

PLANNING AND ZONING COMMISSION MINUTES
APPROVED
June 5, 2014
7:00 p.m.

A. Call to Order: 7:00pm

1. Members Present: Hank Bagelmann, Chairperson; Richard Dane, Vice-Chairperson; Susan Franke; Bill Wilson

Members Absent: Barb Anderson; David Huser; Kathy Olson

City Officials Present: Ben Kohout, Secretary; Bill Werger, Community Development Director; Mike Cherry, Public Works Director

2. Approval of Agenda:

Motion By: Dane

Seconded By: Franke

Move that the agenda be approved as printed.

Yes: 4

No: 0

Absent: 3

3. Approval of Previous Minutes:

Motion By: Dane

Seconded By: Wilson

Move that the minutes of the May 1, 2014 Planning and Zoning Commission meeting be approved.

Yes: 4

No: 0

Absent: 3

4. Communications: Board of Adjustment – *June 9, 2014 Agenda*

B. Public Hearings:

1. Public hearing for rezoning of 1.10 acres in NE Waverly in 200 block of 10th Street NE from A-1 to R-2 and to amend the Comp. Land Use Plan from Public usage to Residential usage for privately owned property.

Chuck Franken and Clay Flaig, applicants, in conjunction with the current owners, are requesting a change in zoning classification from the current A-1 to R-2 for a 1.10 acre of property located in the 200 block of 10th Street NE. Staff recommends amending the Future Land Use Plan to change the designation of this privately owned property from "Public" to "Residential". This is the public hearing and is the time and place to accept public comments on the rezoning change.

Chairperson Bagelmann opened the public hearing.

Mr. Cody Schutte, property owner adjacent and to the north at 410 10th Street NE spoke in opposition to the request. Mr. Schutte expressed concern over proximity over any proposed residence erected on the property and potential proximity of any new driveway access in relation to his property.

There being no one else wishing to speak, Mr. Bagelmann closed the public hearing.

Mr. Bagelmann confirmed with Mr. Kohout this property is unique with the location being adjacent to 10th Street NE and a City water tower. Mr. Kohout noted there is a 66 foot wide easement for the City to access the water tower from 10th Street NE.

This easement creates potentially two buildable areas on either side of this easement, with buildable areas each approximately 90 feet by 180 feet in size. Mr. Kohout noted a high cost to provide sanitary sewer to this property for a single family residential dwelling due to the available sewer line needing to be run under existing pavement on 10th Street NE. Mr. Kohout stated the City is open to allowing the applicant to construct one dwelling on the property as well as a septic system to service this property for only one residence. This is due to a high cost to run sanitary sewer line and also because the lot is at least 1 acre in size which is the required minimum size for a septic system.

Mr. Dane confirmed with Mr. Kohout and Mr. Bill Werger that should another dwelling be considered above and beyond the original dwelling, the applicant would incur a cost of \$10,000 connection fee for the original dwelling and additional cost for the additional dwelling. There was ensuing discussion over the proximity of available sewer lines in the area that could service the property. Mr. Werger stated if the property located on the west side of 10th Street NE, totaling approximately 2.70 acres, were to be developed with residences, servicing those resulting dwellings would make it more feasible to service the property under consideration for the rezoning at some point in the future.

Mr. Kohout confirmed for the Commission that R-2 zoning should be considered for potentially more infill dwellings which would make sanitary sewer line installation a lower cost due to more owners to assess the cost onto. Mr. Werger confirmed with the applicant an R-1 designation would also be entertained for consideration.

Mr. Kohout confirmed for the Commission that should an additional number of dwellings be considered above and beyond one dwelling, a subdivision plat would need to be submitted to and approved by the City prior to allowing construction.

Mr. Kohout confirmed for the Commission that there are properties that have duplex construction between a roadway and single family residences at a few locations around Waverly that may be a similar comparison to this R-2 request. Mr. Kohout identified there are non-conforming duplexes in the 700 block of 2nd Avenue NE, the Gateway condominiums along 7th Avenue NW, as well as condominiums fronting onto 3rd Street SW in the Centennial Oaks development.

Mr. Werger confirmed for the Commission the lot size needs to remain at a 1 acre size for the septic system discussed to meet minimum standards for a single family dwelling.

Mr. Wilson stated he finds an R-1 zoning designation makes more sense at this location due to surrounding land use development on this side of 10th Street NE.

Motion By: Dane

Seconded By: Wilson

Move that the Planning and Zoning Commission recommend approval to the City Council the rezoning change requested along 10th Street NE from A-1 to R-1 and the future land use plan from Agricultural to Residential.

Yes: 4

No: 0

Absent: 3

2. Public hearing for rezoning of 27 acres in NW Waverly at 2800 5th Avenue NW from A-1 to M-1.

The City of Waverly requesting a change in zoning classification from the current A-1 to M-1 for a 27 acre piece of property located at 2800 5th Avenue NW. The request will seek to bring the current recycling services building and yard waste facility into conformance with the rezoning to M-1. This is the public hearing and is the time and place to accept public comments on the rezoning change.

Mr. Bagelmann opened the public hearing.

Mr. Veryl Groen, property owner at 3300 5th Avenue NW, spoke with concern over how this rezoning would impact his residential property to the west of the subject property. Mr. Groen expressed a desire to see additional screening on the west side of the City property.

Mr. Mike Cherry, public works director, stated this rezoning request is presented to formally change the zoning maps to a zoning designation that more closely resembles the actual usage of the property. Mr. Cherry stated the facility will continue to develop, as in Spring of 2015, the City anticipates starting further construction of a City public services center for operations and disaster response.

There being no further comments, Mr. Bagelmann closed the public hearing.

Mr. Wilson confirmed with Mr. Kohout that the proposed business item number 2 on this agenda is regarding landscaping screening and would not be considered applicable to this City project as there is approximately 200 feet of agricultural land usage between the residential property owner and the City of Waverly property.

Motion By: Wilson

Seconded By: Franke

Move that the Planning and Zoning Commission recommend to the City Council the rezoning change requested along 5th Avenue NW from A-1 to M-1.

Yes: 4

No: 0

Absent: 3

C. Regular Business:

1. Set a public hearing for a new proposed religious institution use at 1919 8th Street SE.

Cross Point Church, applicant, in conjunction with the owner, S & J Enterprises of Denver, Lc, is requesting a special provisional use for religious institution use out of an existing structure in the Waverly Industrial Park at 1919 8th Street SE. Per the City Code, the proposed use requires setting a public hearing and holding a public hearing in the M-1 zoned properties prior to the City Council considering the request. The property is zoned as M-1, Light Industrial and the Future Land Use Plan classifies this property as Commercial.

Mr. Kohout explained the request is a special provisional use that is allowed following a special provisional use process in Residential districts.

Mr. Kohout further explained a need to address how a potential church use in an industrial zoning area may impact the taxing structure as this property is within a Tax Increment Finance district and religious institutions do not pay property tax if the property were to be owned by a non-taxable entity as recognized by the IRS.

Mr. Barth Steere, representing Cross Point church, spoke in support of the request as the structure may fit their needs. Mr. Steere explained the property is sought to be leased, with the option to purchase.

Mr. Kohout stated staff is not supportive of the request due to potential implications of the Tax Increment Financing district as the proposed usage does not match existing businesses in this industrial park today.

Mr. Steere noted church uses are allowed in industrial buildings and industrial areas in the State of Minnesota in certain communities such as in Minneapolis. Mr. Steere explained success stories of how church uses have utilized large unoccupied buildings and provided usage in underdeveloped neighborhoods. Mr. Steere requested a recommendation either way sooner rather than later so as to allow their group to finalize their plans in short order.

Mr. David Shutnick, 1217 Shepherd Ave., spoke in support of this usage.

Mr. Wilson confirmed with Mr. Kohout each unique special provisional request for a religious institution use would be required to come forward, regardless if a use has been granted previously that is the same use.

Mr. Dane confirmed with Mr. Werger the City can work with the applicants to assist in identifying properties that may work for a church use. Mr. Werger further clarified for the Commission this property may lend itself better to other industrial uses for reasons such as having a use that may provide for jobs, tax base and further enhancing the TIF district.

There was discussion of how to best process this request so the applicants may have due process in as timely a fashion as is possible. It was confirmed by staff that a public hearing should be set. To hold the public hearing and with any recommendation, it will be ultimately be voted upon by the Council, unless the applicants request in writing the request be withdrawn.

There was discussion of how much land for industrial development may be available.

Mr. Wilson stated he supports setting a public hearing and that the proposed use at the location may or may not fit in with existing or any potential future industrial park development on the current Walker Auto Salvage property, in many years in the future.

Motion By: Wilson

Seconded By: Franke

Move that the Planning and Zoning Commission recommend setting a public hearing to hear this special provisional use for religious institutional use for the July 10, 2014 Planning and Zoning Commission meeting.

Yes: 4

No: 0

Absent: 3

2. Review of Code Ordinance Amendment on landscaping requirements on parking lots between different land uses.

The CLUP refers to an action item of updating the Zoning ordinance to provide for substantial buffers between residential and non-residential land uses. Staff is seeking input from the Commission on a draft ordinance on addressing parking lot areas for non-residential uses adjacent to residential uses. Staff is proposing a prescribed planting schedule or approved fencing standard to achieve a visual barrier to accomplish the CLUP goal. In addition, staff is seeking to have the Commission review and recommend on driveway improvement requirements to non-residential uses.

Mr. Kohout summarized the process of review of this ordinance amendment, which included review of other select communities, how they accomplished screening provisions and how staff finalized the proposal presented. The presented ordinance amendment allows for three options for a property owner to choose from. They included fencing along, evergreen trees and deciduous trees at specified planting schedules, or beaming with plants on top. Mr. Kohout also read over the provisions meant to enact the ordinance to new construction or substantial re-construction or re-zoning and to exclude existing properties for compliance.

Mr. Dane stated he does not support the ordinance amendment as he finds it may be a financial burden and regulation that does not add benefit to the community. Mr. Dane finds that the proposed amendment may not address the dynamic of existing residential adjacent to commercial parking lots as they have co-existed for many years. Mr. Dane stated support of this type of ordinance amendment for corridor planning.

Mr. Werger stated this amendment proposal may be best illustrated where a new commercial development may occur at 13th Avenue SW and 4th St SW, as it is immediately adjacent to Residential development.

Mr. Dane confirmed with Mr. Kohout that updating the zoning ordinance to provide substantial vegetative buffers between residential neighborhoods and incompatible land uses such as commercial and residential, although Mr. Dane expressed concern over how much emphasis should be placed upon this item.

There was discussion about how the buffering process works today with the current ordinance. One such example discussed was the Fareway new store construction along West Bremer Avenue and how the private buffering discussions with residential immediately adjacent to the north seemingly worked well. There was discussion that this process works when developers are concerned with receiving input from residential neighbors. There was a concern over not being able to address those developers that do not want to discuss the buffering considerations with neighbors.

Mr. Werger supported the ordinance amendment for uses, not necessarily for only parking areas. Mr. Werger further identified areas of future development that may benefit from this ordinance amendment and buffers, such as properties along the future Cedar River Parkway area located east of the current 1200 block of 4th Street SW.

Mr. Tim Kangas stated support of further exploring establishing minimum standards for buffering, so as to create an expectation such as a policy statement in lieu of an ordinance amendment.

Mr. Kangas further clarified his point by recommending stating ideas of what may be acceptable, but not specifying minimums with measurable terms.

Mr. Kohout stated staff is concerned with relying on a policy document, as the better way to address desired results may be to amend the ordinance itself, as is proposed by staff with this request.

Mr. Wilson stated support over the merits of establishing minimum standards and further supports staff broadening the scope of application to uses rather than simply parking areas.

Ms. Waldstein stated support of the language provisions, and would encourage staff to find other means to ensure screening through language requirements, other than specifying distances.

Mr. Kohout confirmed for the Commission there are communities that have adopted minimum standards that are the same or very similar to what is being proposed.

Mr. Kohout stated the other component that may be considered later is a distance between structures on differing land uses is on hold for now as staff finds fulfilling the visual barrier requirement needs to be addressed before the distance requirements.

Mr. Kohout confirmed with the Commission they desire staff will consider the comments and Mr. Kohout agreed to bring this item back for the July 10 meeting for further review, following changes. Mr. Kohout agreed to work with Commissioners Franke and Dane to establish basic principles in order to create a framework for the ordinance.

D. Old Business:

1. Mr. Dane stated concern over an access easement granted in the High point subdivision that has not led to development and confirmed with staff that the easement will remain until a request is reviewed and approved by the City dissolving the easement.

E. New Business:

1. Mr. Kohout updated the Commission the new "Fairways" development is occurring in the "cluster housing area" located on the south side of Eagle Ridge Drive. Mr. Kohout stated the drainage considerations for the new housing will utilize current drainage easements.
2. Mr. Dane confirmed with Mr. Kohout a PD, Planned Development plan, once approved by Council, may continue to exist until a deadline established in an agreement occurs or until a new plat for development is reviewed and approved by the City.
3. Mr. Bagelmann stated support of the City preparing a Comp. Land Use Plan following the release of new Census information.
4. There was talk amongst the Commission about exploring possible new tasks of a Commission with nine members and two Council liaison present.

5. Ms. Waldstein desired discussion of a reconsideration of two Council persons being appointed to attend Commission meetings. Mr. Bagelmann expressed support of one Council member attending as liaison instead of two.

F. Adjournment:

Motion By: Wilson

Move that the Planning and Zoning Commission meeting be adjourned.

Meeting adjourned at 8:45pm.

Respectfully Submitted, Ben Kohout, Secretary