

MINUTES
ZONING ADVISORY COMMISSION
REGULAR SESSION

Wednesday, October 7, 2009
6:00 p.m.
City Council Chamber
350 W. 6th Street, Dubuque, Iowa

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

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

CALL TO ORDER: The meeting was called to order at 6:05 p.m.

MINUTES: The minutes of the August 5 and September 2, 2009 meetings were approved unanimously as submitted.

ACTION ITEM PLAT: Application of the Iowa Department of Transportation for approval of Bonson & Stewart's Subdivision Lot "H" located on Curtis Street (tabled from September 2, 2009).

Staff Member Kritz noted that the plat had previously been reviewed and the Commission asked if the lot could be combined with the adjacent property. He noted that the Iowa Department of Transportation policy is to offer the first right of refusal to the former owner. He noted the options for the Commission regarding disposition of the property.

Commissioners discussed the options and decided to approve the plat as submitted.

Motion by Hardie, seconded by Christ, to approve the plat of Bonson & Stewart's Subdivision Lot "H" located on Curtis Street, as submitted, waiving the lot area and frontage requirements.

Motion carried by the following vote: Aye – Smith, Hardie, Christ, Norton, Miller and Henschel; Nay – None.

ACTION ITEM PRELIMINARY PLAT: Application of Fondell Excavating / Jim Kemp (tabled from September 2, 2009) for approval of the Preliminary Plat Orchard Park Subdivision (formerly McDonald's Subdivision) located along Roosevelt Road.

Curtis McDonald, Fairfield, Iowa, said that he has reconfigured the plat in order to reduce the density and eliminate the need for rezoning.

Commission Hardie asked if Mr. McDonald had met with the neighbors. Mr. McDonald said that he met with the neighbors outside the Chambers after the last Zoning Advisory Commission meeting.

NOTE: Chairperson Stiles entered the meeting at 6:15 p.m.

Merrill Crawford, 2110 Jonathan Lane, noted where his house is located relative to the subject property. He said that he is speaking on behalf of several neighbors. He said that the new plat will create impacts similar to the former proposal. He expressed concerns with storm water management, removal of native vegetation, and the aesthetic impact of the proposed subdivision because of its density. He said he is concerned that the residences will not have garages which will increase the likelihood of outdoor storage. He expressed concerns with the potential increase in traffic, school bus safety, the lack of basements or storm shelters and traffic circulation. He said the neighbors are willing to accept only emergency access to the neighborhood. He said that he feels the design should be complimentary and compatible with the adjacent properties and, in his opinion, it is not.

Commissioner Miller asked for a show of hands of those neighbors in agreement with Mr. Crawford.

Mary George, 2100 Jonathan Lane, expressed concerns with traffic safety regarding access to Eagle Point Park.

Theresa Grutz, 2122 Jonathan Lane, expressed concerns with lack of water pressure and water distribution costs.

Jim Kress, 3090 Keokuk Street, said he represents his sister-in-law, who lives at 2075 Harpy Eagle Drive. He said that she is concerned that the property is going to be developed for a large apartment building.

Staff Member Carstens noted that the request is to create 81 single-family lots.

Walter Pregler, 2966 Shiras Avenue, expressed concerns with the proposed sub-standard street widths, traffic circulation, removal of trees and other vegetation and storm water management. He said that the rental property will be managed by an absentee landlord.

Rick Dickinson, Director of Greater Dubuque Development Corporation, spoke in favor of the request. He said that there is a critical need for rental housing due to recent changes in the local economy. He discussed the labor market and the increase in demand for housing in Dubuque, noting that the vacancy rates in the City of Dubuque and Dubuque County are very low. He said that a new water tower will be located on the subject parcel which will

resolve the water pressure issue. He said that there is a need for in excess of 1,000 additional housing units in the City.

Clarice LaBlanc, 2181 Orchard Drive, expressed concerns with the narrow streets regarding plowing snow and school bus safety.

Charles Baule, 3050 Shiras Avenue, expressed concern with the density of the project. He asked if tax dollars are going to be involved in the project.

Wendy Jaeger, 2924 Shiras Avenue, expressed concerns with the displacement of wildlife on the property and the small lot size.

June Jahn, 2144 Jonathan Lane, noted that the Thermo Fischer layoffs will add to the jobless rate within the community.

Michael Schumacher, 2067 Harpy Eagle Court, expressed concern with density, traffic safety, lack of parking, exterior storage, street widths and the potential for a transient population within the subdivision.

Norman Duve, 3045 Shiras Avenue, noted that the City is undertaking a green city initiative and that the subdivision had little green space.

Jim O'Meara, 2116 Shiras Avenue, expressed concern with sanitary sewer capacity on Shiras Boulevard.

Curtis McDonald said that rental units are currently in demand in the City. He said that the houses will eventually be sold as single-family homes. He said that the homes will be energy efficient. He said he would rather not provide access to Orchard Hills Subdivision; however, the City is requiring that he make such a street connection. He said that he will manage the storm water and provide erosion control for the development as per City requirements. He said that it is in his best interest to maintain the property.

Staff Member Kritz outlined the staff report. He said that the request has been reduced from what was proposed originally. He said the new configuration plats 81 single-family lots and that the subdivision is in substantial compliance with City standards, except for several 27 foot interior streets. He noted other subdivisions in the community with 27 foot wide streets. He discussed street widths as they affected parking and access. He said that the City has, subsequent to the development of Eagle Valley Subdivision, established an erosion control permit process that includes an inspection regimen. He discussed street conveyance of storm water during storm events. He said that the Eagle Valley detention area was designed with excess capacity so as to accommodate some of the runoff from the subject parcel. He discussed the proposed street connections and the number of houses with a single access. He discussed traffic generation. He noted that the Fire Marshal had provided a memo requesting a street connection from Roosevelt Road to the Orchard Hills

Subdivision. He discussed the density of the surrounding subdivisions. He said that the proposed subdivision is, with the exception of the 27 foot wide streets, in substantial compliance with City regulations. He said that if the Commission were to approve his plat they would have to recommend waiving the street widths.

Commissioner Hardie expressed concerns about density and building style. Commissioner Norton asked about LEED ratings for the houses.

Chairperson Stiles discussed the downtown study that demonstrates a need for additional housing in the community. He said that the Commission's charge is to determine whether the proposal is compatible with adjacent land use. He said that he feels that the City has insured the Commission that the surrounding infrastructure is capable of handling a subdivision of this magnitude and that storm water will be managed as per Engineering requirements. He said that the buildings will be energy efficient and that he is prone to support the project.

Commissioner Norton said that Baldwin Street had always been intended to be extended to Roosevelt Road for public safety access. He said that storm water and erosion control will be regulated by the City Engineering Department and that there is a demonstrable need for housing in the community. He said that on- and off-street parking will be limited by the narrow streets and the lack of garages. He said he feels that the project meets the minimum standards for a subdivision.

Commissioner Henschel expressed concerns with water pressure, density and the lack of parking. Commissioner Hardie said that economics should not be a part of the Commission's discussion. He said that, although the lots meet the minimum size requirements, he didn't feel that the City had anticipated all 81 lots in a subdivision would be the minimum size. He voiced concern with the lack of garages and basements for the structures and said that he will not support the project because of the intensity of the development.

Commissioner Smith expressed concern with the density, lack of basements and no emergency shelters for the houses.

Commissioner Christ agreed, stating that economics are not germane to the issue. She said she feels the development is too dense.

Commissioner Miller said that he feels that the project is too dense and expressed concern with no garages or emergency shelters. He said that the subdivision, however, meets the minimum standards established by the City.

Motion by Stiles, seconded by Norton, to approve the subdivision plat, with the condition that the preliminary plat be reviewed and approved by the City Council. Motion denied by

the following vote: Aye – Norton, Miller and Stiles; Nay – Smith, Hardie, Christ and Henschel.

PUBLIC HEARING\REZONING: Application of Marty McNamer to rezone property located at 1800 Manson Road from AG Agricultural District to R-1 Single-Family Residential District.

Marty McNamer, 1749 Creek Wood Drive, reviewed his request noting the existing zoning and surrounding land use. He said he intends to build a single-family home at this location.

Staff Member Hemenway reviewed the request highlighting the aerial photo provided in the packet. He discussed the size and topography of the parcel and noted that a large portion of the lot is located in the flood plain. He reviewed the existing AG zoning noting that it generally serves as a holding zone for future.

Commissioners discussed the request and felt it was appropriate.

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

PUBLIC HEARING\REZONING: Application of the City of Dubuque to rezone property located at the northwest corner of Bluff & 5th Streets (555 Bluff Street) from OR Office Residential District to C-4 Downtown Commercial District.

Staff Member Carstens said that the request will facilitate development of a parking structure at the existing 5th Street City parking lot location. She said that, although the OR District allows a parking ramp as a conditional use, C-4 zoning allows a greater mix of uses and taller building height. She said some retail uses may be included in the ramp. She said that the City Council will review the final design.

Dan LoBianco said he represented Dubuque Main Street. He said that C-4 zoning is a more appropriate zone for this area.

Jeff Morton, 201 Bluff, said that he represents Gronen Properties. He said that Gronen Properties manages the Roshek Building and that there is a demonstrable need for additional employee parking. He said that they expect between 1,300 and 1,400 new employees within a year.

Chairperson Stiles asked staff if there has been any neighborhood response to the notification for the rezoning request.

Staff Member Kritz said that he received one call from a resident on the bluff expressing concerns.

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

PUBLIC HEARING\REZONING: Application of Tom Kelzer / GTW Pennsylvania LLC to rezone property located at Lot 8 Westmark from C-2 Neighborhood Shopping Center District to PUD Planned Unit Development with a PR Planned Residential District designation.

Brian Kane, 2100 Asbury Road, said he represents GTW Pennsylvania LL and introduced Tom Kelzer as the real estate professional for this project, Steve Smith and Wayne Briggs as property owners and Pat Ready as project engineer from MSA. He outlined the project noting its location and detailed the floor plans and elevations of the proposed apartment buildings. He said that there are 388 off-street parking spaces, 103 of which will be inside. He said that the adjacent utilities and streets are sufficient to serve the project. He discussed land use recommendations outlined in the Comprehensive Plan and Future Land Use Map, noting that mixed-use residential was proposed for the adjacent property. He said that the proposed rezoning, in his option, is consistent with the Comprehensive Plan, and represents a transition between the office use and adjacent properties. He said that this is not a spot zone as it is located in a mixed-use area.

He discussed the uses that are permitted currently in the C-2 District as they regard potential traffic generation.

Davin Curtiss, representing Westmark Enterprises, 4050 Westmark Drive, spoke in opposition to the request. He said that residential development is not appropriate for this area as it does not meet City standards and is counter to the Comprehensive Plan recommendations for the area. He said this request represents a spot zoning. He discussed prior planning for the land uses in the area that included office and commercial uses. He said that the project does not provide recreation area for children that will, in all likelihood, play on the adjacent properties. He said that the project will generate traffic and increase traffic congestion along the Northwest Arterial. He expressed concern with storm water management. He said that if ownership of the development changes in the future the property may not be well-maintained. He said there are many other areas in the community that are more appropriate for a residential development of this nature. He said that he feels that this kind of development should be compatible with the Comprehensive Plan. He discussed Iowa law as it regarded spot zoning.

Rick Dickinson, representing Greater Dubuque Development Corporation, said that there is a housing crisis in the city that is evidenced by significant lack of market-rate housing. He said that the project is within walking distance of schools and retail establishments. He said that predictions of a future management change and property deterioration represents a “boogie man”.

Matt Horsfield, 505 E. Main Street, Epworth, Iowa, said that he is an adjacent property owner and that he has spoken with the applicant. He said that he discussed proposed future development of his property with the applicants. He said that the property owners are aware of his plans and asked the Commission if they feel that his development will be compatible with adjacent residential development. He asked if a development of this nature would inhibit his ability to fully utilize his property for future industrial purposes.

Chairperson Stiles said that he will ask the Commission to consider the potential impact of the rezoning on adjacent properties during their deliberation.

Mr. Kane rebutted, reiterating questions and concerns. He said that, generally, the property owners would not object to reasonable development on the Horsfield property. He said that the property is located in a highly mixed-use area.

Staff Member Kritz outlined the staff report noting the number of units and parking spaces for the project.

Staff Member Carstens discussed the broad scope of the Comprehensive Plan stating that it serves as a guide for the Commission and City Council. She said the Comprehensive Plan is more than a map in that it also provides land use goals and objectives. She recommended that the Commission review the standards outlined in the ordinance for a Planned Unit Development.

Staff Member Kritz discussed spot zoning issues and surrounding development. He said that the precedent for mixed use is the city's downtown area that includes residential and commercial uses. He said that most of our commercial districts allow residential use. He discussed future City initiated traffic improvements for the area, potential traffic generation and comparative traffic generation regarding commercial development. He said that approximately 50% of the area is pervious which is in excess of the 20% required by the City. He said that the parking provided for the development is adequate.

Commissioner Smith asked about parkland dedication for the development. The Commission and Staff discussed the need for recreation space for the development.

Mr. Ready said that the green area could be used for recreation space and a pet area. He said that the property owners have discussed creating communal congregational areas for the residents.

Commissioner Hardie said he feels that the project does not meet the criteria established for granting a rezoning. He said he does not feel that the applicant demonstrated that there has been a material change to the area or that the original zoning is not appropriate. He said that the Comprehensive Plan indicates that the mixed-use area is across Radford Road. He said that it is his opinion that the streets serve as a defining mark between

zoning and uses. He said this appears to be a spot zone and is not appropriate because it is too intense.

Commissioner Christ said that she agrees with Commissioner Hardie's assessment. Chairperson Stiles complimented the developers stating that he feels the project meets the criteria established for rezoning and also meets some of the goals outlined in the Comprehensive Plan. He also said that the development is mixed-use and that the area and market conditions have changed markedly.

Commissioner Hardie questioned the building height and the height of buildings on the surrounding properties.

Motion by Smith, seconded by Henschel, to approve the rezoning request from C-2 Neighborhood Commercial to PUD Planned Unit Development with a PR Planned Residential District designation. Motion carried by the following vote: Aye – Norton, Miller, Henschel and Stiles; Nay – Smith, Hardie and Christ.

ACTION ITEM\UNIFIED DEVELOPMENT CODE: Unified Development Code (UDC) Article II: land Subdivision – Parkland Dedication versus Parkland Donation.

Staff Member Carstens outlined the memo regarding parking dedication and offered the Commission three options. She said that Staff had worked with a local tax attorney that had dismissed options one and two as being ineligible for tax deductions. She said that option three served as a guideline and offered developers the ability to dedicate park land as one of the options in the sustainable tools development chart. She said it is not clear if option three may or may not be tax deduction eligible. She said that the decision lies with the developer, tax attorneys and the IRS. She requested that the Commission review the options and make a recommendation for the next City Council meeting. She said that the options provide clear-cut expectations for the developer to follow regarding parkland dedication.

After much discussion, the Commissioners decided that would modify option three and remove the parkland dedication as part of the point system in the sustainable tools development chart. Commissioners recommended that Option 3 should read, in Article 11.9, "The purpose of this section is to provide recommendations for recreational open space in newly developing residential areas"; in Article 11.9.1.a "The suggested amount of recreational open space in a proposed development, generally should be 500 square feet..." and to remove from Article 11.10.c Sustainable Subdivision Development Tools, "Recreational open space: The development includes recreational open space at the ratio of 500 square feet per proposed multi-family dwelling unit."

Motion by Hardie, seconded by Christ, to approve option three, as modified. Motion carried by the following vote: Aye – Smith, Hardie, Christ, Miller, Henschel and Stiles; Nay – Norton.

ITEMS FROM COMMISSION: Commissioner Hardie asked if Staff would provide cell phone numbers for staff contact after hours. Staff Member Kritz said he will provide cell phone numbers.

ADJOURNMENT: The meeting adjourned at 9:15 p.m.

Respectfully submitted,



Kyle L. Kritz, Associate Planner

Adopted—November 4, 2009