



# Approved

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

6:00 p.m.

Wednesday, May 2, 2018  
City Council Chamber, Historic Federal Building

**Commissioners Present:** Chairperson Tom Henschel; Board Members Pat Norton, Rich Russell, Steve Baumhover, Martha Christ and Michael Belmont; Staff Members Kyle Kritz and Wally Wernimont.

**Commissioners Excused:** Laura Roussell.

**Commissioners Unexcused:** None.

**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 April 4, 2018 meeting. Motion carried by the following vote: Aye – Norton, Russell, Baumhover, Christ, Belmont and Henschel; Nay - None.

**ACTION ITEMS:**

**Site Plan:** Application of Brad Bierman, Epic Construction, to review a site plan for a new restaurant for consistency with the adopted conceptual plan for Asbury Plaza Planned Unit Development.

Commissioner Norton recused himself due to a conflict of interest.

Brad Bierman, 164 E Street, explained the site plan is for the Ichiban Restaurant.

Staff Member Kritz presented the staff report. He explained the Asbury Plaza Shopping Center Planned Unit Development Ordinance requires that site plans be reviewed by the Zoning Advisory Commission to determine if they are in compliance with the conceptual development plan. He noted that parking, vehicle access, and the proposed landscape plan are in compliance with the conceptual development plan. He recommended approval of the site plan.

Motion by Christ, seconded by Belmont, to approve the site plan as submitted. Motion carried by the following vote: Aye – Russell, Baumhover, Christ, Belmont and Henschel; Nay – None; Abstain – Norton.

**Plat of Survey:** Application of Terry Koelker, Buesing & Associates to approve a Plat of Survey of BGJ Kremer Place, 8145 St. Joe's Prairie Road in Dubuque County, Iowa.

Commissioner Norton recused himself due to a conflict of interest.

The applicant's representative, Jessie Kremer, 8608 Hidden Valley Road, was present and available to answer questions.

Staff Member Kritz presented the staff report. He noted that the subject property is within two miles of the city of Dubuque, and therefore the City and County must review the Plat. He explained that Lot 1 will not have frontage along a public street. However, the lot will be accessed from an existing farm lane. He said the farm lane access will not change.

Commissioner Russell asked which lot the new house will be constructed upon. Mr. Kremer said it would be constructed on the south lot.

Commissioner Belmont asked about the unusual shaped lot line for the property. Mr. Kremer said that the lot line currently follows a ridge and ravine through the property. Commissioner Belmont asked staff if the unusual configuration of the lot line will cause a problem in the future, if annexed. Staff Member Kritz noted that in the County, there are large lots and typically there are some lots that follow along ridge lines and topography.

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

**Final Plat:** Application of James Kress to approve the Final Plat of Shagbark Estates for property located at Derby Grange Road and Barnwood Lane partially located in the City of Dubuque and Dubuque County, Iowa.

James Kress, 22514 Finleys Landing Road, said that he had three acres that were annexed into the city. He explained he is proposing to subdivide those acres into five lots.

Staff Member Kritz presented the staff report, noting the subject property straddles the County and the City. He explained that the proposed lots are adjacent to the Rustic Point Subdivision and they currently have water and sewer stubbed to the property. He said the proposed lots are in compliance with the Unified Developed Code and recommends Zoning Advisory Commission approval.

Motion by Christ, seconded by Russell, to approve the Final Plat as submitted. Motion carried by the following vote: Aye – Norton, Russell, Baumhover, Christ, Belmont and Henschel; Nay - None.

**PUBLIC HEARINGS:**

**Rezoning:** Application of Michael J. Weber / Royal Oaks Development Company (tabled) to rezone 19.23 acres located in Silver Oaks Estates from County R-2 Residential to City R-3 Moderate Density Multi-Family Residential District in conjunction with annexation to the City of Dubuque.

Staff Member Kritz said that the applicants have requested the application be tabled.

Commissioner Russell asked when the applicants request this item to be tabled. Staff Member Wernimont said he received an email approximately seven to 10 days ago requested the project be tabled. He noted that the applicant has indicated that there are ongoing discussions between the homeowners' association and the property owner.

Motion by Christ, seconded by Belmont, to table the rezoning application. Motion carried by the following vote: Aye – Norton, Russell, Baumhover, Christ, Belmont and Henschel; Nay – None.

**Rezoning:** Application of Church of the Nativity to rezone a portion of the Nativity Church property located at Nevada Street from R-2 Two-Family Residential to OR Office Residential District.

Scott Kwiecinski, Horizon Development, 5201 E. Terrace Drive, Madison, WI, explained the request to the Commission. He noted that Horizon Development has developed the Applewood Senior Housing projects on Pennsylvania Avenue. He said the projects have been successful and are 100% occupied. He said the property consists of four buildings with a total of 199 units. He explained that they are now requesting to rezone property near Nativity Church for another senior housing development. He referred to the submitted site plan and location. He explained that the proposed building would be a three-story wood-framed structure similar to Applewood IV. He said that vehicular access would be taken from Nevada Street. He explained that the property would be an affordable housing project. He said it is at the beginning stage of development and in order to apply for funding, the property needs to be properly rezoned for a senior housing project. He explained that on April 30, 2018, they held a neighborhood meeting. He said that the minutes of the meeting have been submitted to the Commission. He summarized the concerns from the neighbors who were in attendance. He said that he did receive a letter of support from Perry Mason, who is the Chairman of the Nativity Board and works at the neighboring business (Radio Dubuque).

No one spoke in opposition to the request.

Staff Member Kritz presented the staff report. He referred to the location on Nevada Street. He said the request is to rezone the property to OR Office Residential, and he explained the permitted uses allowed in this district. He referred to Google Earth images of the Nativity site prior to removal of the school buildings. He explained that the new development will have 60 underground parking spaces and a surface lot accessed from Nevada Street.

Motion by Norton, seconded by Christ, to approve the rezoning request. Motion carried by the following vote: Aye – Norton, Russell, Baumhover, Christ, Belmont and Henschel; Nay – None.

**Rezoning:** Application of Christopher Lange to rezone a portion of the property at 1091 Rockdale Road from R-4 Multi-Family Residential District to C-3 General Commercial District.

Davin Curtiss, attorney, represented Christopher Lange. He explained the property has a 10-unit residential building on it, and is located across from Conlon Construction, a dental office, and Glenview Motel on Rockdale Road. He said the rezoning entails a small portion of 1091 Rockdale Road. He referred to a map and explained that only a portion around an existing garage will be rezoned to C-3. He said the intent will be to allow the detached garages to be rented out for storage. He said the remaining property will not change and would continue to be operated as a 10-unit residential property.

Terry Steiner, 1462 Tomahawk, said his yard abuts the portion of the property where the garages are located. He said he is opposed to having people who do not reside on the premises using the garages for storage.

Donald Krieg, 1463 Tomahawk, said he had concerns with the use of the property. He said the proposed building would not be used by the residents of the 10-unit apartment building. He had concerns with the hours of operation and this could set a precedent for rezoning of the Greek Orthodox Church property. He said he did not know why the applicant was allowed to construct the garages and why the neighbors were not notified.

Kevin Zumhof, 1425 Oeth Court, spoke in opposition to the request. He explained that he currently rents two storage units at a different site. He said he has access to those units 24 hours a day, seven days a week. He said he had concerns that the property could be sold and used as a gas station and this could set a precedent for rezoning of the St. Elias Church.

Samuel Giere, 1415 Oeth Court, said his property directly abuts this property. He said he has no issues with the property being zoned residential, but he had concerns if the property were to be rezoned to commercial. He said the property is surrounded by residential, and commercial property is only located across Rockdale Road.

Pat Conlon, 1420 Oeth Court, spoke in opposition to the request. He said that Mr. Lange was informed by City staff that the garages could not be rented out. He said that the property owner is now coming before the Zoning Advisory Commission to seek approval for rezoning for something he already knew he could not do prior to constructing the garages.

Ann Chesterman, 1385 Oeth Court, spoke in opposition to the request. She said she wishes to preserve the area as residential and not commercial.

Davin Curtiss rebutted the comments. He said the garages are currently permitted and can be used by the current tenants for storage. He said that the intent is for the garages to be used by the tenants first, and if there is vacant garage space, that it could be used by non-tenants.

Commissioner Russell asked Mr. Curtiss how many storage units were on the property. Mr. Curtiss said there are eight storage units.

Staff Member Kritz presented the staff report. He explained the rezoning request and said the storage units are currently being used by non-tenants. He referred to the history of the property and noted that Rockdale Road was at one time designated as Highway 61. He explained that the garages are allowed as an accessory use to the apartment building. He explained that Mr. Lange was notified prior to the construction of the garages that they could only be used by the tenants. He said the City's zoning enforcement officer was notified that the units were not being used by current tenants.

Staff Member Kritz said that Mr. Lange was forthcoming, noting that some of the units were being rented by non-tenants. He referred to the permitted uses allowed in the C-3 zoning district, and that due to the size of the proposed rezoning, most of the uses would not fit. He explained that the neighbors were not notified previously because garages are permitted by right for an apartment house. He explained that the St. Elias Church property could be rezoned, and the neighbors would be notified within 200 feet if there were a proposed rezoning.

Chairperson Henschel asked if a rezoning is the only way to allow these storage units to be on-site. Staff Member Kritz explained they are only permitted by a rezoning.

Commissioner Norton said that the proposed area to be rezoned is small. He said if the only use for this property is to be for storage units, they could eliminate all the other permitted uses in the C-3 zoning district.

Commissioner Christ said she was not in favor of the rezoning. She said this side of Rockdale Road is primarily residential and the other side is commercial. She said she had concerns with no security of the storage units and referred to a previous Zoning Advisory Commission case where a property knew they could not rent out garages ahead of time on Clarke Drive.

Commissioner Belmont said he was not in favor of the rezoning request. He said that it meets the definition of "spot zoning" and the property owner knew the permitted uses of the property prior to construction of the garages. Commissioner Baumhover agreed with Mr. Belmont.

Commissioner Russell said he is not in favor of the rezoning. Chairperson Henschel agreed.

Motion by Norton, seconded by Belmont, to approve the rezoning request. Motion was denied by the following vote: Aye – Norton; Nay – Russell, Baumhover, Christ, Belmont and Henschel.

**PUD Amendment:** Application of Dubuque Sign Company to amend the Asbury Plaza Shopping Center Planned Unit Development to allow secondary monument-style signs to have 60 square feet of sign area, 10 square feet maximum permitted.

Staff Member Kritz noted the applicant has withdrawn the request.

Motion by Christ, seconded by Russell, to accept the withdrawal of the PUD Amendment. Motion carried by the following vote: Aye – Norton, Russell, Baumhover, Christ, Belmont and Henschel; Nay – None.

**Adjournment:** Motion by Christ, seconded by Norton, to adjourn the May 2, 2018 Zoning Advisory Commission meeting. Motion carried by the following vote: Aye – Norton, Russell, Baumhover, Christ, Belmont and Henschel; Nay – None.

The meeting adjourned at 7:00 p.m.

Respectfully submitted,

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Kyle L. Kritz, Associate Planner

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Adopted