

**MINUTES**  
**ZONING ADVISORY COMMISSION**  
**REGULAR SESSION**

6:00 p.m.  
Wednesday, August 3, 2011  
City Council Chamber  
350 W. 6<sup>th</sup> Street, Dubuque, Iowa

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**PRESENT:** Chairperson Charles Miller; Commissioners Ron Smith, Stephen Hardie, Martha Christ, Patrick Norton and Tom Henschel; Staff Members Kyle Kritz and Guy Hemenway.

**ABSENT:** None.

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

**AFFIDAVIT OF COMPLIANCE:** Staff presented an Affidavit of Compliance verifying that the meeting was being held in compliance with the Iowa Open Meetings Law.

**MINUTES:** The minutes of the July 6, 2011 meeting were approved, unanimously, as submitted.

**ACTION ITEM\SITE PLAN:** Application of Greg McClenahan, Rose of Dubuque, L.P. for site plan review for a new three-story assisted living center located at 3390 Lake Ridge Drive in a PUD Planned Unit Development.

Chairperson Miller noted that the request is an action item and that no public input would be permitted. He asked if the applicant was present.

Timothy Brown, 8147 Savannah Valley Way representing the applicant, spoke in favor and offered to answer any questions the Commission had.

Staff Member Kritz noted that the Planned Unit Development ordinance for Cedar Lake requires site plan review by the Commission. He discussed the project location, site topography and parking lot configuration. He said that 5 bicycle spaces would be added and that street trees, although not required, would be installed. He noted the change in setback for the project stating that, due to subsurface soil conditions, the City Council approved a 15 foot setback.

Commissioners had no questions.

Motion by Norton, seconded by Christ, to approve the site plan for Rose of Dubuque. Motion carried by the following vote: Aye – Smith, Hardie, Christ, Norton, Henschel and Miller; Nay – None.

**PUBLIC HEARING\REZONING:** Application of Marcy & Michael Armstrong to rezone property located at 1845 Washington Street from R-2A Alternate Two-Family Residential District and C-2 Neighborhood Shopping Center District to C-4 Downtown Commercial District.

The applicant was unable to attend the meeting due to storm clean up.

Staff Member Hemenway outlined the staff report, reviewing existing zoning of the parcel and the surrounding zoning and land use. He noted that the existing business is nonconforming and that, if approved, the zoning request would bring the use into conformance with the Unified Development Code. He stated that the applicant's proposal is to expand their building to allow storage of their service vehicles inside of the structure. He reviewed the uses permitted in the C-4 District and noted that the district did not require off-street parking.

Commissioner Hardie noted that the Commission reviews not only the proposed use, but all of the uses permitted in the C-4 District. He said, because of the small size of the parcel and the building's limitations, it is not likely that many intense uses would locate here.

Commissioners discussed the request and felt that it was appropriate, noting that the small size of the site limits potential uses and rezoning would not adversely impact adjacent property.

Motion by Henschel, seconded by Norton, to approve the rezoning request, as submitted. Motion carried by the following vote: Aye – Smith, Hardie, Christ, Norton, Henschel and Miller; Nay – None.

**PUBLIC HEARING\AMEND PLANNED RESIDENTIAL DISTRICT:** Application of Tom Kluck to amend the Planned Residential District to permit a 60 foot by 30 foot two-story common building with 3 apartments on the second story; set back 20 feet from the north side property line.

Tom Kluck, 2499 LaVista Court, reviewed his request noting the proposed changes to the office, community and exercise building. He stated that the building would be enlarged to 60 feet by 30 feet, a second story with three units would be added and the building would be located 20 feet back from the north side property line.

Commissioner Hardie asked if the request had changed from the last time the Commission reviewed it. Mr. Kluck explained that he initially felt that he could maintain the 25 foot setback on the north side of the property; however, after measuring the site and locating the 20 foot water main easement, he realized that he would have to be 20 feet from the property line to make the project work.

Chairperson Miller noted receipt of a letter from Judith Odefey, 2762 Beverly Avenue and Bruce and Annabelle Schaal, 2765 Beverly Avenue, in opposition to the request. He also noted a petition with 42 signatures of adjacent residents opposed to the request. He said that the Commission had also received an e-mail from Mr. Gus Hammer in opposition to the request. Mr. Kluck submitted a letter from Bill Stiermann, 2757 University Avenue, in favor of the request. Chairperson Miller also read a letter submitted by City Engineer Gus Psihoyos regarding storm water management for the Kluck property.

Bruce Schaal, 2765 Beverly Avenue, spoke in opposition to the request noting concerns with storm water management and the size and density of the proposed development. He presented pictures to the Commission showing storm water damage at the end of Beverly Avenue. He said that he is opposed to changing the PUD as he feels Mr. Kluck is overbuilding the site.

Mr. Kluck stated that he felt the new building would be an asset to the surrounding property. He said that he had installed a berm at the end of Beverly Avenue to help control erosion and manage storm water from the site. He said that during a large rain storm water had washed over the top of the berm. He said that he did not believe that the proposed changes would negatively impact adjacent properties. He noted that there has been market demand for one-bedroom apartments.

Chairperson Miller asked if Mr. Kluck had considered moving the building closer to the parking lot. Mr. Kluck noted that there was a conflict with a water main easement that prevented him from moving the building any farther to the south. He stated that the conceptual plan submitted does not accurately portray the location of the water main.

The Commission discussed the proposal, reviewing the location of the water and sewer mains. Commissioner Smith asked if the second 24-unit apartment building proposed for the site could be reconfigured to accommodate one-bedroom apartments. Mr. Kluck said that it would be difficult to redesign the building at this point and that it would be cost prohibitive.

Staff Member Hemenway reviewed the project history and the series of requests for the amended district. He noted that the Commission had originally recommended approval of the proposed amendment with the condition that the building setback remain 25 feet and that Mr. Kluck asked the City Council to waive that condition. He said that the City Council remanded the request to the Commission. He noted that Mr. Kluck had resubmitted and was, therefore, back before the Commission. He discussed storm water issues, noting that there had been a formal agreement between City Engineering and Mr. Kluck that stated that storm water management measures would be in place by October 31<sup>st</sup>. He noted the height of the proposed building, its location on the lot, area topography and off-street parking requirements.

Commissioner Hardie asked if the property was not zoned to PUD, but a standard multi-family residential district, what the setback would be. Staff Member Hemenway noted that the setbacks for buildings in an R-4 District are 4 feet.

Commissioners asked how far back the adjacent residence is from the property line. Staff Member Hemenway estimated from 12 to 14 feet. Commissioner Smith questioned the orientation of the building and asked whether a rear yard setback is more appropriate. Staff Member Hemenway noted how setbacks are determined, stating that they are predicated on the location of the lot relative to the public right-of-way. Commissioner Smith asked about the height of the building above grade at the rear. Mr. Kluck said that there would be approximately 9 feet to the eaves exposed and 15 feet to the peak of the roof.

Commissioner Hardie questioned the setback from Beverly Avenue. Mr. Kluck said that the building would be approximately 22 feet back from Beverly Avenue with enough area left over for landscape plantings. He said he is willing to work with the neighbors on any reasonable request they may have.

Commissioner Smith said that he feels that the size of the subject building and its setbacks are too large for the area. Commissioner Hardie noted that additional screening may help to buffer the adjacent properties and would make the change less onerous. Commissioner Christ concurred with Mr. Hardie, noting that sufficient screening would help mitigate the effect of the building on the adjacent residential properties.

Commissioner Henschel said that he felt the building is too large and too close to the adjacent property lines. Commissioner Norton noted that he previously had not been in favor of the request and he did not see anything that would change his mind. He said that not only is the building larger and taller, but it is being placed in closer proximity to the property line.

Commissioner Smith asked if the original motion could be amended to require additional screening. Chairperson Miller said that he was struggling with the proposal, noting that he likes how Mr. Kluck has developed the site so far and that he was comfortable with the original layout and size and setback of the community building. He said he would be supportive of the existing configuration, but is opposed to any change.

Commissioners discussed the ability to require additional screening for the property to help mitigate the impacts of the building's height and proximity to the adjacent residential properties. The Commission discussed various species of both deciduous and evergreen trees for the site.

Mr. Kluck noted that there are large mature trees along the north property line. The Commission reviewed photos of the site noting the presence of existing landscaping.

The Commissioner discussed the request and settled on hemlocks for the north side and deciduous trees on the west side of the building.

Motion by Henschel, seconded by Christ, to amend the motion to approve subject to the following conditions for screening: 1) Hemlock trees that are 6 feet high and 8 feet on center be placed along the north side of the subject building and that, 2) three deciduous trees of 2 ½" caliper be placed along the west side of the subject building in coordination with City staff. The

amendment was approved by the following vote: Aye – Smith, Hardie, Christ, Norton, and Miller; Nay – Henschel.


Motion by Henschel, seconded by Christ, to approve the amendment to the PUD as amended to permit a 60 foot by 30 foot two-story common building with three units on the second floor, set back 20 feet from the north side property line. Motion carried by the following vote: Aye – Smith, Hardie, Christ and Miller; Nay – Norton and Henschel.

**ITEMS FROM COMMISSION:** Commissioners agreed to modify the rezoning review process by initially opening each public hearing for discussion and then, after discussion, entertaining a motion to approve or deny the request.

**ITEMS FROM STAFF:** Staff Member Hemenway noted that Commissioner Stiles has submitted his resignation from the Zoning Advisory Commission and commended Commissioner Stiles for his 19 years of service to the Commission. Commissioners Henschel and Miller also stated their appreciation for service rendered by Mr. Stiles.

**ADJOURNMENT:** The meeting adjourned at 7:30 p.m.

Respectfully submitted,



Kyle L. Kritz, Associate Planner

Adopted—September 7, 2011