



Approved

**MINUTES  
ZONING ADVISORY COMMISSION  
REGULAR SESSION**

Wednesday, September 2, 2009

6:00 p.m.

City Council Chamber  
350 W. 6<sup>th</sup> Street, Dubuque, Iowa

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

**ABSENT:** Chairperson Jeff Stiles and Commissioner Martha Christ.

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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 August 5, 2009 meeting were tabled until the next regular meeting.

**ACTION ITEM\PLAT:** Application of Iowa Department of Transportation for approval of the plat of Bonson & Stewart's Subdivision Lot "H" located on Curtis Street.

Staff Member Kritz outlined the staff report, noting the IDOT process for vacating remnant parcels. He said that the IDOT is platting a number of parcels that are on property left over from when Dodge Street/Highway 20 was rebuilt. He said that the parcel is substandard without the required lot area or frontage. He described the lot location and configuration. He said the Commission could label the lot non-buildable if they chose. He said if the lot were to be purchased by an adjacent resident, they could come back before the Commission and ask to remove the condition that the property be non-buildable.

Commissioner Smith asked about the disposition of the large vacant lot adjacent to the subject parcel. He questioned whether this lot was included in the replatting. Staff Member Kritz said he was not sure of the status of this lot. Commissioners requested that staff investigate the status of the adjacent property and provide the information at the next Commission meeting.

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Motion by Hardie, seconded by Henschel, to table the request to the next regular meeting. Motion was approved by the following vote: Aye – Smith, Hardie, Norton, Henschel and Miller; Nay – None.

**ACTION ITEM\PLAT:** Application of Iowa Department of Transportation for approval of the plat of Bonson & Stewart's Subdivision Lot "E" located on McEvoy Street.

Staff Member Kritz outlined the staff report, noting the parcel location and size. He said that the parcel has 50 feet of lot frontage on a platted public right-of-way. He said the lot, while substandard in area, could still be built on. He said that there are a number of lots of similar size in town that accommodate small homes. He said that a hammerhead will be built adjacent to the subject parcel. He recommended the Commission approve the plat subject to waiving the lot area. The Commissioners discussed the request and felt it was appropriate.

Motion by Henschel, seconded by Smith, to approve the Bonson & Stewart's Subdivision Lot "E" subject to waiving the lot area requirement for Lot E permitting 3,858 square feet of area where 5,000 square feet minimum is required. Motion was approved by the following vote: Aye – Smith, Hardie, Norton, Henschel and Miller; Nay – None.

**PUBLIC HEARING\REZONING (tabled from August 5, 2009):** Application of Tim McDonald to rezone property located at 2494 Pearl Street from R-1 Single-Family Residential District to R-2 Two-Family Residential District.

The applicant was not in attendance.

Vice Chairperson Miller opened the meeting to public input.

Kevin Demoss, 2486 Pearl Street, spoke in opposition to the request, stating that the rezoning would not be in keeping with the surrounding zoning and land use, would cause an increase in traffic and have a negative impact on property values.

Larry Ewert, 2485 Pearl Street, said he was opposed to the rezoning because it is not in character with the single family nature of the neighborhood. He said that, if approved, it is likely that other people in the neighborhood will want to rezone their property.

Irvin Nauman, 2464 Pearl Street, said that he felt the proposal represents a spot zoning. He said it will make it easier for others to request rezoning in the neighborhood. He said that, if approved, the rezoning would increase demand on parking and consume green space in the neighborhood.

Staff Member Hemenway reviewed the request, noting the surrounding land use and zoning. He noted the lot size and configuration.

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Commissioner Norton said that he was disappointed that the applicant was not in attendance to present his case.

Commissioner Hardie said he will not support the request because of the small size of the parcel and the nature of the surrounding land use.

Vice Chairperson Miller noted that the neighbors have made a good faith effort to attend each meeting, and that the applicant has not seen fit to attend.

Commissioners discussed the request and felt it was not appropriate.

Motion by Smith, seconded by Norton, to approve the rezoning from R-1 Single-Family to R-2 Two-Family Residential zoning district. Motion was denied by the following vote: Aye – None; Nay - Smith, Hardie, Norton, and Miller; Abstain – Henschel.

**PUBLIC HEARING\REZONING:** Application of Michelle Mihalakis to rezone property located in the 400 Block of Lincoln Avenue (parcel #10-24-211-011) from R-2A Alternate Two-Family Residential District to OR Office Residential District.

Michelle Mihalakis reviewed her request with the Commission, noting the existing condition of the lot and her desire to open a small school at this location.

Commissioner Norton asked if there is adequate space for a building and associated parking on the subject property. Staff Member Hemenway said that he had reviewed a number of site development scenarios for the property, and it appears as though a small schoolhouse, drive aisle and parking lot would be possible.

Staff Member Hemenway reviewed the staff report, noting that the property is a former railroad right-of-way. He discussed the lot area, dimensions, and location, stating the request represents an expansion of an existing OR District. He reviewed the surrounding zoning and land use. He noted that, if developed, the property would require screening and landscaping from the adjacent residential properties. He discussed the existing condition of the property, stating that there had been illegal storage of salvage vehicles and junk.

Commissioner Henschel stated that he felt the redevelopment of this property would represent an improvement to the neighborhood.

Commissioners Norton and Miller agreed.

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

**PUBLIC HEARING\REZONING:** Application of Fondell Excavating Inc. / Jim Kemp to rezone property located along Roosevelt Road from R-1 Single-Family Residential District to PUD Planned Unit Development with a PR Planned Residential District designation.

The Commissioner decided to hear the rezoning request followed by the preliminary plat as an action item.

Curtis McDonald, Fairfield, Iowa, stated that he had a purchase agreement for the subject property. He congratulated the neighbors for organizing and presenting him with a petition outlining their concerns. He said he has undertaken both commercial and residential development. He said he would like to develop quality rental housing without creating apartment buildings. He said he, as the property owner, will be responsible for upkeep and maintenance of the rental properties. He said some houses may be sold at market rate. He said the housing will be cottage style, with three bedrooms and two baths. He said he would gladly meet with the neighbors to address their concerns.

Commissioner Hardie asked if the applicant was willing to table until the next meeting to enable him to meet with the neighbors. Mr. McDonald said he would be willing.

The Commissioners discussed the request and decided to solicit public input.

Walter Pregler, 2966 Shiras Avenue, said that the original size for single-family lots in the city was 6,500 square feet. He said these lots were significantly smaller. He expressed concerns with stormwater management, street maintenance, water pressure, traffic safety, and the lack of market for the style of housing proposed by the applicant.

Theresa Grutz, 2122 Jonathan Lane, expressed concerns with the loss of green space, storm water management, traffic safety and the potential impact on the school district. She said that there was a water pressure issue in the neighborhood and that she felt there was a lack of need for this kind of housing in the community. She said there is currently a large inventory of unsold housing in Dubuque.

Jerry Schroeder, 2711 Shiras Avenue, expressed concerns with storm water management, traffic, roadway maintenance, potential street assessments, traffic safety, and the potential impact on property value.

Bob McDonald, 3399 Eagle Point Drive, said that he is no relation to Curtis McDonald, the applicant. He expressed concerns with traffic, substandard roadways, and absentee ownership of the residential rental properties.

Ed Marinko, 2925 Shiras Avenue, discussed the neighborhood history. He said he is opposed to the request due to a potential for increase in traffic volume and the poor condition of Roosevelt Road. He expressed concerns with traffic safety and storm water management.

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Beth Kennedy, 2190 Shiras Avenue, said that this is a family neighborhood and she was concerned with the potential for rental housing in the area.

Rebecca Duve, 2165 Jonathan Lane, said she was concerned with the loss of natural habitat for animals.

Mike Winchel, 3005 Shiras Avenue, expressed concerns with traffic volume and traffic safety.

Greg LeBlanc, 2181 Orchard Drive, said he was opposed to the PUD rezoning, stating that he felt it should remain R-1 Single-Family residential.

June Jahn, 2144 Jonathan Lane, expressed concerns with the potential impact on property values and traffic.

Mary George, 2100 Jonathan Lane, said that the area should remain undeveloped.

Shirley Schute, 2119 Jonathan Lane, said that she and her neighbors pay high taxes and that they have beautiful homes, and live in a peaceful neighborhood, and do not want any trash living by them.

Clarice LeBlanc, 2181 Orchard Drive, expressed concerns with traffic safety as it related to her school bus stop. She expressed concerns with pedestrian safety because she said there are no sidewalks along Shiras Avenue.

Jessie Burkle, 2147 Orchard Drive, noted concerns with the potential for an increase in demand for on-street parking, increased traffic volume, and traffic safety. He said he was opposed to the zoning change to PUD because he felt it is not appropriate.

Pat Hendricks, 2255 Cider Ridge, expressed concerns with traffic volume and safety, and stated that he is opposed to the rezoning.

Edwin Frick, 2144 Orchard Drive, expressed concerns with traffic routing and the potential for increased traffic volumes.

Tim Schmitt, 2177 Orchard Drive, expressed concerns with traffic safety.

Charles Baule, 3050 Shiras Avenue, expressed concerns with storm water management for the proposed development.

Mary Kretz, 2160 Jonathan Drive, said she agreed with the sentiments expressed by the other neighbors. She expressed concerns with the density of the development stating that there is no dedicated play area for kids.

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Cecil Woodward, 2077 Bald Eagle Court, said that he represents the residents of the Eagle Valley subdivision. He expressed concerns with traffic safety and storm water management.

John Kretz, 2160 Jonathan Lane, expressed concerns with storm water management and erosion control. He said that both the Orchard Hills neighborhood and the Eagle Valley neighborhood will be affected.

Curtis McDonald said that most of the neighbors' comments regarded traffic, specifically the connection between Baldwin Drive and Roosevelt Road. He said that he had been required by City staff to connect the stub street to Roosevelt Road because of City policy. He said the City's intent is to alleviate traffic congestion and address the long single access cul-de-sac of Shiras Avenue and Orchard Hills subdivision. He said that the Eagle Valley Subdivision detention area had been designed to accommodate additional runoff and that he may have to provide some detention. He said that when calculating the required detention area, that he will error on the side of excess capacity. He said rezoning the property to PUD will only add 25 units to the overall subdivision, which, he said, will create very little additional impact on the neighborhood. He said he is trying to meet a demonstrable need for affordable rental housing. He asked Commission members to offer their thoughts on the proposed rezoning and subdivision.

Commissioner Hardie recommended the Commission discuss their thoughts regarding the subdivision. Vice Chairperson Miller asked for the staff report first.

Staff Member Kritz outlined the staff report, discussing the PUD rezoning, noting the two unit back-to-back building configuration. He said that the PUD two-unit lots meet the R-2 standards for a duplex. He said each lot will provide the required two paved off-street parking spaces. He discussed the stub street connection and the City policy regarding continuation of the street system. He said that the Fire Department has provided a memo in support of creating the connection to Baldwin Street to provide secondary access to the Shiras Avenue area. He discussed the staff perspective regarding street connections. He discussed a prior preliminary plat for Orchard Hills #2 that was submitted in the 1960s that showed the property being subdivided and developed for single-family and two-family residential lots with a connection between Roosevelt Road and Baldwin Street. He discussed the vehicle trips generated by the proposed development and the existing traffic counts along Roosevelt Road. He discussed the subdivision process, traffic routing and Eagle Valley Subdivision in regards to storm water management.

Commissioner Smith asked if it would be possible to create a gated secondary access that would be utilized only by emergency vehicles. Staff Member Kritz said that is an option.

Commissioner Norton inquired about street width in Eagle Valley subdivision. Staff Member Kritz said that some of the streets are 27 feet wide with a 42-foot right-of-way.

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Commissioner Norton asked if the City had any plans for improvements to Roosevelt Road. Staff Member Kritz said not at this time.

Staff Member Kritz discussed traffic management and the potential for increased volume along Roosevelt Road.

Commissioner Henschel asked about the City's plans for a water tower on the subject property. Staff Member Kritz noted that a proposed water tower is currently in the City's capital improvement program and that the City has initiated the process to purchase a portion of the subject property.

Commissioner Smith asked if there has been a second phase of Eagle Valley Subdivision proposed for the subject property. He stated he was concerned with the density of the proposed development, lack of garages, storm water management, the traffic connection to Roosevelt Road and the location of rental units in this neighborhood.

Commissioner Hardie said he agreed with Commissioner Smith, also expressing concerns with the intersection between the proposed subdivision and Roosevelt Road.

Commissioner Henschel said that he had concerns with low water pressure and that there were no firm deadlines on construction of the water tower. He said he was also concerned with storm water management.

Commissioner Norton noted that Baldwin Street was stubbed to the subject property and that a connection to Roosevelt Road was always intended. He said he was concerned with the narrowness of streets which would create a lack of on-street parking and the density of the development.

Vice Chairperson Miller said applauded Curtis McDonald for his intention to provide additional rental housing. He said, however, he was concerned with the density of the development, access to the subdivision along the curve of Roosevelt Road, street widths, parking, drainage, erosion, low water pressure and lack of green space.

Staff Member Kritz noted that Lot J is 3.4 acres that will accommodate a possible park and detention area. He said the City is still studying the park area proposal.

Motion by Norton, seconded by Hardie, to table the rezoning at the applicant's request. Motion was approved by the following vote: Aye – Smith, Hardie, Norton, Henschel and Miller; Nay – None.

**ACTION ITEM/PRELIMINARY PLAT:** Application of Fondell Excavating Inc. / Jim Kemp for a Preliminary Plat of McDonald's Subdivision located along Roosevelt Road.

Motion by Norton, seconded by Henschel, to table the preliminary plat at the applicant's request. Motion was approved by the following vote: Aye – Smith, Hardie, Norton, Henschel and Miller; Nay – None.

### **ITEMS FROM PUBLIC**

Tim McDonald, applicant for the proposed rezoning at 2494 Pearl Street, approached the podium and asked Commissioners if his request could be heard. He apologized for being late and asked if he could get a petition from adjacent property owners in favor of his proposed rezoning. Vice Chairperson Miller informed the applicant his case had already been heard and all input closed, and that his next opportunity would be to attend the City Council meeting slated for September 21, 2009.

### **PUBLIC HEARING\UNIFIED DEVELOPMENT CODE:**

Staff Member Carstens discussed the memo dated August 21, 2009 recommending additional language be added to the Unified Development Code (UDC) regarding connection of streets, sidewalks and bike/hike trails. She also discussed the September 2, 2009 memo detailing four provisions that included: 1) The keeping of ducks in addition to chickens in R-1 and R-2 Districts; 2) allowing 0 lot line townhouses to adjoin along the rear property lines in R-2, R-2A, R-3, R-4 and OR Districts; 3) increasing or eliminating the 75 foot high maximum building height in the C-4 District; and 4) options for parkland dedication that will not eliminate the tax deduction advantage for developers. Staff Member Carstens noted that a number of the incentives created in the UDC help to encourage sustainable development.

Commissioner Hardie asked why it is necessary to increase the building height in C-4 districts as requested in provision 3 of the September 2, 2009 memo. Staff Member Carstens noted there are two historic buildings in the C-4 district that exceed the 75 foot maximum that would be non-conforming if they had to be rebuilt if damaged or destroyed under current regulations.

Commissioner Hardie stated that he is hesitant to apply a blanket increase in building height for all C-4 districts based on a small number of non-conforming buildings. Commission consensus was to leave the C-4 district building height limitation as is.

Staff Member Carstens discussed parkland dedication as a policy noting that two developers have concerns that, if made a requirement, parkland dedication would no longer be eligible for a tax deduction. She said these developers said this would increase the overall cost of development. Commissioners discussed the proposed parkland dedication language and the UDC. A number of Commissioners thought that parkland dedication should be required; others said that it could still be provided on a voluntary basis. The Commission directed staff to explore options for parkland dedication that may provide the necessary parkland and still allow the developer to take advantage of a tax deduction.

Staff Member Carstens said that she will meet with City Legal staff and see if there is an option to achieve this goal. Staff Member Carstens summarized the Commissioners' request, stating: the Commission supports the inclusion of public parks in subdivisions, but is split on whether it should be a voluntary donation or whether it should be a mandatory municipal requirement and requests that City staff meet with the Legal Department to try to resolve the issue. The Commission agreed by consensus with the statement.

Commissioner Hardie questioned the difference in regulation for electronic message center signs for on-premise and off-premise signs. Staff noted how the UDC Sign Review Committee developed the language that regulates billboards differently than on-premise signage. Staff Member Carstens said that the recommended language regulating electronic billboards was taken from the Iowa Department of Transportation. Staff reviewed the process used to develop the on-premise regulations for electronic message center signs noting that it included review of other cities' ordinances and a video of existing signs in Dubuque. Staff Member Hemenway clarified that another recommendation was to reduce the size permitted for on-premise signage and LI, HI and CR zoning districts to mirror that of the C-3 district.

Commissioner Hardie applauded the inclusion of the table for required green space saying that it is very helpful. He asked if the City is bound by the same sidewalk requirements as the rest of the community. Staff Member Kritz explained that when a property is improved sidewalks must be installed along roadways that have curb and gutter and that the City is following that policy.

Commissioners discussed both the August 21, 2009 and September 2, 2009 memos provided by staff and decided to vote on the August 21 memo in its entirety and the September 2 memo by each provision.

There were no public comments regarding the Unified Development Code.

Motion by Hardie, seconded by Miller, to approve the August 21, 2009 memo codifying the long-standing practice and policy that the extension of the streets, sidewalks and bike/hike trails within a development to the property lines reflects sound planning principles for maintaining good circulation networks for vehicles, bicycles and pedestrians throughout the community. Motion carried by the following vote: Aye – Smith, Hardie, Norton, Henschel and Miller; Nay – None.

Motion by Norton, seconded by Hardie, to approve provision number 1 of the September 2, 2009 memo regarding the keeping of chickens and ducks in R-1 and R-2 Districts. Motion carried by the following vote: Aye – Smith, Hardie, Norton, Henschel and Miller; Nay – None.

Motion by Henschel, seconded by Hardie, to approve provision number 2 of the September 2, 2009 memo modifying the bulk regulations table for R-2, R-2A, R-3, R-4 and OR Districts

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to permit townhouse style residences with a 0 foot rear setback, with a recommendation that the language be amended to read “either the side and/or rear building lines”. Motion carried by the following vote: Aye – Smith, Hardie, Norton, Henschel and Miller; Nay – None.

The Commission decided not to vote on provision number 3 of the September 2, 2009 memo.

The Commission instructed staff to forward their recommendation regarding provision 4 of the September 2, 2009 memo for options for parkland dedication to the legal staff.

Motion by Hardie, seconded by Henschel, to amend 11.9.2 of the Unified Development Code to read that “the City **shall** require the subdivider to grade and seed recreational open space. Motion carried by the following vote: Aye – Smith, Hardie, Norton, Henschel and Miller; Nay – None.

Motion by Hardie, seconded by Henschel, to approve the Unified Development Code as amended and recommended it be forwarded to the City Council. Motion carried by the following vote: Aye – Smith, Hardie, Norton, Henschel and Miller; Nay – None.

**ADJOURNMENT:** The meeting adjourned at 9:00 p.m.

Respectfully submitted,



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Kyle L. Kritz, Associate Planner

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Adopted—October 7, 2009