

**MINUTES  
ZONING ADVISORY COMMISSION  
REGULAR SESSION**

6:00 p.m.

Wednesday, June 7, 2023

City Council Chambers, Historic Federal Building

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

**Commissioners Excused:** Martha Christ

**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 Zuccaro, seconded by Kemp, to approve the minutes of the May 3, 2023 meeting. Motion carried by the following vote: Aye – Kemp, Russell, Sempf, Zuccaro, and Mulligan; Nay – none; Abstain – Norton.

**ACTION ITEM/FINAL PLAT:** Application of Dave Schneider, Schneider Land Surveying & Planning, Inc. for the Final Plat of Steger Heights Plat 3.

Dave Schneider, Schneider Land Surveying, 906 1<sup>st</sup> St N, Farley, Iowa spoke on behalf of property owners, Bob Miller and Ross Miller. He noted the location of the plat and explained that it is reconfiguring three existing lots in order to transfer some property and provide the building code required 5' setback for the existing garage.

Staff Member Moon detailed the staff report, noting the submitted Plat of Survey is for a reconfiguration of three existing lots, which is a Minor Subdivision, requiring ZAC review, and City Council review and approval. She explained the existing garage was built over property lines, and the plat seeks to adjust the property lines, so the garage is entirely on one property. She explained the third lot is legally non-conforming with respect to street frontage and this condition would remain, and an access easement for that lot is included on the plat.

Chairperson Mulligan sought to clarify whether the access easement for the 2745 Dodge Street (Lot 2) property was already existing and staff confirmed it was and would continue

to be in place with the proposed plat. Commissioner Norton asked to confirm that the lack of street frontage for Lot 2 is the only waiver required and staff confirmed that it is.

Motion by Norton, seconded by Zuccaro, to approve the Final Plat of Steger Heights Plat 3, waiving the requirement of street frontage for Lot 2 (2745 Dodge Street). Motion carried by the following vote: Aye – Kemp, Norton, Russell, Sempf, Zuccaro, and Mulligan; Nay – none.

Commissioner Norton recused himself for the following two cases.

**PUBLIC HEARING/REZONING:** Application of Brandon Merrick, Merrick Development to rezone property located at 575 Cedar Cross Road, PIN 1034101005, from R-1 Single-Family Residential to Planned Unit Development with PR-Planned Residential zoning designation.

Brandon Merrick, 8293 Turkey Valley Lane, spoke on behalf of his application. He explained that he plans to build three apartment buildings: one 8-plex and two 12-plexes, totaling 32 units. He explained that access to the site would be taken from Nightengale Lane and that he's had discussions with the City about possibly widening of Nightengale Lane. He stated that the site includes green open space and a detention basin to manage stormwater.

Ellen Dillon, 505 Woodland Ridge, stated she is the president of the Turnberry Homeowners Association. She stated she is opposed to the rezoning and expressed concerns about an increase in traffic, noise, and existing ecology on the site. She suggested the Commission visit the site to better understand the neighborhood.

Carol Maas, 3095 Nightengale Lane, stated that she's lived there for 51 years, and the subject property borders her property on two sides. She opposed the rezoning, expressing concern that it would negatively impact the use and enjoyment of her property, as well as her neighbors. She noted the increased population in the area and potential effects on neighbors, the childcare center, and businesses. She expressed concerns about the increase in traffic with the high quantity of units in a primarily single-family neighborhood.

Mike Reed, 3185 Nightengale Lane, opposed the rezoning, stating that he is an emergency responder and needs to be able to access Cedar Cross Road quickly, and traffic is already bad in the neighborhood and the proposed development would increase that issue.

Virginia Till, 580 Woodland Ridge, opposed the rezoning, expressing concerns about traffic, particularly when baseball tournaments are being played at the Dubuque Sports Complex. She noted that she spoke with the City Engineer Gus Psihoyos and is waiting for traffic counts from him. She pointed out that a development is proposed for 380 Cedar Cross Road however development has not begun there yet. She mentioned that she invited her City Council ward representative to attend by that she declined stating that the

rezoning is quasi-judicial and City Council members can't attend this meeting. Ms. Till sought to understand what quasi-judicial means.

Jeff Anglin, 585 Woodland Ridge, opposed the rezoning and expressed concern about traffic and the narrow width of Nightengale Lane. He stated he felt there are better locations along Cedar Cross that would have better potential for the proposed development, rather than this location.

Mike Reinert, 401 Cedar Cross Road, opposed the rezoning and stated that he lives next to both properties that are seeking rezoning. He expressed concern about quantity of new residences the development would bring into the neighborhood, noise, trespassing, parking, traffic, lights, services, utilities, runoff, screening, and the potential for sex offenders to live next to the childcare.

Kevin Donovan, owner of 15 Nightengale Lane and ABC Learning childcare center, opposed the rezoning and expressed concern about traffic, parking, the timing of the reconstructing of Cedar Cross Road, the school bus stop location and its impact on traffic delays, stormwater runoff onto his property, sex offenders, vandalism, Section 8 voucher holders, and noise. He asked whether the City would pay for security cameras for adjacent property owners for their safety.

Melissa Donavan, owner of 15 Nightengale Lane and director of ABC Learning Childcare Center, opposed the rezoning and acknowledged the need for more affordable housing in the City but not in her backyard. She expressed concern for the safety of children at her center. She asked if tenants or visitors would have background checks and if she would be able to review those checks. She expressed the need for a fence or screening for privacy and to keep out children who might live in the apartments so they wouldn't use the center's playground. She expressed concerns about impacts during construction. She stated that they have a good relationship with their neighbors.

Ron Noel, 465 Woodland Ridge, opposed the rezoning and expressed concern about traffic, noting that Cedar Cross has been planned for reconstruction for a long time, and there are no sidewalks along the roadway. He noted that 1061 Cedar Cross was recently rezoned, which will lead to more traffic in the area.

Jesse and Jessica Kemp, 3400 Nightengale Lane, opposed the rezoning, stating they built their dream house there, and they are concerned about the safety of their children, the lack of sidewalks, runoff, maintenance of the proposed apartments, their property value, and being able to access Cedar Cross in a timely manner as a utility worker.

Mark Arensdorf, 3300 Nightengale Lane, opposed the rezoning, expressing concern about snow plowing and trucks and trailers being able to get out, traffic during baseball tournaments, and a lack of recreation opportunities leading to trespassing.

Emily Wilson, 3135 Nightengale Lane, opposed the rezoning and expressed appreciation for the current neighborhood. She agreed with the previous points and referenced to

Section 9.5 of the Unified Development Code, expressing that this property has not materially changed, so she believes a rezoning isn't warranted.

Lester Sarazin, 601 Cedar Cross Road, opposed the rezoning, expressing concern about the safety of the intersection of Cedar Cross and Nightengale with truck traffic, short sight lines, and vehicles coming and going on Nightengale.

Jason Maas, 3095 Nightengale Lane, opposed the rezoning stating that his home would abut the development along two property lines. He agreed with others and expressed concern about parking for the development being located about 15 feet from their residence and the lights from cars will shine into their bedroom window. He was concerned about noise, traffic, safety of childcare children, and the loss of the neighborhood they enjoy now. He expressed that other properties along Cedar Cross would be better suited for such a development.

Adam and Caitlin Kaiser, 3155 Nightengale Lane, opposed the rezoning and agreed with what others said. They stated that their street is not plowed, and they have to help push cars out when it snows.

Brandon Merrick responded, stating that he understood their concerns with traffic on Cedar Cross. He noted that utilities would be coming off Cedar Cross, he is planning to install fences, and that the detention basin will be designed to meet requirements. He noted there is a mix of residential and commercial on Cedar Cross, so this development fits.

Staff Member Moon detailed the staff report. She described the city project steps and process starting with rezoning, followed by site plan review to meet all city code requirements, and then permit review to ensure building codes are met.

Moon reviewed the location and characteristics of the project site, and the adjacent land uses. She described the project and the conceptual development plan, noting the proposed plan meets the minimum parking requirement and the developer is proposing market rate apartments. She noted the impact on utilities, public services, and the environment, including landscaping. She discussed traffic counts, projections, site access, and potential improvements to Cedar Cross and Nightengale.

Moon reviewed the UDC criteria for rezoning and noted that effects on the use and enjoyment of property abutting districts should be considered. She noted the public input received through seven letters of opposition and several phone calls. She explained that the City has a noise ordinance that would be enforceable for the project site. She explained that this rezoning is quasi-judicial which is a specialized zoning that involved a conceptual plan, and that City Council will hear the case to make the final ruling. She noted the Commission has the option to recommend or table the case.

Chair Mulligan asked to clarify whether this property would be taking access from Cedar Cross, and Staff Member Moon explained that the access would be from Nightengale Lane.

Vice Chairperson Russell asked what made this quasi-judicial and restricted ex-parte communication. Moon explained that it is a specialized rezoning with a conceptual development plan, rather than a traditional zone.

Vice Chairperson Russell asked about traffic counts and what impact the Southwest Arterial has had on Cedar Cross. Planning Services Manager Wernimont relayed traffic counts going back to 2001 and generally showing a small decline in traffic over the years.

Commissioner Zuccaro asked what determined whether a development needed two access points, and Moon replied that two access points are required when there are 50 or more units.

Chairperson Mulligan noted that issues such as the seven parking spaces adjacent to the neighboring house could be resolved through the Development Review Team process, and Staff Member Moon replied that conditions can be placed on approval.

Mulligan stated his appreciation for neighbors sharing their concerns, and summarized that they most commonly touched on traffic, noise, light, parking, sidewalks, and trespassing. He noted that the apartments are planned to be market rate for now and that Development Review Team and the site plan process will deal with many of the development concerns. He recommends against conditioning approval on a traffic study because it doesn't give Commission a means of exit from the conversation. He stated he respects all the input provided during the meeting. He stated he is in favor for moving forward with the rezoning.

Vice Chairperson Russell also expressed that the Development Review Team process would deal with runoff and fencing, particularly where the proposed development abuts residential properties. He stated he would be in favor of a condition that would require fencing adjacent to adjoining residential properties.

Commissioner Sempf expressed that he's generally supportive of residential development, but he has difficulty with this particular rezoning because it appears that all the neighbors are opposed. He noted that the neighborhood seems like a mishmash with lots of traffic already, so he has a hard time voting to go from R-1 to PUD, especially when the comprehensive plan lists this as Parks/Open Space. He felt that the density is out of place.

Commissioner Kemp expressed appreciation for the neighbors' comments especially regarding traffic and noise, and stated that she would vote no, because the development is too aggressive for the neighborhood.

Commissioner Zuccaro expressed agreement with Sempf and stated that the development doesn't keep with surroundings and does not meet all the criteria for rezoning.

Motion by Russell, seconded by Mulligan, to recommend the rezoning with the following condition:

1. A solid fence be installed along the north boundary of 3095 Nightengale and the south boundary of 401 Cedar Cross Road.

Motion failed by the following vote: Aye – Mulligan; Nay – Kemp, Russell, Sempf, and Zuccaro.

Planning Services Manager Wally Wernimont clarified that the City Council would require a super majority vote in order to overturn the negative recommendation from the Commission.

**PUBLIC HEARING/REZONING:** Application of Brandon Merrick, Merrick Development to rezone property located at 405 Cedar Cross Road, PIN 1034101003, from R-1 Single-Family Residential to CS Commercial Service and Wholesale.

Brandon Merrick, 8293 Turkey Valley Lane, spoke on behalf of his application. He stated that his purchase of the land is dependent on both rezonings being approved, but that he would continue with the rezoning request. He stated that he's planning to build a 60' x 70' building for warehouse or storage use.

Mike Reinert, 401 Cedar Cross Road, opposed the rezoning, stating that he lives next to this property. He said that it's always been R-1 and trying to put CS between R-1 properties doesn't fit, as CS can have many different uses. He expressed concern with traffic and setbacks.

Virginia Till, 580 Woodland Ridge, asked why they didn't get notice of it, and Staff Member Moon explained the 200' notification boundary requirement for a rezoning.

Ellen Dillon, 505 Woodland Ridge, expressed that she's heard lots of news about housing, but she thinks the City isn't looking at the existing neighborhood. She asked what the process was and whether City Council was willing to put housing anywhere? She expressed frustration that this conversation was even happening.

Lester Sarazin, 601 Cedar Cross Road, shared the idea that this property could be made into an entryway to the apartments directly from Cedar Cross.

Emily Wilson, 3135 Nightengale Lane, agreed with the others and expressed that there is no significant value to change from residential to commercial.

At the conclusion of the public hearing, the applicant was given the opportunity to respond, but he left the meeting and did not give a rebuttal.

Staff Member Schrobilgen detailed the staff report, noting that it's a mixed-use neighborhood. He stated that the setbacks would be 20', which changed the building size to 50' x 70'. He explained that it's not a City initiative to rezone property, anyone can request rezoning, and the City is obligated to follow through with the request. He noted this is just a preliminary site plan, and screening would be required. He expressed that one commercial property on a minor arterial would have a minor impact.

Chair Mulligan asked what is on the parcel presently. Staff Member Schrobilgen replied that a mobile home was removed, and there's a garage and the applicant has indicated that he intends to remove the garage.

Mulligan asked how many houses are on Cedar Cross with a driveway, and Staff Member Schrobilgen estimated that there were approximately three.

Commissioner Sempf stated that since these properties are combined in one transaction, he would vote no. He felt it doesn't fit with the character of the neighborhood on this section of Cedar Cross Road.

Commissioner Russell stated that he would have voted only for this rezoning if 401 and 595 Cedar Cross were not combined in the transaction.

Motion by Russell, seconded by Mulligan, to recommend approval of the rezoning as submitted. Motion carried by the following vote: Aye – Mulligan; Nay – Kemp, Russell, Sempf, and Zuccaro.

Commissioner Norton rejoined the meeting.

**PUBLIC HEARING/REZONING:** Application of City of Dubuque Engineering Department to rezone property located at Westside Drive – Lot 2 Weber Acres, PIN 1032200008, from County M-2 Heavy Industrial to City CS Commercial Service and Wholesale concurrently with annexation into the city of Dubuque.

Bob Schiesl, Assistant City Engineer, City Hall, spoke on behalf of the application. He stated that as part of the US 52 Southwest Arterial project, the City was responsible for property acquisition for Iowa DOT. Now that the project is complete, the City is cleaning up various parts of the right-of-way, including Westside Drive, through survey and replatting. He explained that this is excess right-of-way that Iowa IDOT is interested in disposing of by annexing, rezoning, and selling.

Staff Member Duba detailed the staff report. He reiterated Mr. Schiesl's statement of the purpose for this rezoning and noted that it's being done concurrently with annexation. He noted that the CS district designation matches with the adjacent property and described the CS district and its uses. He noted that comprehensive plan recommendations support this type of rezoning. He stated that development would be regulated by the site plan review process and permitting process.

Commissioners had no questions or concerns.

Motion by Norton, seconded by Sempf, to recommend the rezoning as submitted. Motion carried by the following vote: Aye – Kemp, Norton, Russell, Sempf, Zuccaro, and Mulligan; Nay – none.

Planning Services Manager Wally Wernimont clarified that this rezoning request will be on the July 5, 2023 City Council meeting agenda along with the request for annexation.

**ITEMS FROM PUBLIC:** None.

**ITEMS FROM COMMISSION:** Chairperson Mulligan expressed the need for a document or flowchart listing the steps of the process and all the studies involved to show neighbors that the City has a thorough review process. Commissioner Sempf and Norton agreed and thought that it could be sent out with notices or made a page on the City's website. Staff stated that the Planning Services Department can explore options to more clearly describe the process.

Chairperson Mulligan asked how it is determined if traffic is heavy, in a quantifiable way. The Commission discussed the traffic Level of Service measurement, how it is used, and whether it's feasible to include that at this stage.

**ITEMS FROM STAFF:** Staff Member Moon expressed appreciation to Commissioner Sempf for his service. She congratulated him on his new position with the Quad Cities Chamber of Commerce.

**ADJOURNMENT:** Motion by Russell, seconded by Sempf to adjourn the June 7, 2023 Commission meeting. Motion carried by the following vote: Aye – Christ, Kemp, Norton, Russell, Sempf, Zuccaro, and Mulligan; Nay – none.

The meeting adjourned at 8:10 p.m.

Respectfully submitted,

  
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Shena Moon, Associate Planner

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August 2, 2023  
Adopted