



# Approved

**MINUTES  
CITY OF DUBUQUE ZONING ADVISORY COMMISSION  
REGULAR SESSION**

6:00 p.m.

Wednesday, March 7, 2018  
City Council Chamber, Historic Federal Building

**Commissioners Present:** Chairperson Tom Henschel; Commissioners Pat Norton, Rich Russell, Steve Baumhover, and Martha Christ; Staff Members Kyle Kritz and Guy Hemenway.

**Commissioners Excused:** Laura Roussell.

**Commissioners Unexcused:** Michael Belmont.

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

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

**MINUTES:** Motion by Christ, seconded by Baumhover, to approve the minutes of the January 3, 2018 Zoning Advisory Commission meeting as submitted. Motion carried by the following vote: Aye – Baumhover, Christ, Russell and Henschel; Nay – None; Abstain – Norton.

**ACTION ITEMS**

**Plat of Survey:** Application of Linwood Cemetery Association / Jeff Paar, 2736 Windsor, to approve the Plat of Survey Linwood Place.

Jeff Paar, 2789 Windsor, said that he is the property manager for Linwood Cemetery. He discussed the location of the plat relative to the cemetery property. He said the adjacent cemetery, Mt. Calvary, would like to purchase 4.1 acres located at the far limit of the cemetery. He said that this would enable Mt. Calvary to expand in the future.

Staff Member Kritz outlined the staff report, noting that the new Lot 1 will not have frontage, but that it would be used for cemetery purposes and would not be built on. He recommended approval.

Commissioners discussed the request and felt it was appropriate.

Motion by Christ, seconded by Russell, to approve the Plat of Survey of Linwood Place, subject to waiving the lot frontage for Lot 1. Motion carried by the following vote: Aye – Baumhover, Christ, Norton, Russell and Henschel; Nay – None.

**Plat of Survey:** Application of Iowa Department of Transportation (IDOT) / Jerry Burns, to approve the Plat of Survey of O'Rourke Farms Addition for property located at the US 61/151 & Southwest Arterial.

Jerry Burns, Architect for the Iowa Department of Transportation, said that IDOT is purchasing Lot 2 for development of a new maintenance garage. He said that the old garage is obsolete.

Staff Member Kritz noted that the property is located within two miles of the City's corporate limits and; therefore, a joint review is necessary. He said this request represents a Minor Final Plat as there will be more than two lots created by the new plat. He said that all parcels will have frontage on public roadways.

Commissioners discussed the request and felt it was appropriate.

Motion by Norton, seconded by Baumhover, to approve the Plat of Survey of O'Rourke's Farm Addition. Motion carried by the following vote: Aye – Baumhover, Christ, Norton, Russell and Henschel; Nay – None.

### **PUBLIC HEARINGS**

**Rezoning:** Application of Dubuque Southgate Investments, Ltd. / Daniel Mueller, to rezone property located at Gateway Drive and Stonehill Drive from PUD/Planned Commercial District to C-3 General Commercial District.

Tom Mueller, 2272 Pasadena Drive, said that Planning Services Department staff recommended that to enable future development of the remainder of their property, a rezoning would be advisable. He said that their intent is to rezone the entire development from PUD to C-3 to offer more flexibility and to eliminate the need to develop according to the original concept plan. He said that under current regulations, any changes would require an amendment to the district. He said this is an effort to facilitate development.

Staff Member Kritz noted that the original 1990 PUD zoning was required because private streets were within the development. He said that stipulation is no longer required for PUDs since 1998. He said that the current PUD and the proposed C-3 regulations are almost identical. He said that if each new development requires a district amendment the process can be time consuming. He said that several of the lots are under different ownership; however, all property owners have submitted a letter in support of the rezoning.

Commissioner Russell asked if the streets will remain private. Staff Member Kritz said that they would.

Commissioners discussed the request, and felt it was appropriate.

Motion by Christ, seconded by Norton, to approve the rezoning of Dubuque Southgate Development from PUD Planned Commercial Development to C-3 General Commercial District. Motion carried by the following vote: Aye – Baumhover, Christ, Norton, Russell and Henschel; Nay – None.

**Rezoning:** Application of Teri & Brian Schulz to rezone property located at 1108 Locust Street from C-2 Neighborhood Shopping Center District to C-4 Downtown Commercial District.

Teri and Brian Schulz reviewed their request, noting that the property was formerly known as the Naughty Dog. They said they were remodeling the building into a bar/restaurant. They discussed the surrounding land uses and noted the number of bars and restaurants within the two-block area.

Staff Member Hemenway reviewed the request, noting that C-4 allows more flexibility for businesses. He reviewed the surrounding zoning and land uses. He noted that many of the uses allowed in the C-4 District would not be practical on the subject property because it is constrained by both size and lack of parking. He said that vehicle related uses and drive-in/carry-out restaurants in the C-4 district require that the Zoning Board of Adjustment review and approve a Conditional Use Permit. He said this also requires notification to property owners within 200 feet.

Commissioner Russell asked for an example of flexibility. Staff Member Hemenway reviewed the 50% rule as to how staff determines the difference between a bar and a restaurant with accessory alcohol sales.

Chairperson Henschel said that he was comfortable with the request because the size and shape of the parcel and lack of parking limits the number of uses that could locate here.

Commissioner Norton agreed, stating he has no objection because of the limitations of the lot and lack of parking.

Commissioners discussed the request and felt it was appropriate.

Motion by Christ, seconded by Baumhover, to approve the rezoning from C-2 Neighborhood Commercial Shopping Center District to C-4 Downtown Commercial District. Motion carried by the following vote: Aye – Baumhover, Christ, Norton, Russell and Henschel; Nay – None.

**Rezoning:** Application of 310 Huehl LLC / Bradley Gdowski, to rezone property located at 2460 Kerper Blvd, from HI Heavy Industrial District to OC Office Commercial District to permit a school of private instruction along with current office related uses.

Bradley Gdowski said that he represented 310 Huehl LLC, a property development corporation. He reviewed the former uses of the property, noting that in 2010, portions of the building were established as condominiums. He reviewed other uses within the current condominium spaces. He said that the request is to rezone Unit 1 to allow a school of private instruction.

Mike Steckley, Morton Architects, reviewed the condominium location relative to the balance of the structure and the interior layout of the building. He noted access to the property for student drop-off/pick-up, stating there would be approximately five buses in the morning, and no more than two buses at a time in the afternoon. He noted that there is a relatively large parking area for the facility located north of the subject space. He discussed how access from the parking area to the facility would be accomplished. He stated that the Fire Marshal has reviewed the site for compliance with Fire Code.

Commissioner Norton asked if they had contacted Transit and Engineering regarding the proposed bus drop-off and pick-up area. Mr. Steckley said that they had not at this time.

Ray Ozack, Ruhl and Ruhl Realtors, spoke in favor of the request, stating he is the agent for Four Oaks. He said that this site is ideal for the school facility. He said that because of its size, number of classroom spaces and office area, it works well for what Four Oaks proposes. He said that Four Oaks has been searching for a suitable site in the city for quite some time and that there is really nothing else available that suits their needs.

Staff Member Hemenway reviewed the request, noting that the footprint of the Unit 1 condominium is approximately 30,000 square feet, and that the building has two floors. He reviewed the uses allowed in the HI District. He discussed surrounding land use and noted why schools originally were not listed as a permitted use in heavy industrial districts. He discussed the distance to the nearest industrial uses. He said that most of the adjacent businesses and those that remain on the subject property are light industrial in nature. He discussed the potential drop-off/pick-up area for buses. He said that the parking lot has in excess of 300 spaces and a direct pedestrian access to the subject space.

Chairperson Henschel asked if the balance of the site would remain zoned Heavy Industrial. Staff Member Hemenway said yes.

Commissioner Russell noted that there is a fire rated wall between Units 1 and 2 that would improve safety.

Commissioner Christ said that she supports the adaptive re-use of these buildings that have sat idle and languished for quite some time.

Commissioners discussed the request and felt it was appropriate.

Motion by Christ, seconded by Baumhover, to approve the request to rezone the property located at 2460 Kerper Blvd, from HI Heavy Industrial District to OC Office Commercial District as submitted. Motion carried by the following vote: Aye – Baumhover, Christ, Norton, Russell and Henschel; Nay – None.

**Text Amendment:** Application of the City of Dubuque to amend Chapter 2 of the Unified Development Code to eliminate the definition for “family” to comply with State Code.

Staff Member Kritz noted there has been a change in the State law regarding the definition of family. He said the original definition that stated people had to be related by blood, marriage or formal adoption was deemed discriminatory and that the residential population of a unit cannot be predicated on their familial or non-familial status. He noted that regulations designed to protect the health and safety of residents within a dwelling unit must be applied equally regardless of familial status. He recommended approval.

Commissioners discussed the request and noted that State law dictated that the Ordinance be changed.

Motion by Baumhover, seconded by Russell, to amend the Unified Development Code Chapter to eliminate the definition of family to comply with State Code. Motion carried by the following vote: Aye – Baumhover, Christ, Norton, Russell and Henschel; Nay – None.

**ADJOURNMENT:** Motion by Christ, seconded by Norton, to adjourn the meeting. Motion carried by the following vote: Aye – Baumhover, Christ, Norton, Russell and Henschel; Nay – None.

The meeting was adjourned at 7:00 p.m.

Respectfully submitted,

  
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Kyle L. Kritz, Associate Planner

  
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Adopted