



Approved

**MINUTES
ZONING ADVISORY COMMISSION
REGULAR SESSION**

6:00 p.m.

Wednesday, March 5, 2014
Room 223, Historic Federal Building
350 W. 6th Street, Dubuque, Iowa

PRESENT: Chairperson Patrick Norton; Commissioners Stephen Hardie, Martha Christ, Tom Henschel and Michael Belmont; Staff Members Guy Hemenway and Kyle Kritz.

ABSENT: None.

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 February 2014 were tabled to the next regular Commission meeting.

ACTION ITEM/MINOR FINAL PLAT: Application of Kathy Bauerly and Dave Schneider, for property located at 855 S. Grandview Avenue for approval of the Minor Final Plat Mount Vernon Court Plat 2.

James Bauerly, 3500 Dodge Street, said that he was speaking on behalf of his wife, Kathy Bauerly. He said that they would like to split a large lot along Grandview Avenue into three lots, placing the house on the center lot and providing two additional marketable lots.

Staff Member Kritz outlined the request, noting that this is a three lot Final Plat. He said that the property currently consists of three lots; however, the applicant is asking to reconfigure the plat, slightly shifting the lot lines. He said that as three lots are being created, state law requires that this be reviewed as a subdivision. He said the three proposed lots will be compliant with UDC standards for required frontage and lot area.

Commissioners discussed the request and felt it was appropriate.

Motion by Hardie, seconded by Christ, to approve the Final Plat of Mount Vernon Court Plat 2. Motion carried by the following vote: Aye – Hardie, Christ, Henschel, Belmont and Norton; Nay – None.

ACTION ITEM/FINAL PLAT: Application of the City of Dubuque for property located at West 1st Street for approval of the Final Plat Lot 4A, Lot 4B, and Lot 4C, Block 1 of Dubuque Harbor Company Addition.

Staff Member Kritz spoke on behalf of the City of Dubuque. He noted that the property is a vacated alley behind the Bishop Block building and the area will be used as private parking for adjacent property owners. He said that the plat was compliant with all UDC standards.

Chairperson Norton asked about the minimum lot size. Staff Member Kritz said that there are no minimum lot size standards in the C-4 Downtown Commercial District.

Commissioners discussed the request and felt it was appropriate.

Motion by Henschel, seconded by Belmont, to approve the Final Plat of Lot 4A, Lot 4B, and Lot 4C, Block 1 of the Dubuque Harbor Company Addition. Motion carried by the following vote: Aye – Hardie, Christ, Henschel, Belmont and Norton; Nay – None.

PUBLIC HEARING/REZONING: Application of David Link for property located at 2497 Jackson Street to rezone from R-2A Alternate Two-Family Residential to C-4 Downtown Commercial zoning district.

David Link, 2497 Jackson Street, reviewed the history of the zoning and use of his property. He said that the proposed business would have a very minor impact on the surrounding property.

There were no public comments.

Staff Member Hemenway reviewed the size and location of the lot and the land uses surrounding the subject property. He discussed the history of the property, noting that it is a legally non-conforming commercial lot. He explained that under the current residential zoning, the only commercial use permitted would be an upholstery shop. He discussed the zoning districts that would allow a contractor shop, noting that the applicant had decided that the C-4 District was most appropriate for his purposes.

Commissioner Hardie asked about the parking requirements for a contractor shop or a bar or restaurant. Staff Member Hemenway reviewed the parking requirements.

Commissioner Henschel discussed the other uses permitted in a C-4 District, and said that he felt the available parking would restrict many of these uses.

Chairperson Norton asked how many employees the future property owner intended to have. The contractor intent on purchasing the property said that he would be the sole employee.

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Commissioner Belmont asked if outdoor storage would be allowed in the C-4 District. Staff noted that outdoor storage would be permitted in a C-4 District.

Commissioners discussed the request and felt that rezoning would be appropriate if outdoor storage was limited.

Motion by Henschel, seconded by Belmont, to approve the rezoning from R-2A to C-4 with the condition that no outdoor storage be permitted on the subject lot, save licensed and operable vehicles,. Motion carried by the following vote: Aye – Hardie, Christ, Henschel, Belmont and Norton; Nay – None.

PUBLIC HEARING/AMEND ID DISTRICT: Application of the University of Dubuque to amend the ID Institutional District on not needing a privacy fence between 2224 Grace Street and 2255 Bennett Street due to pedestrian safety.

Keith Wipperfurth, representing the University of Dubuque, reviewed the history of the privacy fence installation. He said that it was initially intended to screen the adjacent residential property from vehicles and their headlights in the proposed parking lot. He said that subsequently, the Performing Arts Center was constructed and there is a narrow passage way between the adjacent property and the building. He said the fence limited students' ability to use the adjacent property as an escape path. He said that the University feels it is necessary for pedestrian safety to eliminate the fence. He distributed photos to the Commission.

Commissioner Belmont asked about the length of the walkway. Mr. Wipperfurth said that it was approximately 100 feet long.

Jean Hoppman Donovan noted that she is part owner of the property at 2224 Grace Street. She distributed information and photos of her property and of the Performing Arts Center facility. She discussed the history of development around her mother's home and their dealings with the University. She said that her mother voiced her concerns regarding the University's parking lot proposal at the original amended district hearing in 2005. She said that, at that meeting, the Commission required a 50-foot setback for the parking lot, additional landscaping and a privacy fence. She said these measures were deemed necessary to mitigate lighting, noise, traffic, and the loss of privacy that would result once the parking lot was built.

Ms. Hoppman Donovan said that today, the primary issue is privacy, stating that there is a significant amount of pedestrian traffic along her property line. She said that now that the two-story Performing Arts Center facility has been built, excessive lighting can also be a problem. She distributed photos that she said demonstrated the loss of privacy. She said people residing in the house felt like they were living in a fish bowl. She stated that the Heritage Center is open 24 hours a day and she expressed concerns about pedestrian

traffic, noise, and public safety, as she said hers is the only privately owned house remaining on the block. She said that now that the fence has been removed, there is no barrier to stop students from cutting through the yard. She said that this creates a loss of property value, and she said that once the Performing Arts Center was developed, the 50-foot setback disappeared and there has been a loss of landscaping and the privacy fence.

She said it is presumptuous of the University to expect that her property should serve as an escape route for students. She said that it is unusual that the architects who designed the building did not consider public safety until now. She said that the site plan for the building indicated that the privacy fence would be relocated. She said it was relocated as required; however, it was removed in May 2013 with no formal approval from her or the City. She said that the University of Dubuque is currently in violation of their ordinance, and she requested that the University be required to replace the fence.

James Hoppman, stated he is Ms. Hoppman Donovan's brother. He said that he agreed with the concerns that she raised.

Mike Donovan stated that he is Ms. Hoppman Donovan's husband. He stated that the University had agreed to replace the fence when the Performing Arts Center was built, and that they did relocate the fence. He said that he felt that the University's intent was not to address a genuine safety issue, but the fence was removed to facilitate negotiations over the property. He said that without the fence in place, there is a lack of privacy for the home.

Mr. Wipperfurth noted that the change in setbacks for the Performing Arts Center was approved by both the Zoning Advisory Commission and City Council through the amendment process. He said that no one at the University foresaw that there would be a safety issue at the time the site was developed. He said that the Performing Arts Center building is closed from midnight to 7 a.m. He said that students have approached the University expressing safety concerns for the stretch of sidewalk between the building and the privacy fence. He said that property values were never the University's concern; only public safety.

Staff Member Hemenway reviewed the timeline of events regarding development of the parking lot and subsequent construction of the Performing Arts Center. He discussed the original 2005 district amendment and the 2008 amendment permitting the Performing Arts Center to be built referencing the minutes from both meetings and the site plan approved for the building. He said that after he received a complaint regarding the removal of the fence he followed up with the University. He said that the University was required to come back before the Commission to ask that the original condition regarding the privacy fence be amended to permit removal of the fence.

Commissioner Hardie said that he was disappointed and astounded that the University would take it upon themselves to remove the fence without approval. He said that he will

not support the University's request to remove the requirement for the fence, and that it should be replaced.

Commissioner Christ said that she agreed with the concerns raised by Commissioner Hardie, and that she would not support the request to remove the fence.

Commissioner Henschel said that he agrees with the Commissioners and Hoppman Donovan that the fence should be replaced.

Commissioner Belmont said that the requirement for the fence was clearly established, and that it should not be brought back to the Commission. He said that he cannot support the request to remove the requirement for the fence.

Chairperson Norton said that he agreed with the other Commissioners. He said that he did not feel that removing the fence is the way to improve campus security, but that increased campus security presence, lighting and other factors may be necessary to improve public safety. He said that the fence needs to be replaced, and that the University needs to address the safety issue in other fashions.

Motion by Hardie, seconded by Christ, to approve the amendment to the University of Dubuque's ID Institutional District to permit the removal of the privacy fence between 2224 Grace Street and 2255 Bennett Street due to pedestrian safety. Motion was denied by the following vote: Aye – None; Nay - Hardie, Christ, Henschel, Belmont and Norton.

ITEMS FROM STAFF: Staff Member Kritz informed the Commission that the City Council instructed the Engineering Department to consider removal of parking along the North Grandview Avenue frontage of Finley Hospital as per the Commission's original request. He said that the Engineering Department would review this request during the site plan review process.

ADJOURNMENT: The meeting adjourned at 6:50 p.m.

Respectfully submitted,

Kyle L. Kritz, Associate Planner

Adopted – 04/02/2014