

**MINUTES  
ZONING ADVISORY COMMISSION  
REGULAR SESSION**

6:00 p.m.

Wednesday, December 7, 2022

City Council Chambers, Historic Federal Building

**Commissioners Present:** Chairperson Matt Mulligan; Commission Members Martha Christ, Becky Kemp, Pat Norton, Rich Russell and Ryan Sempf

**Commissioners Excused:** Teri Zuccaro

**Commissioners Unexcused:** None.

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

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

**MINUTES:** Motion by Norton, seconded by Kemp, to approve the minutes of the November 2, 2022 meeting as submitted. Motion carried by the following vote: Aye – Christ, Kemp, Norton, Russell, Sempf and Mulligan; Nay – none.

**ACTION ITEM / PLAT OF SURVEY:** Application of Dave Schneider, Schneider Land Surveying & Planning to approve the Plat of Survey of Kane Business Park Plat 2.

Dave Schneider, Schneider Land Surveying, 906 1<sup>st</sup> Street North, Farley, spoke on behalf of the property owner. He noted the property is within the City's two-mile Extraterritorial Jurisdiction (ETJ). He explained that the lot to be created does not have frontage along a private or public street. He explained the business circumstances leading to this plat and that the lot is being sold to Kordell, who also owns the lot to the south of Kane Business Park. He noted that he's worked with the County and the City to prepare the easement over the proposed Lot 2 for Lot 1.

Board members sought to clarify the location of this property and how the lot is being subdivided.

Staff Member Duba detailed the staff report, noting the submitted Plat of Survey of Kane Business Park Plat 2 is in the City's ETJ and is coming before the ZAC because it is creating a substandard lot with no street frontage. He noted that an access easement connects the substandard lot to West Ridge Lane over Lot 2 and that Commissioners are being asked to consider waiving the requirement for lot frontage.

Commissioner Norton questioned whether the site was on City sanitary sewer or septic system. Mr. Schneider confirmed that the subject property is on a septic system but is connected to City water. Staff Member Moon clarified that City Water Department has reviewed and approved the proposed plat and that the County would be the reviewing body with regards to the septic system.

Commissioners questioned the location of the access easement and were satisfied when seeing the location identified on the proposed plat.

Motion by Norton, seconded by Christ, to approve the Plat of Survey of Kane Business Park Plat 2 as submitted subject to waiving the requirement for street frontage. Motion carried by the following vote: Aye – Christ, Kemp, Norton, Russell, Sempf and Mulligan; Nay – none.

**ACTION ITEM / PLAT OF SURVEY:** Application of Jim and Janet Kress to approve the Plat of Survey of Shagbark Estates Plat 3.

Dave Schneider, Schneider Land Surveying, 906 1<sup>st</sup> Street North, Farley, spoke on behalf of the property owner. He noted this lot was annexed into the City along with the Rustic Point Subdivision and front along Barnwood Lane which serves the subdivision. The property owner is now desiring to subdivide the site and develop the three lots for single-family residential construction similar to the other lots in the subdivision.

Staff Member Schrobilgen detailed the staff report, noting the submitted Plat of Survey of Shagbark Estates Plat 3 is a Minor Subdivision creating three lots from the existing lot. He noted the lots would meet UDC requirements within in R-1 Single-Family residential zoning district and the proposed use of single-family residential would be in keeping with the comprehensive plan and future land use map.

There were no questions or concerns from the Commission.

Motion by Norton, seconded by Sempf, to approve the Plat of Survey as submitted. Motion carried by the following vote: Aye – Christ, Kemp, Norton, Russell, Sempf and Mulligan; Nay – none.

**ACTION ITEM / PRELIMINARY PLAT:** Application of Talon LLC/Robert Smith, VP Development to approve the Preliminary Plat of Fox Hills Addition.

Robert Smith, 1305 Benson Road, Sioux Falls, South Dakota, spoke on behalf of the property owner, from whom his company is buying 23 acres for the purpose of constructing a 390-unit apartment complex. He noted there will be five lots and a drainage pond. He gave background on the history of development at the site and the current status of streets and utilities. He noted the PUD was recently amended to allow the proposed multi-family residential project, and he described the project details and amenities. He noted that the City requires a looping water main and a secondary access point into the

development for which they are still working with adjacent property owners to secure access easements, and that a development agreement is being drafted with the City.

Commissioner Norton asked about the status of securing the access easement and Mr. Smith explained that they are in communications with the AMC representatives and the Ruby-04-AsbryInd LLC in order to secure the access easements over their properties and to secure an approximately 25' easement over the AMC property for the water main connection/loop. He noted that things like this take time with an international corporation like AMC.

Staff Member Moon detailed the staff report, noting the submitted Preliminary Plat of Fox Hills Addition is one step in the process of platting and development review that the City conducts. She described the location of the property, the characteristics of the plat, the rezoning, and status of utilities. She noted traffic projections, site access, code approval, and comprehensive plan alignment. She also noted the recommended condition of approval requiring the execution of a subdivision improvements development agreement.

Commissioner Norton asked if the plat complies with the PUD ordinance, and Ms. Moon stated yes.

Commissioner Norton suggested that the approval be conditioned on the applicant attaining the access and utility easements they are seeking, and Mr. Mulligan agreed. Ms. Moon noted that the applicant has shared a draft easement with City staff and that they continue to be highly communicative with their progress in securing the easements.

Motion by Norton, seconded by Christ, to approve the Preliminary Plat with the following conditions:

- 1) The applicant shall execute a subdivision improvements development agreement with the City.
- 2) The applicant shall secure the required secondary access and utility easements.

Motion carried by the following vote: Aye – Christ, Kemp, Norton, Russell, Sempf and Mulligan; Nay – none.

**ACTION ITEMS / WAIVER:** Application of Ryan Anglese to waive specific requirements of Chapter 13 for property located at 750 Duggan Drive.

Ryan Anglese, 205 Hanley Way, East Dubuque, spoke on behalf of his request. He stated he owns a 4-unit apartment complex, and is planning to construct a garage that will contain storage space for the tenants and for equipment storage such as a lawn mower, snowblower, and other maintenance materials for the property. He noted the UDC requires a 10' landscape buffer at the frontage of a surface parking lot, and when he had the driveway and sidewalk replaced in 2014 this was not a requirement. Now, because of the proposed garage, he is required to bring the site into compliance with the UDC and he is requesting a waiver from the buffer yard requirement. He stated that the buffer yard requirement would eliminate one parking space, taking the lot down to 5 stalls, where 6 is required.

Commissioner Norton asked if it was possible to add a space elsewhere on the lot. Mr. Anglese stated it may be possible, but it would interfere with snow plowing.

Staff Member Duba detailed the staff report. He outlined the Unified Development Code design standards stating that the UDC requires a property to be code compliant if they increase the building area by 25% or more, which is the case here. He noted the one deficiency was the lack of a landscaping buffer at the frontage of the parking lot, so the Commission is being asked to consider waiving that requirement.

Chairperson Mulligan asked if there were any alternatives, that granting the waiver should be the last resort. Commissioner Russell proposed that the Commission require additional landscaping elsewhere on the property.

Commissioner Sempf asked what the intent of this requirement is, and Mr. Duba stated that it's to provide a well-landscaped environment and to break up large expanses of pavement that parking lots can create.

Commissioner Christ asked Mr. Anglese if he was open to planting a tree, and he responded yes, but expressed hesitation about the potential negative effects of a tree, such as interfering with utility lines.

Commissioner Sempf stated his preference would be to grant the waive with no condition.

Motion by Russell, seconded by Christ, to approve waiving specific requirements of Chapter 13 subject to the following condition:

- 1) A tree be planted in the front yard area located to the right side of the building entrance.

Motion carried by the following vote: Aye – Christ, Norton, Russell and Mulligan; Nay – Kemp, Sempf.

Commissioner Norton recused himself from the next two items.

**PUBLIC HEARING / REZONING:** Application of Tom Kelzer, River Run Realty Dubuque to rezone property located at Rosedale Avenue/Saint Ambrose Street, PIN 1023306001, 1023306007, 1023306009 and 1023306008.

Tom Kelzer, 9565 Royal Wood Drive, Peosta, spoke on behalf of the property owner. He stated that his company has put in an offer to purchase the property, and they would like to take the old school and convert it to a maximum of 23 apartments. He said they would have 36 parking stalls, which meets the code requirement for 23 units. He expressed that they hope to develop the open lot into apartments, too. He expressed that the OR zoning gives flexibility and is conducive to the neighborhood.

Chairperson Mulligan asked if they were under contract, and Mr. Kelzer responded yes.

Richard Miller, 2080 Rosedale Avenue, opposed the rezoning. He stated that he circulated a petition, and nearly all signers were opposed. He noted this area is in Residential Parking District E and expressed that parking is an issue. He expressed this would bring too much traffic and be dangerous particularly at the intersections and along Rosedale.

Austin Clark, 2020 Rosedale Avenue, opposed the rezoning. He expressed that parking and traffic are issues here with the neighboring high school and college. He noted there is community opposition. He stated that he attended the meeting with the developers and was concerned about their credentials. He read UDC's preamble for the OR zoning district and concluded that it is not an appropriate zoning for an unimproved area such as the open field.

Jill Barden, 2154 Rosedale Avenue, opposed the rezoning. She noted the pedestrian median in the street and expressed concern about the Rosedale street's width and parking capacity. She expressed concern about building apartments on the open field, inadequate access to that site, and the possibility that a tall building there could obstruct sunlight for neighbors to the north on Clarke Drive. She expressed a desire for a traffic study and additional parking.

David Frommelt, 995 Prince Phillip Drive, stated that he has been trying to sell this property since the school closed. He said they have had over 26 interested parties, and they all proposed multi-family housing. He noted that apartments have to meet certain codes. He stated the church is retaining their parking. He expressed that with apartment tenants, the traffic will be less than for the former school. He noted this is a tremendous location in middle of city, and that more housing is needed.

Mr. Kelzer responded to the opposition and noted that the school generated a lot of traffic with 250 students getting dropped off and picked up, as well as 35 to 40 teachers. He expressed that the timing of trips for potential apartment residents would be dispersed throughout the day and would be much less than the school generated.

Commissioner Russell asked if the potential second building would have its own off-street parking, and Mr. Kelzer replied that yes, it would have off-street parking sufficient to meet code requirements.

Staff Member Schrobilgen detailed the staff report. He noted that this property is in a mixed-use area. He reviewed the preamble to the OR zoning district and highlighted the intention for adaptive reuse and being near arterial and collector streets. He reviewed street designations and traffic counts noting that Clarke Drive and the nearby Asbury Road were classified a major collector and minor arterial by the IDOT. He expressed that the traffic trips generated to the multi-family use within the old school would be a negligible in relations to the trips generated by the previous school use. He noted compliance with the comprehensive plan, that there is mixed use in multiple areas nearby, and that this property could be an office and residential mix. He stated that new development would require review by the Development Review Team where traffic, stormwater, greenspace,

building height, and parking are all reviewed. He noted a petition and an email submitted in opposition to the rezoning. He acknowledged the residential parking district exists and that the intent is to reduce commuter parking in residential neighborhoods, but was not sure whether residents of multi-family units can apply for those permits. He noted that zoning district often cross public rights-of-way, such as roads and alleys. He also noted that the developers held a meeting with neighbors, which staff often suggest to developers, so they can discuss the proposal with neighbors directly.

Chairperson Mulligan described the steps that developers are required to take with the City, including rezoning and site plan review, noting that it's a highly regulated process that does not give the developer free rein. He noted that the typical apartment building traffic would be less than the previous school produced traffic. He thanked the neighbors for expressing their concerns and encouraged them to remain involved in subsequent steps of the process.

Commissioner Sempf echoed Mr. Mulligan's comments, and showed appreciation to the neighbors. He expressed that the traffic should be less than when this was a school and expressed his support.

Commissioner Kemp asked if a traffic study should be required and if the Commission should consider excluding certain uses. Mr. Schrobilgen noted that the decision would be from a traffic engineer but assumed the development of the old school would not likely trigger a traffic study but a new development on the open field may. Mr. Mulligan reiterated that the City Engineer would review the proposal to determine if a traffic study were necessary.

Commissioner Christ expressed concern with the density of this zoning and stated she was not in favor of the rezoning. She also wondered about green space, and Mr. Schrobilgen stated that a certain amount of green space is required by code and this would be reviewed during the City's Development Review Team who is responsible to review site plan proposals.

Commissioner Kemp expressed that she thought too many uses were allowed in this zone, she would support the neighbors, and that she was opposed to the rezoning.

Commissioner Sempf expressed an understanding of the concerns related to density and traffic, but traffic may not increase over the former use. He noted the comprehensive plan calls for infill development, that the city is short on housing, and that neighborhoods change over time.

Chairperson Mulligan expressed that this property is for sale, and if it's not rezoned to OR, which is a low intensity district, it will sit vacant. He stated he is in favor of the development and the City's process for reviewing development.

Motion by Russell, seconded by Sempf, to approve the rezoning as submitted. Motion carried by the following vote: Aye – Russell, Sempf and Mulligan; Nay – Christ, Kemp.

**PUBLIC HEARING / AMEND PLANNED UNIT DEVELOPMENT:** Application of Todd Geisler, Geisler Brothers Realty, LLC. to rezone property located at Radford Road, PIN 1029251014.

Todd Geisler, 12123 Forest Meadow Drive, spoke in favor of the project stating that that they are looking to have the zoning adjusted so they can put up a 60' x 120' storage/light manufacturing building to support the business' current services.

There was no public input.

Staff Member Moon detailed the staff report. She noted the parcel is just to the east of the Geisler Brothers current property at 1500 Radford. She explained that the PUD designates this as open space, so they are seeking to amend the land use map within it to change this parcel from open space land use to industrial land use. Additionally, the setback for the subject property would have to be reclassified to be consistent with industrial land use standards. She noted that any project would be subject to site plan review by the DRT.

Chairperson Mulligan asked why this parcel was not industrial in the first place, and Ms. Moon explained that the open spaces were intended for stormwater management, so the applicant would have to address stormwater for any proposed development. Commissioner Russell sought to confirm that the site plan review process would address concerns like stormwater, and Ms. Moon confirmed, yes.

Motion by Christ, seconded by Kemp, to approve the Planned Unit Development amendment as submitted. Motion carried by the following vote: Aye – Christ, Kemp, Russell, Sempf and Mulligan; Nay – none.

Commissioner Norton returned to the meeting.

**ITEMS FROM PUBLIC:** None.

**ITEMS FROM COMMISSION:** The Commission suggested that it may be good for applicants and members of the public to have a list of the steps in the development review process which could be included in the public notices or on the City's website.

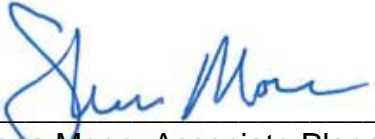
The Commission discussed the importance of having a clear dialogue that helps convey to the public the reasons behind supporting or not supporting a project.

**ITEMS FROM STAFF:** Planning Services Manager Wally Wernimont notified the members that they would be invited to the Iowa State University ISU zoning and land use workshop happening on April 24, 2023. He also commented that he appreciated hearing the dialogue and stated that it is good for Commissioners to explain the reason for their vote, as they did this evening.

**ADJOURNMENT:** Motion by Kemp, seconded by Christ to adjourn the December 7, 2022 Commission meeting. Motion carried by the following vote: Aye – Christ, Kemp, Norton, Russell, Sempf and Mulligan; Nay – none.

The meeting adjourned at 7:36 p.m.

Respectfully submitted,



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Shena Moon, Associate Planner

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January 4th, 2023

Adopted