

The following are minutes of the Bettendorf Planning and Zoning Commission and are a synopsis of the discussion that took place at this meeting and as such may not include the entirety of each statement made. The minutes of each meeting do not become official until approved at the next meeting.

**MINUTES  
PLANNING AND ZONING COMMISSION  
AUGUST 17, 2011  
5:30 P.M.**

The Planning and Zoning Commission meeting of August 17, 2011, was called to order by Gallagher at 5:30 p.m. at the City Hall Council Chambers, 1609 State Street.

1. Roll Call

MEMBERS PRESENT: Bennett, Gallagher, Kappeler, Laas, Rafferty, Stoltenberg, Wennlund

MEMBERS ABSENT: None

STAFF PRESENT: Greg Beck, City Planner; Bill Connors, Community Development Director; Lisa Fuhrman, Community Development Secretary; Wally Mook, Public Works Director

2. Approval of the minutes of the meeting of June 15, 2011.

On motion by Kappeler, seconded by Rafferty, that the minutes of the meeting of June 15, 2011 be approved as submitted.

ALL AYES

Motion carried.

3. Review of Commission procedures.

**Rezoning**

4. Case 11-040; NE corner of Middle Road and Tanglewood Road, A-1, Agricultural District to R-4, Multi-family Residence District, submitted by AMF Real Estate, LLC.

Beck reviewed the staff report.

Rafferty asked if the property along Middle Road, except for the commercial portion, would now be zoned R-4. Beck confirmed this.

Wennlund asked if the concept plan for the proposed plat includes both the area that is currently zoned R-4 and the property that is proposed to be rezoned. Beck confirmed this.

On motion by Rafferty, seconded by Wennlund, that the rezoning of property located at the NE corner of Middle Road and Tanglewood Road, A-1 to R-4, be approved subject to staff recommendations.

ALL AYES

Motion carried.

### **Preliminary Plat**

5. Case 11-041; Haley Heights (formerly Hopewell Trade Farm), submitted by Trade Farm, L.C. and Hopewell Farm, L.C.

Beck reviewed the staff report.

Rafferty asked how the proposed subdivision relates to the Middle Road Corridor Overlay District (MRCOD) and if it is now defunct. Beck explained that the stream located near the boundary of the subdivision effectively cuts it off from the property located along Middle Road. He added that the developer would not be required to abide by the MRCOD requirements because the proposal is for single-family housing. He indicated that the MRCOD boundaries have not changed.

Gallagher asked if the proposed lots are in compliance with the requirements of the R-1 district. Beck confirmed this.

Rafferty asked for clarification regarding the proposed use of the property located at the southwest corner of the proposed subdivision. Beck explained that it is under other ownership, adding that there has been no indication of what might occur there. Rafferty expressed concern about what type of use might be allowed to locate there and asked if a buffer should be required. Connors explained that for a commercial use a 100-foot setback would be required which effectively limits the viability of the lot as a commercial property.

On motion by Kappeler, seconded by Stoltenberg, that the preliminary plat of Haley Heights be approved subject to staff recommendations.

ALL AYES

Motion carried.

### **Final Plat**

6. Case 11-042; ValleyWynds Sixth Addition, submitted by Highland Green I, LLC.

Beck reviewed the staff report.

William Highberger, 3476 Marynoel Avenue, asked what type of structures are proposed for the subdivision. Beck explained that single-family housing would be built.

On motion by Laas, seconded by Bennett, that the final plat of ValleyWynds Sixth Addition be approved subject to staff recommendations.

ALL AYES

Motion carried.

**Final Plat (11-043)/Vacation of Plat (11-045)**

7. Case 11-043; Hopewell Hills First Addition, submitted by Bettendorf Land Development, LLC.
13. Case 11-045; The Highlands East 2<sup>nd</sup> Addition, submitted by Bettendorf Land Development, LLC.

Beck reviewed the staff reports.

Wennlund asked if the plat is proposed to be vacated in its entirety. Connors confirmed this, adding that once a property is final platted a requirement that all infrastructure improvements be installed is triggered. He indicated that because the new owner wishes to develop only a portion of The Highlands East 2<sup>nd</sup> Addition, the entire plat must be vacated.

Wennlund asked if any construction has taken place in The Highlands East 2<sup>nd</sup> Addition. Connors stated that it has not.

On motion by Bennett, seconded by Rafferty, that the final plat of The Highlands East 2<sup>nd</sup> Addition be vacated.

ALL AYES

Motion carried.

Gallagher asked if the the proposed plat is substantially in conformance with the first subdivision. Beck confirmed this.

On motion by Stoltenberg, seconded by Bennett, that the final plat of Hopewell Hills First Addition be approved subject to staff recommendations.

ALL AYES

Motion carried.

8. Case 11-050; Copper Ridge Second Addition, submitted by Windmill Design and Development.

Beck reviewed the staff report.

On motion by Kappeler, seconded by Rafferty, that the final plat of Copper Ridge Second Addition be approved subject to staff recommendations.

ALL AYES

Motion carried.

9. Case 11-051; Wyndham Hills Third Addition, submitted by Advance Homes, Inc.

Beck reviewed the staff report.

Kappeler asked how the maintenance responsibilities for the outlots would be officially designated. Beck explained that homeowners would not be allowed to disturb the vegetation on the lots except for certain allowed plantings which would not affect storm water flow. Kappeler asked if there would be a plat note to that effect. Beck stated that this has been done before and indicated that if the Commission wishes to require a plat note, it would be possible. Connors recommended against using a plat note to assign responsibility for the outlots, adding that this designation would be accomplished by the covenants governing the subdivision.

Dennis Williams, representing the developer, explained that the homeowner will also own the adjacent outlots and would be responsible for their maintenance. He stated that the purpose for rezoning the agricultural property which comprises the adjacent outlots is to preclude the uses allowed in the agricultural zoning district and to separate the property located in the flood plain from that where the houses will be built. Williams explained that the separation will eliminate the need for homeowners to purchase flood insurance. He added that the homeowner's association would be responsible for maintaining Outlot H.

Gallagher expressed concern about a more intense use of the property if the proposed single-family development does not succeed. He suggested that a plat note be added limiting the use of the subdivision to single-family housing. Williams agreed to do so.

On motion by Wennlund, seconded by Kappeler, that the final plat of Wyndham Hills Third Addition be approved subject to staff recommendations and the addition of a plat note restricting the development of the subdivision to single-family residences only.

ALL AYES

Motion carried.

10. Case 11-052; Upper Iowa University 1<sup>st</sup> Addition, submitted by Build to Suit, Inc.

Beck reviewed the staff report.

On motion by Bennett, seconded by Stoltenberg, that the final plat of Upper Iowa University 1<sup>st</sup> Addition be approved subject to staff recommendations.

ALL AYES

Motion carried.

11. Case 11-053; The Legends of Hopewell Creek 3<sup>rd</sup> Addition, submitted by Steven Zelle.

Beck reviewed the staff report.

Rafferty asked if Whispering Hills Drive and Whispering Hill Court meet the requirement for maximum length for a cul-de-sac. Beck explained that because the other two cul-de-sacs in the proposed subdivision could serve as turnaround points, staff is comfortable with the length of Whispering Hills Drive. He added that the design is very similar to the approved preliminary plat. Rafferty asked if the only reason for limiting the length of cul-de-sacs is to facilitate access for emergency vehicles. Beck explained that access is the main reason.

Bennett asked if the drainage issues that had been discussed previously with regard to Hopewell Avenue had been addressed. She indicated that the original design of the street may have caused it to act as a dam. Connors explained that the street had been redesigned to eliminate this possibility. Wennlund stated that it is his recollection that there had been a discussion regarding the possibility that allowing water to run over Hopewell Avenue during a major rain event might be a solution. Mook explained that the roadway had been lowered so that it would not act as a dam and that water will overtop the street if there is sufficient water running through the watershed. Wennlund asked if the proposed development would make the possibility more likely. Mook stated that it would not, adding that a large detention area is currently being built behind Hopewell Elementary School. He indicated that all of these issues are dependent upon future development upstream and the size of future rain events and thus there are no guarantees.

Connors stated that he had received a phone call from John Nahra of 6204 Emery Court who had requested that any sewer construction that takes place during development has a minimal impact on the existing vegetation in the storm water detention area. Wennlund indicated that it appears as though no construction would take place in any easement on Nahra's property. Connors confirmed this.

Jeff Dague, 4301 Palm Drive, expressed concern about the fact that he is landlocked. He indicated that eventually Forest Grove Drive will become a major thoroughfare, adding that he does not want his children to have to walk on it to get to school. Dague commented that there should have been a bike path incorporated into the Beaver

Crossing subdivisions, adding that it is unfortunate that the Planning and Zoning Commission and City did not consider it. He requested that there be a path or sidewalk incorporated into the future subdivision that will be built to the west of his which would eliminate the need for school children to ride the bus to Hopewell Elementary School which is a very short distance away. He stated that he has discussed the issue with the school district, the city, and the developer and has been unsuccessful in resolving the issue. Dague stated that the school district had indicated that it is the city's responsibility to install a path and that city staff believes that it is a developer responsibility. He indicated that he believes that it is a Commission issue and requested that the members consider requiring future developers to include an easement on future plats.

Dague stated that he had received a letter from the city informing him of the presentation of the final plat, adding that there must have been a preliminary hearing at some point of which he was not made aware. Gallagher stated that the preliminary plat was approved in 2004 prior to Dague's residence in the subdivision.

Dague stated that the city has been building paths along major thoroughfares, reiterating that his property is completely landlocked. He indicated that he is reluctant to place the burden of a path on the current developer when it should have been the responsibility of the developer of Beaver Crossing. He stated that because eventually Forest Grove Drive will be improved and perhaps commercial development will take place on the north side, it would make sense to build a path from the residential subdivisions to the elementary school.

Kappeler commented that as the subdivision to the north is already established, there appears to be no way to connect the proposed subdivision to it. Connors confirmed this, adding that he has had discussions with the developer of Beaver Crossing who had indicated that there is no way to connect to future subdivisions.

Dague stated that it appears as though Palm Drive will eventually be extended to the west and asked why a path couldn't be connected from the currently proposed subdivision to the land that is still completely undeveloped. Wennlund stated that even if the current developer would be willing to add an access easement, there is still no way to connect to the undeveloped farmland. Kappeler added that there is no way to know how any future subdivision would be designed. She indicated that if such an easement were incorporated into the plat, a future subdivision would be contingent on connecting to it. Connors added that there is also no way to know when or if the farm property will ever be developed. Stoltenberg commented that the Commission could require an access easement of the current developer so that it is available for a future subdivider. Rafferty suggested that perhaps two short sidewalks could be installed between Lots 8 and 9 and Lots 17 and 18 which would allow access to the city-owned property and eventually the school property. Connors stated that the topography of the property involved is very steep and that there is a stream running through it. Wennlund asked if a bridge would be required. Connors confirmed this. Stoltenberg stated that the sidewalk could be installed in an easement and that children could then use the subdivision sidewalks to access Hopewell Avenue. Rafferty commented that that route would direct the children the opposite direction from the school, adding that it would be

a very long walk. Dague stated that in his opinion that would be better than using Forest Grove Drive and Devils Glen Road.

Wennlund asked if there would be sidewalks along Forest Grove Drive after it is improved. Mook confirmed this.

Dague stated that it is likely that the property on the north side of Forest Grove Drive will be rezoned to commercial, adding that it is very close to I-80 and he does not want his children to encounter people who might be loitering near the interstate. He suggested that the Commission look to the future rather than plan one subdivision at a time.

Laas commented that there are other areas in the city where sidewalks have been installed that lead to schools, adding that if the lots are large enough there does not appear to be a problem.

Steve Zelle, the developer, suggested that access could be gained to Hopewell Avenue along the east side of The Legends of Hopewell Creek 2<sup>nd</sup> Addition on the undeveloped Ven Horst property. He indicated that it would not be feasible to use the detention basin for access as it would require permission from homeowners on Emery Court. He reiterated that John Nahra has already indicated that he does not wish for the detention basin to be unnecessarily disturbed, adding that he does not believe that it is likely he would be in favor of children walking to school through his rear yard.

Connors asked if all of the lots along Buckskin Trail have been sold. Zelle confirmed this. Connors stated that while access could be gained along the Ven Horst property there would still be no way to reach Palm Drive. Stoltenberg suggested that a sidewalk could be run along the rear of the lots on the north side of the proposed subdivision. Wennlund asked for clarification about where this would connect with the school property. Stoltenberg explained that there would be no connection until such time as the property to the west of Beaver Crossing is developed. Kappeler commented that there is no way for anyone in Beaver Crossing to access that sidewalk without going through someone else's yard. Stoltenberg stated that children are likely to cross through other people's yards regardless. Dague commented that he does not want children to go through his yard, adding that a path would prevent that.

Connors stated that it has been his experience that this type of sidewalk access works better if it is constructed within an outlot, not on an easement through a regular lot. He added that oftentimes homeowners are concerned about liability issues if a sidewalk on their property is used in this manner.

Rafferty suggested that the issue be considered at such time as the property west of Beaver Crossing is developed. Dague stated that it does not make sense to pass the buck, adding that a solution needs to be found now. Wennlund stated that while currently there is an opportunity to add an easement through a regular lot, Dague had commented that he does not want it through his yard. Dague asked how much the city would be willing to pay for that easement through his yard. He reiterated that his subdivision is landlocked. Wennlund stated that while he understands the challenge for children walking to the elementary school from the Beaver Crossing subdivisions, it has

good access to Forest Grove Drive and flows nicely. Wennlund stated that the Commission's goal is to find a reasonable way to access the school while taking into account the interests of all parties concerned. Dague stated that if the easement had been located in his rear yard, he would have known about it when he had purchased his property. He stated that the Commission must make the hard decisions now and think forward. He stated that the commercial businesses that will be located in the future on the north side of Forest Grove Drive will lower his property values. He suggested that the final plat should not be approved until such time as a solution has been reached. Wennlund asked who would be responsible for the engineering design costs that the developer would incur if the subdivision had to be changed. Dague stated that he does not care who has to pay for it, possibly it should be the homeowners who purchase lots in the new subdivision. Bennett commented that the homeowners who build there would already have access to Hopewell Avenue and would have no need for an additional one. Rafferty stated that the original Beaver Crossing subdivision was platted in 2004, reiterating that the school did not exist at that time. He indicated that the Commission is now taking into consideration possible solutions to the access problem now that the school has been built.

Dague asked what the next step would be in getting the issue resolved. Stoltenberg suggested that he approach the school district to ensure that they would be willing to grant access to the northeast portion of their lot from any new subdivision. Dague asked how that helps him now. Stoltenberg explained that there is no solution available until such time as the property located west of Beaver Crossing is developed, adding that at that time there will be sidewalks on both sides of the extension of Palm Drive. He added that an easement would be necessary to allow sidewalk access to the school from the new subdivision. Wennlund reminded the Commission that there are topographical issues that would require the construction of a bridge to cross the drainage area.

Kappeler stated that she does not believe it is within the Commission's purview to redesign the proposed subdivision in order to solve the access issue. She added that she would not object to including an access easement on the current plat to the property to the north but added that she does not see how that is feasible given the fact that no one knows how it will be designed.

Dague stated that it seems to him as though the Commission members should be directing the developers to design subdivisions according to their wishes. He added that rather than being concerned with the cost of improvements to the developer, the Commission should be planning how the city lays out. He expressed shock that the developer of Beaver Crossing had gotten away with building a landlocked subdivision. Wennlund indicated that he is having difficulty rationalizing how the Commission could force a developer to redesign the subdivision and possibly jeopardize the sale of an expensive lot to benefit Dagues. Dague stated that his is not the only subdivision involved, adding that there will be commercial development to the north. He added that the issue affects the entire city.

Wennlund asked for clarification as to how Dague would solve the issue give the constraints involved. Dague explained that the Commission should require an

easement through the proposed subdivision to the north and require a future developer to connect to that easement. Wennlund explained that it is not appropriate to benefit Dague at the expense of the developer. Dague stated that the easement would benefit the entirety of the city. Wennlund disagreed.

Kappeler commented that the Commission is not in the position to place any sort of restriction on the development of the property located to the west of the Beaver Crossing subdivisions.

Laas stated that she does not believe that it is the Commission's responsibility to require easements on property that is not currently under discussion. She suggested that staff make an attempt to find a practical solution to the issue as it relates to current homeowners in Beaver Crossing.

Zelle stated that there is no point where the proposed subdivision borders the school property and therefore does not see a way to make the connection.

Wennlund stated that he believes that the Commission should act on the plat as it meets the code requirements. Gallagher concurred, adding that the plat is in substantial compliance with the preliminary plat. He suggested that for future reference staff should be cognizant of the fact that access to Hopewell Elementary School is an issue.

On motion by Wennlund, seconded by Rafferty, that the final plat of The Legends of Hopewell Creek 3<sup>rd</sup> Addition be approved subject to staff recommendations and that, if feasible, staff discuss the possible addition of an access easement with the developer.

ALL AYES

Motion carried.

### **Site Development Plan**

12. Case 11-044; 3223 South Hampton Drive, submitted by Gary Hintermeister.

Beck reviewed the staff report.

Gallagher stated that a letter had been received from Bruce Byorum and Kathy Thompson of 3304 South Hampton Drive requesting that the Commission consider requiring additional parking spaces in conjunction with the proposed addition along with another access from Maplecrest Road.

Wennlund asked if the number of required parking spaces increased as a result of the proposed construction. Beck stated that he does not believe so, adding that the ordinance does not address special functions when determining required parking.

Kappeler asked if the driveway leading to Tam-O-Shanter Drive is usable as an access. Stoltenberg explained that it is a one-way out from the school. Laas commented that an additional entrance may pose a difficulty for children walking to school.

On motion by Laas, seconded by Wennlund, that the site development plan for 3223 South Hampton Drive be approved subject to staff recommendations and the verification that no additional parking spaces are required as a result of the proposed addition.

ALL AYES

Motion carried.

There being no further business, the meeting adjourned at approximately 7:05 p.m.

These minutes approved

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Gregory W. Beck, City Planner