

**MINUTES
ZONING ADVISORY COMMISSION
REGULAR SESSION**

6:00 p.m.

Wednesday, January 5, 2022

City Council Chambers, Historic Federal Building

Commissioners Present: Chairperson Matt Mulligan; Commission Members Martha Christ, Brittany Loeffelholz (virtually), Pat Norton, Rich Russell, and Teri Zuccaro

Commissioners Excused: Becky Kemp

Commissioners Unexcused: None.

Staff Members Present: Wally Wernimont, Shena Moon, and Travis Schrobilgen

CALL TO ORDER: The meeting was called to order by Chairperson Mulligan at 6:00 p.m.

MINUTES: Motion by Christ, seconded by Zuccaro, to approve the minutes of the December 1, 2021 meeting. Motion carried by the following vote: Aye – Christ, Russell, Zuccaro, and Mulligan; Nay – none; Abstain: Norton and Loeffelholz.

ACTION ITEMS/SITE PLAN WAIVER: Application of Jordan Pape, Tucker Trucking to waive specific requirements of Chapter 13: Site Design Standards for property located at 1080 12th Street, Parcel 1119303003.

Peter Arling, Attorney with O'Connor & Thomas P.C., 1000 Main St, spoke on behalf of the applicant. He discussed the layout of the existing property highlighting the corporate headquarter building and existing parking area, as well as the subject parcel. He stated the property owner has purchased the subject parcel for storage of trailers that are not being used daily. He stated that access to the subject parcel would be through the owners existing parcel to the east and they do not intend to take access to this site from 11th or 12th Streets or the frontage road. Consequently, they are asking for a waiver from the paved access requirement and to alternatively allow a surface of compacted breaker run, crushed aggregate base, and asphalt millings which is consistent with the hard surface on their existing lot to the east. He articulated they have similar concerns with the requirement for gated access since the access will be only from their existing property to the east and a gate would be impractical in this area. Mr. Arling described the chain-link fencing that used to be located on the existing property and that it had been removed in the past and replaced with weed mat control and breaker rock to make the site look consistent with the levy across the street. For the subject parcel, the owner is requesting a waiver from the screening/fencing requirements for the new storage area because they

believe this code requirement is not intended specifically for the storage of trailers and the requirement to provide screening/fencing on the subject site would be inconsistent with development of the surrounding properties and would not allow Tucker Freightlines, Inc. to maintain a consistent corporate image throughout its entire property. He further detailed the owners concerns regarding landscaping, specifically noting the environmental concerns with the existing contained contamination on the Jule property. He stated they have communicated with the Environmental Protection Agency (EPA) and have identified the existing monitoring wells on the subject parcel, and they do not want to disrupt the monitoring wells to ensure they do not create any leaks in the contaminate layers below. Because the location of the monitoring wells limits the usability of some of site the applicant is asking to waive the landscaping requirements or to provide landscaping only in the green areas of the subject property. Additionally, he mentioned the limitation of trees on the site and noted that the taproot could extend below the 6' maximum depth.

Commissioner Christ asked about the request noting there were no photos of the the condition of the applicant's existing site and the adjacent properties in the packet. Staff displayed photos and images from Google maps showing the existing site conditions and surrounding properties. Mr. Arling clarified the previously existing chain link fence was removed and identified the limestone material that was added to the site. He reiterated that the applicant does not plan to take new access to the subject parcel from 11th or 12th Streets or the frontage road.

Chairperson Mulligan commented that he understood the request to waive the gated entry requirements but stated he was unsure of the request to waive the landscaping since the requirement for only 28 shrubs is minimal. The applicant concurred that providing 28 shrubs is less of an issue but providing trees was the primary concern because of the possible root system infiltration into the contained contaminated soil level. Chairperson Mulligan also noted that fence footings should not be an issue into the contaminated soil because they would not extend deeper than 4'. The applicant stated the fence waiver request is due to wanting continuity of the site design with the existing site which does not have a fence.

Staff Member Schrobilgen detailed the staff report and identified that the Unified Development Code specifically allows the Zoning Advisory Commission to grant a waiver from site design standards as may be reasonable and within the general purpose and intent of the site review and approval provisions. He noted that site design waivers are intended to address situations where literal enforcement of one or more of the provisions is impractical or will exact an undue hardship because of peculiar conditions of the site. He stated that Tucker Trucking intends to use the site for storage of semi-trailers and because it was a new development of a vacant site, the current design regulations would apply. He noted the existing lot is vacant but has some limitations with regards to soil contamination and development may require additional review by the EPA. He made mention of an environmental covenant handout that was provided to the Commission and applicant summarizing that the covenant limits construction depth to 6' on the subject property and that any depth beyond that would require review by the EPA. He outlined

the relevant Unified Development Code design standards including the hard surface requirement for any vehicle access areas or driveways, the landscaping requirements for trees and shrubs and staff's recommendation for more shrubs in-lieu of trees, the gated access requirements, the screening, berms and/or fencing requirements. He noted the screening requirement of 6' in height at 50% opacity along all adjacent right of ways and that screening could be a fence, hedges, shrubs, or trees, or a landscaped berm and he mentioned the Alliant Energy Solar Field and Jule Operations sites as examples of code compliant solutions to the landscaping and screening, berms, and/or fencing requirements. He identified the possibility of future expansion of the City's bike/hike trail system along the west side of the subject site. He mentioned the Commission may grant, deny, or condition the waiver requests.

Planning Services Manager Wally Wernimont expanded on the discussion between having the proposed site meet code but the existing site not having to meet code. He noted that current code requires the entire property be brought up to current site design requirements if the building is expanded by 25% or removed. He explained because there is no expansion of the building or removal of the building, the entire site is not required to meet current code, however, the proposed storage area would need to meet current requirements. He also noted that the existing limestone on the adjacent property was encroaching on the public right of way and that the original site plan for that property would have to be reviewed to determine what was required at that time.

Commissioner Norton questioned whether the previous removal of an existing fence was a violation of the Unified Development Code Standards because it was a required fence to begin with. Planning Services Manager Wernimont stated that staff discussed this with the City's Engineering Department, and they made reference to meetings held with the previous business owner in which they discussed some of the design details for the site such as the limestone rock, trees and landscaping on the site, and fencing. He mentioned that alternative screening requirements exist outside of fencing such as berms and that the previous fence would have been installed under regulations of a previously ordinance and that fence was likely for security purposes.

Chairperson Mulligan discussed the proposal noting that the gated access makes sense to waive as access is internal and not directly onto either 11th or 12th Street. He also noted that a tree taproot may go deeper than 6' and agreed the required trees could be swapped for additional bushes. He noted the paved access area identified by staff should be paved and the screening on this site will help to block the stored trailers from vehicle and pedestrian view along the adjacent roadways. Commissioner Norton agreed with the paving need in the access areas and gravel in the storage areas.

Commissioner Zuccaro asked for clarification on the landscaping requirements and who would review the shrub species and locations. Planning Services Manager Wernimont clarified the landscaping plan will be designed by the applicant/designer and staff would review this through the site plan review process.

Commissioner Norton asked for details regarding the use of required landscaping for the screening. Planning Services Manager noted that screening and landscaping are separate requirements.

The Commission determined some portions of the Site Plan Waiver request were appropriate.

Motion by Norton, seconded by Russell, to waive sections 13-4.10B and 13-4.10E regarding gated access and screening along the eastern property boundary only and to modify the landscaping requirements in section 13-4.4F to omit the tree requirement, to supplement that by providing a total of 28 shrubs. Motion carried by the following vote: Aye – Christ, Loeffelholz, Norton, Russell, Zuccaro, and Mulligan; Nay – none.

ACTION ITEM/PRELIMINARY PLAT: Application of Greg Adams for the Preliminary Plat of Country View Estates Plat #2 located east of Hales Mill Road, north of Derby Grange Road.

Dave Schneider, Schneider Land Surveying, 906 1st Street N, Farley IA, spoke on behalf of the applicant. He noted that phase one of Country View Estates is underway and near completion. He noted that phase 2 would include the creation of 25 additional lots and construction is proposed for mid spring 2022. He noted development would meet county requirements and that utility easements are made for potential future annexation. He noted that stormwater would be reviewed and approved by the County.

Staff Member Moon detailed the staff report, noting that the property is within the 2-mile extraterritorial jurisdiction which requires City review and approval. She also noted that there would be communal wells and individual septic systems with two new streets added, Keegan Court and Elly Rose Court. She added that there is wooded hillside and two agricultural lots. She concluded that the lots and subdivision are compliant with the City's code requirements.

Commissioners did not have any comments or questions finding the proposal acceptable.

Motion by Christ, seconded by Zuccarro, to approve the Preliminary Plat of Country View Estates Plat 2 as submitted. Motion carried by the following vote: Aye – Christ, Loeffelholz, Norton, Russell, Zuccaro, and Mulligan; Nay – none.

Planning Services Manager Wernimont noted the plat would be heard at the January 18, 2022 City Council meeting.

Commissioner Norton recused himself for the next two docket items.

PUBLIC HEARING/REZONING: Application of Huseman Properties to rezone property located at 2571 John F. Kennedy Road.

Terry Huseman, 2571 John F. Kennedy, spoke in favor of the request noting that he purchased the property in late spring 2022 and the property is not zoned correctly for an electrical contractor shop. He stated that personnel are not onsite for the majority of the day and that they store their work vehicles and supplies/material in the existing buildings. He said he wished to continue operating his business at this location and was requesting a rezoning to allow an electrical contractor shop.

Tom Stovall, 3345 Tibey Court, spoke in opposition of the request. He noted he submitted a letter and specifically noted that a contractor yard would not be a good fit for the neighborhood as the neighborhood is primarily single-family residences. He expressed concerns about privacy, the parking area in the back of the property, that there are existing stormwater issues that this project may exacerbate, and that it would not fit aesthetically in the neighborhood.

The applicant addressed the public comments noting that the project is not to create a parking lot but to gain access to the rear of the existing structure for which there is currently no access. He noted that a full privacy fence would be along the west property line and that he is working on meeting all stormwater requirements. Chairperson Mulligan asked for clarification on the overhead door location and discussed driveway width. The applicant noted that the tallest part of the building is on the west side and an overhead door would need to be on that side. He also stated that the drawing is somewhat inaccurate and that he would be ok with a narrower driveway to access the rear.

Planning Services Manager Wally Wernimont noted as a point of discussion for the Commission that a 24' wide driveway is the minimum in a standard drive aisle.

Staff Member Moon detailed the staff report noting the property location, size, and existing development and also identified the surrounding zonings designations. She outlined the general operations of the proposed electrical contractor shop and the recent grading activity that took place on the site. She clarified that the project would require site plan review which would include review of stormwater management, screening, and other site development requirements. She also noted that staff recommends conditions regarding outside storage and striking several permitted uses from the C-3 regulations.

Commissioner Christ noted she felt the C-3 district is not a good fit for the property in this neighborhood and she could not support the request.

Chairperson Mulligan noted that he saw this rezoning as an opportunity to address or alleviate the site's existing issues as well as limiting future uses at the property to those that would have a minimal impact on adjacent properties. He specifically referred to stormwater issues with the adjoining property noting there has already been and identified issue and improvements to the subject property could help alleviate those issues. Commissioners discussed striking additional uses beyond what staff had already recommended. Namely Laundry, dry cleaner, or laundromat (26), Mortuary or funeral home (30), and private club (39).

Planning Services Manager Wally Wernimont described the conditional zoning requirements noting that a memorandum of agreement will need to be signed by the applicant before the rezoning is heard at the Council meeting.

Motion by Russell, seconded by Zuccaro, to approve rezoning 2571 John F. Kennedy Road from OR Office Residential to C-3 General Commercial with the conditions outlined in the memorandum of agreement and striking laundry, dry cleaner, or laundromat (26), mortuary or funeral home (30), and private club (39) as permitted uses. Motion carried by the following vote: Aye – Loeffelholz, Russell, Zuccaro, and Mulligan; Nay – Christ.

Staff Member Schrobilgen noted the rezoning request would be heard at the January 18, 2022 City Council meeting.

PUBLIC HEARING/REZONING: Application of the City of Dubuque to rezone property located at the northwest corner of Southwest Arterial and Tamarack Drive from AG Agricultural to PI Planned Industrial designated for the Dubuque Industrial Center Crossroads.

Planning Services Manager Wally Wernimont presented a PowerPoint about the planned unit development outlining the proposed rezoning, annexation, development review process, conceptual development plan and compliance with the Imagine Dubuque Comprehensive Plan. He noted that a virtual public informational meeting was held on December 28, 2021 allowing neighboring property owners to learn about the proposed development and to provide the opportunity to voice their concerns. He stated the rezoning to a planned unit development would allow for a more detailed plan to be created and that the site would go through the development review process where traffic, stormwater, access, and development standards would be addressed. He explained the submitted conceptual development plan would guide any future development and any significant changes or deviation from the conceptual plan would come back before the Commission and City Council for review.

Jay Wertzberger, 9762 Katie Cove, spoke in opposition noting the project is too close to the residential neighborhood, specifically phase 2 and phase 3. He also noted that homes along Katie Cove have all received variances from the County to be closer to the road. He said he did not want an access on Katie Cove to become a cut-through to the Southwest Arterial. He added that the property drops about 50 to 60' and would likely create additional erosion issues. He noted the property line is in a ditch that has been shifting over time. He reiterated that his primary concerns are the cut through, erosion issues, potential industrial noise and smells, and increased traffic on a substandard road.

Jack McCullough of McCullough Creative representing the Tamarack Business Park Association, spoke in opposition of the request citing traffic as their primary concern. He said a roundabout would have been a better solution at the SW Arterial Intersection. He also noted that the Silver Oaks subdivision submitted a letter of opposition as well and provided a copy of the letter to staff and the Commission for the record.

Dennis Jaeger, representing Mulgrew Oil and Propane, 10314 Silverwood, spoke in opposition of the proposal noting that traffic at the Tamarack and Southwest Arterial intersections would increase and that those intersections are already a safety hazard. He suggested consulting with the truck drivers that use the roads and intersections daily when they make future improvements.

Planning Services Manager Wally Wernimont addressed the concerns and comments made by the public. He noted that the city shares the concern regarding safety at the intersections. He noted the SW Arterial plans did include roundabouts at these intersections, but they did not make it to final design. He said that additional review of the traffic and intersections would be required. He added that it is not yet known whether the access along Katie Cove would be primary, secondary, or emergency access only, but avoiding a cut through to the SW Arterial is a shared goal.

Commissioners discussed the proposal noting that the required additional review of the development and traffic would address most of the concerns brought forth by the public. Chairperson Mulligan also stated that he believed the City would be more perceptive to the concerns of adjacent property owners, as compared to a private developer.

Motion by Russell, seconded by Loeffelholz, to approve rezoning the northwest corner of Southwest Arterial and Tamarack Drive as submitted. Motion carried by the following vote: Aye – Christ, Loeffelholz, Russell, Zuccaro, and Mulligan; Nay – none.

Staff Member Schrobilgen noted the rezoning request would be heard at the January 18, 2022 City Council meeting.

Commissioner Norton returned to the meeting.

PUBLIC HEARING/TEXT AMENDMENT: Application of the City of Dubuque text amendment to amend the Unified Development Code to allow Commercial Greenhouse as a permitted use in C-2, C-2A, C-3, C-4 and CS zoning districts and to modify related parking requirements.

Staff Member Schrobilgen presented the application. He noted the objective of this amendment is to allow additional opportunities to locate Commercial Greenhouses throughout the city. He added that the Comprehensive Plan, *Imagine Dubuque 2037*, encourages locally grown foods, expanding opportunities for limited commercial opportunities in neighborhoods, and increasing the potential for adaptive reuse of existing buildings. He noted that there has been interest expressed recently by citizens regarding commercial greenhouses including microgreens, aquaponic, hydroponics, and traditional greenhouse uses. He stated the current definition and parking requirements, and that Commercial Greenhouses are only permitted within the C-1 District where they are further limited by a subsection within that district. He said that the code effectively removes the ability to locate or relocate a Commercial Greenhouse anywhere within the city and that staff determined that a request for a text amendment would be appropriate. He also noted that the parking requirements would need to be modified and would follow the wholesale

requirements of, 1 per employee on maximum shift, plus per service vehicle, plus 1 per 250 square feet gross floor area accessible to the public.

Korin Schriver, 2815 Jackson Street, spoke in favor of the request noting that they currently face barriers operating and locating their business, ReEvolution Farms, within the City. She said this would allow others the potential to create grow operations throughout the city. She described the educational component that they provide each year and concluded that this amendment would promote the goals of the city to become more sustainable.

Chair Mulligan asked if the Staff Member Schrobilgen had anything addition to add. He noted that ReEvolution Farms was a prime example of an opportunity that would be permitted within the City along with locating or relocating traditional commercial greenhouses.

Commissioners did not have any comments or questions finding the proposal acceptable.

Motion by Christ, seconded by Zuccaro, to approve the text amendment to amend the Unified Development Code to allow Commercial Greenhouse as a permitted use in C-2, C-2A, C-3, C-4, and CS zoning districts and to modify related parking requirements as submitted. Motion carried by the following vote: Aye – Christ, Loeffelholz, Norton, Russell, Zuccaro, and Mulligan; Nay – none.

Staff Member Schrobilgen noted the rezoning request would be heard at the January 18, 2022 City Council meeting.

ITEMS FROM PUBLIC: None.

ITEMS FROM COMMISSION: None.

ITEMS FROM STAFF: None.

ADJOURNMENT: Motion by Loeffelholz, seconded by Christ to adjourn the January 5, 2022 Commission meeting. Motion carried by the following vote: Aye – Christ, Loeffelholz, Norton, Russell, Zuccaro, and Mulligan; Nay – none.

The meeting adjourned at 8:20 p.m.

Respectfully submitted,



Shena Moon, Associate Planner

2-2-2022
Adopted