That a final stream buffer plan be submitted and approved prior to issuance of any building permits and prior to removal of any mature riparian species within the buffer zones due to building activities on the site, in accordance with the Section 88-415 requirements.
13. The developer show the limits of the 100-year floodplain on the final plat, as required by the Land Development Division.
14. The developer show the lowest opening or elevation or Minimum Low Opening (MLO) of any structure on each lot that abuts a 100-year flood prone area on any plat and plan, as required by the Land Development Division.
15. The developer grant on City approved forms, BMP, surface drainage and STREAM BUFFER Easements (submit the executed and recorded BMP, surface drainage and STREAM BUFFER Easements) to the City, as required by Chapter 88 and Land Development Division, prior to recording the plat or issuance of a building permit whichever occurs first.
16. The developer show and label the final stream buffer zones on the subdivision plat within a private open space tract (or stream buffer easement), as required by the Land Development Division.
17. The developer submit covenants, conditions and restrictions to the Land Development Division for review by the Law Department for approval for the maintenance of private open space and enter into a covenant agreement for the maintenance of any stormwater detention area tracts, prior to recording the plat.
18. After the City Plan Commission enters its disposition for the development plan, the developer shall not enter into any agreement that would encumber or otherwise have any impact on the proposed right-of-way dedications for the planned project without the prior written consent of the Land Development Division.
19. That the developer construct or relocate water mains as required by the Water Services

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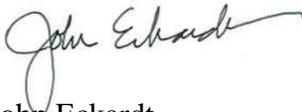
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Department.

20. That the developer provide fire protection as required by the Fire Marshal's Office.
21. That the developer dedicate right of way for the proposed Shoal Creek Parkway, as per the Park and Recreation Department's preferred alignment, as it crosses through their property, as part of the platting process.

Respectfully submitted,



John Eckardt
Planner

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