



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

6:00 p.m.  
Wednesday February 4, 2015  
Room 223  
350 W. 6<sup>th</sup> Street, Dubuque, Iowa

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**PRESENT:** Chairperson Patrick Norton; Commissioners, Tom Henschel, Steve Baumhover, Laura Roussell and Martha Christ; Staff Members Guy Hemenway, Laura Carstens and Kyle Kritz.

**ABSENT:** Commissioners Stephen Hardie and Michael Belmont.

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**CALL TO ORDER:** The meeting was called to order by Chairperson Norton 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 January 7, 2015 meeting were approved unanimously as submitted.

**ACTION ITEM\PRELIMINARY PLAT:** Application of Arboretum Development, LLC c/o Greg Adams, for approval of Preliminary Plat Derby Grange Acres on Derby Grange Road.

Chairperson Pat Norton stepped down from the table. Vice Chairperson Tom Henschel conducted the meeting.

Joe Schmit, 16702 Cedar Ridge Road, offered to answer any questions from Commissioners.

Staff Member Kritz outlined the staff report noting the request for a 14 lot subdivision with two private streets. He said that access to the subdivision would be taken from Derby Grange Road and that the City's Engineering Department had reviewed and approved the access. He said that the applicant had moved the access to the west to accommodate the future extension of Plaza Drive to Derby Grange Road. He said that the subdivision includes easements for future extension of City utilities. He said that each lot would have its own septic system and that the subdivision would be served by a communal water system. He noted that the subdivision met the 40 points of sustainability with a number of measures including concrete streets, bio retention cells and tree planting requirements. He recommended approval of the preliminary plat

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subject to waiving the lot frontage requirement for Lot 6 and the street width standard for Country View Drive and Country View Court.

Motion by Christ, seconded by Baumhover, to approve the preliminary plat of Derby Grange Acres subject to waiving the lot frontage requirement for Lot 6 and the street width standard for Country View Drive and Country View Court. Motion carried by the following vote: Aye –Henschel, Christ, Baumover and Roussell; Nay - None; Abstain – Norton.

**PUBLIC HEARING\REZONING:** Application of the City of Dubuque requesting to rezone the property at 221 & 250 East 8<sup>th</sup> Street and 300 East 9<sup>th</sup> Street from HI Heavy Industrial to Planned Unit Development with a PC Planned Commercial designation.

Planning Services Manager Laura Carstens spoke on behalf of the City. She noted that the Commission had tabled the City's request with the intent to allow the property owner more time to review the proposed rezoning. She detailed the correspondence between the City and Jeld Wen's representative Jeff Woolworth undertaken since the January Zoning Advisory Commission meeting. She outlined changes to the subject area including the cessation of millwork manufacturing, redevelopment of the adjacent property for residential and commercial uses, the addition of streetscape and infrastructure improvements, and the evolution of manufacturing from large older inefficient multi-story buildings to single story energy efficient buildings that have happened subsequent to the former millworking activity. She said that this demonstrates that conditions have materially changed in the Historic Millwork District which she said supports the City's rezoning request.

She noted receipt of a written letter of opposition submitted just prior to the meeting outlining Jeld Wen's concerns. She asked that the letter be received, filed and entered into the record. She also noted the City's response to Jeld Wen's letter of opposition that she said was drafted by the City Planning Services and Legal Departments. She asked that this letter also be received and filed and entered into the record. She addressed each of the six points listed in the letter of opposition noting that the rezoning was not contrary to the City's Comprehensive Plan or Unified Development Code, that the City did not contend that Jeld Wen's buildings were abandoned, but were vacant, that the rezoning did not constitute a taking because the property could still be used for many uses including some industrial uses, that the rezoning contrary to the property owner's wishes was not arbitrary and capricious but was logical based on changes to the subject property and surrounding area, and that the rezoning would not disrupt the beneficial use of the property because of the wide range of uses permitted under the Historic Millwork District PUD. She asked that the Zoning Advisory Commission act tonight and approve the City's request to rezone.

Doug Henry, Fuerste Law Firm, said that he was appearing on behalf of Jeld Wen and was co-counsel with Nicole Keller of the Goodman Law Firm in Des Moines. He noted that nothing he said should be construed to conflict with the information provided by the Ms.

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Keller or Jeld Wen. He noted that the original Historic Millwork District PUD identified the Jeld Wen property as Heavy Industrial. He said that the subject property is still a part of and regulated by the 2009 historic Millwork District plan which he said has not been amended. He said that the City's Comprehensive Plan promoted retention and expansion of existing industrial uses. He said that the City's 2030 Land Use Plan called for this area to remain industrial. He said that although Jeld Wen has stopped production, the millwork buildings have not been abandoned. He said that Jeld Wen is actively seeking a developer to reutilize the buildings. He contended that the rezoning would substantially reduce the property owner's ability to market and reuse the buildings. He said that the Zoning Advisory Commission is being asked to do a hatchet job on the property and that the Long Range Planning Advisory Commission would be the more appropriate body to suggest long-term reuse of this property. He said that, although the millwork has ceased operation, the property has not changed. He said that the property owner should drive redevelopment of the facility and that the City's request to rezone, if granted, will limit the owner's redevelopment options.

Ms. Carstens discussed the information provided by Jeld Wen and Mr. Henry. She said that the rezoning request was consistent with both the Historic Millwork District Master Plan and with the City's Comprehensive Plan. She said that the plans call for fostering existing business and encouraging new business. She said that the Unified Development Code is intended to guide change in concert with the Comprehensive Plan. She said that the Comprehensive Plan and the 2030 Land Use Plan are guides to help the Commission determine if a rezoning is appropriate. She said that with the cessation of millwork manufacturing, redevelopment of the adjacent property for residential and commercial uses, the addition of streetscape and infrastructure improvements, and the evolution of manufacturing from large older inefficient multi-story buildings to single story energy efficient buildings, it is demonstrable that land use and industrial use has changed on the subject property and in the surrounding area.

Ms. Carstens said that the City has never contended that the Jeld Wen buildings are abandoned, merely vacant as Jeld Wen has ceased operations. She noted that the rezoning does not represent a taking as the proposed PUD is a combination of HI Heavy Industrial and C-4 Downtown Commercial uses with some of the more intense HI uses removed or that require approval of a conditional use permit from the Zoning Board of Adjustment. She said that the PUD actually expands the number and types of uses permitted. She said that the rezoning does not represent a taking as the property still has value and that that value should not be diminished. She said that the rezoning is not arbitrary and capricious as Iowa Code Chapter 414 City Zoning, affords cities the power to zone land for the purpose of promoting the health, safety, morals, or the general welfare of the community including the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. She noted that given the current zoning and uses of surrounding properties, and the significant development that has occurred and is occurring in neighboring properties, it is hardly even debatable at all whether this rezoning

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is valid, much less fairly debatable. She highlighted a court case that reaffirmed the City's legal ability to rezone property in the public interest.

Ms. Carstens reiterated that the Comprehensive Plan is simply a guide for development. She said that the rezoning will not inhibit new development or reestablishment of the vacated business. She quoted the PUD language regarding development which she said supports rezoning in the public interest.

Commissioner Baumhover asked if the Jeld Wen property could be excised from the rezoning area. Staff Member Kritz said the Jeld Wen property comprised most of the proposed rezoning area.

When asked by the Commission if Jeld Wen has any immediate development plans, Mr. Henry said that reuse of the property is currently an open issue.

Chairperson Norton said that although he feels that circumstances in the area have changed, he is troubled by rezoning a property over the objections of the property owner. Staff Member Kritz noted that, as the property owner has submitted written objection to the City's request, a super majority of the City Council will be needed to approve the request.

Commissioner Christ asked that, if rezoned, could the property be used for manufacturing. Staff Member Kritz said that manufacturing would require approval of a conditional use permit. Commissioner Baumhover said he was concerned that the property owner ability to reuse the facility and the value of the property would be diminished. Commissioner Roussell said that she felt that the rezoning from HI to PUD would afford the property owner more flexibility for redevelopment of the property.

Motion by Henschel, seconded by Christ, to approve the request to rezone the property at 221 & 250 East 8<sup>th</sup> Street and 300 East 9<sup>th</sup> Street from HI Heavy Industrial to Planned Unit Development with a PC Planned Commercial designation. The motion was approved by the following vote: Aye – Christ, Henschel, Baumhover and Roussell; Nay – Norton.

**PUBLIC HEARING\REZONING:** Application of the Sisters of Charity BVM / The Lakota Group to rezone property at 1100 Mount Carmel Drive from R-1 Single-Family Residential to PUD Planned Unit Development with a PR Planned Residential designation.

Sister Teri Hedro, representing the Sisters of Charity BVM, 1100 Mt. Carmel Drive, said the Sisters listened to the advice the Commission provided at the initial meeting and have attempted to address their concerns. She introduced Mike Jansen of IIW Engineering. Mr. Jansen distributed a booklet with 15 renderings of various aspects of the proposed PUD. He said the area to be rezoned had been reduced from 107 acres and that the cemetery, bluff edge and wooded area had been removed from the subject area. He said that the new plan had added the specificity that the Commission had

requested at the earlier meeting. He discussed changes proposed for the campus including development of a life care or continuum of care facility. He said that some outdated buildings would be removed and that some new buildings would eventually be built. He said that it is paramount that non-religious uses be permitted so that the facilities would be available to the public, not just the religious community.

Mr. Jansen discussed the traffic study provided by IIW Engineering, noting that the proposed redevelopment would have little impact on the overall vehicle trips along Grandview Avenue. He said he was confident that the study was accurate as the proposed uses correlated well with those included in the ITE trip generation manual. He said that SUDAS standards were also used to determine the capacity of local streets. He asked that the Commission consider approval of the plan in light of the Sister's stated mission and the detailed PUD and concept plan.

Nancy Klauer, 2020 South Grandview, said that she supported the request but was wondering what the timetable for development was. She said that it was difficult to believe that traffic would not increase in spite of what the traffic study indicated.

Tim Conlon said that he was speaking on behalf of his cousin, Mike Conlon, who owns property at 1975 South Grandview. He said that Mike Conlon supports the Sister's proposal.

Andy Butler, 898 Mt. Carmel, complimented the Sisters' and IIW's considerable efforts to produce a quality plan. He asked what type of housing would be included in the single-family, two-family and multi-family uses.

Mr. Jansen noted that the current demographic trends for the facility will continue for another 25 years. He said that the time table for development will depend on how soon the Sisters can secure a continuum care partner. He noted that the single-family, two-family and multi-family residential designations only include senior housing.

Chairperson Norton asked how to insure the housing was strictly for seniors.

Staff Member Kritz said that the terms senior housing and housing for the disabled could be added to the PUD ordinance. He noted that the Sisters reduced the area to be rezoned and have provided a specific list of uses and a detailed concept plan. He noted the potential secondary access delineated on the plan, stating that the Fire Department would review subsequent development in light of the need for another means of access for emergency purposes. He said that if a secondary access is constructed, it would not likely be used by the general public as it would increase the distance needed to access the facility. He said that the City's Engineering Department has reviewed the traffic study and is satisfied with the results.

He discussed other continuum of care facilities in the community, noting that they tend to generate little traffic, and that the Planning Services staff have not received complaints regarding their operation. He discussed the existing and proposed building locations outlined on the concept plan and the proposed permitted uses for the property. He said that he will modify the PUD ordinance to limit the proposed residential development to senior and disabled residents. He indicated that staff had some concerns about the library and museum uses. He asked that the museum be moved from a permitted to a conditional use as there may be potential for significant impacts to the neighborhood should a large museum be created. Chairperson Norton asked about the proposal to include a seminary as a permitted use. Sister Hedro said that the Mother House serves as a teaching and training facility for novice nuns.

Sister Hedro agreed to change a seminary from a permitted to a conditional use. She noted that a small area of the facility was used as an archive and heritage area complete with display cases. Staff noted that the facility would be grandfathered for a small museum, and a small seminary, but that any significant expansion of these uses would require a conditional use permit.

Commissioner Roussell complimented the Sisters and IIW for submitting a quality PUD application and for garnering neighborhood support for the rezoning. Chairperson Norton complimented the Sister's for their efforts.

Motion by Christ, seconded by Baumhover, to approve the request by the Sisters of Charity BVM / The Lakota Group to rezone property at 1100 Mount Carmel Drive from R-1 Single-Family Residential to PUD Planned Unit Development with a PR Planned Residential designation, with the conditions that seminary and museum be moved from permitted uses to conditional uses. The motion was approved by the following vote: Aye – Christ, Henschel, Baumhover, Roussell and Norton, Nay - None.

**ITEMS FROM PUBLIC:** None.

**ITEMS FROM COMMISSION:** None.

**ITEMS FROM STAFF:** None.

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

Respectfully submitted,

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Kyle L. Kritz, Associate Planner

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Adopted