

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 16, 2017
5:30 P.M.**

The Planning and Zoning Commission meeting of August 16, 2017, was called to order by Wennlund at 5:30 p.m. in the City Hall Council Chambers, 1609 State Street.

1. Roll Call

MEMBERS PRESENT: Bert, Kappeler, Rafferty, Stoltenberg, Wennlund

MEMBERS ABSENT: Ormsby, Peters

STAFF PRESENT: Bill Connors, Community Development Director; Lisa Fuhrman, Secretary; Brian Fries, Assistant City Engineer; Steve Knorrek, Fire Marshal; Chris Curran, City Attorney

2. Approval of the minutes of the meeting of July 19, 2017.

On motion by Rafferty, seconded by Kappeler, that the minutes of the meeting of June 19, 2017 be approved as submitted.

ALL AYES

Motion carried.

3. Review of Commission procedures.

Land Use Amendment/Rezoning

4. Case 17-067; Part of Lot 3, Lot 4, and Outlot A, Interstate 74 Technology Park Fifth Addition, Office/Research Campus to Commercial, submitted by Tanglefoot Investors, LLC.

5. Case 17-068; Part of Lot 3, Lot 4, and Outlot A, Interstate 74 Technology Park Fifth Addition, C-6 Office and Research Campus to C-3 General Business District, submitted by Tanglefoot Investors, LLC.

Beck reviewed the staff reports.

On motion by Rafferty, seconded by Bert, that the land use amendment for part of Lot 3, Lot 4, and Outlot A of Interstate 74 Technology Park Fifth Addition, Office/Research Campus to Commercial, be approved subject to staff recommendations.

ALL AYES

Motion carried.

On motion by Kappeler, seconded by Stoltenberg, that the rezoning of part of Lot 3, Lot 4, and Outlot A of Interstate 74 Technology Park Fifth Addition, C-6 to C-3, be approved subject to staff recommendations.

ALL AYES

Motion carried.

Final Plat

6. Case 17-062; Hoffman's Second Addition at Devils Glen (replat), submitted by Kevin Koellner/Build to Suit, Inc.

Beck reviewed the staff report.

Rafferty stated that 10 years ago, the property had been used for outdoor RV parking. He indicated that because the current use is less dense than the outdoor parking, it had been approved even though is non-conforming. He expressed concern about expanding a non-conforming use as the Code states that no kind of expansion is allowed. He commented that there are currently permanent structures where there were none and questioned how allowing a new building could be permitted.

Beck stated that the previous use had been for outdoor storage of RVs. He explained that the more intense zoning districts allow outdoor storage. He indicated that staff's opinion at the time had been that the indoor storage of RVs would be less obtrusive especially since the outdoor storage covered almost the entire lot. He indicated that staff felt that eliminating the outdoor storage would be of benefit to the city because the intensity of the use would be reduced. Beck stated that with the addition of the

proposed building and land added from Outlot A, the existing coverage ratio would remain the same.

Connors stated that there were some easement areas on the west side of the property that were previously used for storage which are not currently being used. He indicated that 10 years ago, the Board of Adjustment had affirmed his decision that the indoor storage proposed at that time was not an expansion of a non-conforming use. He added that the Board of Adjustment will make the decision as to whether the proposed building is a further expansion of the non-conforming use as he is not comfortable with staff's making that decision.

Rafferty stated that in his opinion adding additional property to the lot used for the storage is already an expansion of a non-conforming use.

Rafferty asked for clarification of which zoning districts allow RV storage. Connors stated that the property would have to be an industrial district.

Wennlund asked if the part of Outlot A that is proposed was a part of the original non-conforming use. Connors stated that he would have to check the aerial photos from the original case as he is unsure.

Wennlund asked if recommending approval of the proposed plat is in any way a tacit approval of expansion of the non-conforming use. He commented that if the property being added to the lot was not a part of the original development he feels as though it would be an expansion of the non-conforming use. Connors stated that approving the plat in no way gives permission to the developer to do anything with the lot. Wennlund commented that it would be a Board of Adjustment decision to allow the expansion. Connors confirmed this, adding that a site development plan would also be required. Current explained that the plat is the first step in the process and would not consider its approval a violation of the ordinance with regard to expansion of non-conforming uses.

Kappeler asked for clarification of the proposed changes to the drainage system for the area and asked where the detention is currently located. Fries explained that the area south of the buildings currently serves as a detention and storage area. He indicated that there is the possibility of expanding the area and picking up more drainage from the surrounding area which will help downstream. He indicated that the developer has agreed to work with the city to that end. Kappeler commented that it appears as though the project is not creating a significant change in the drainage but that it is an opportunity for the city to improve it for the whole area. Fries confirmed this, adding that there is little impervious area being added in comparison to the proposed drainage improvements.

Rafferty commented that a part of Crowne Pointe Fourth Addition is being added to Hoffman's First Addition at Devils Glen. Wennlund stated that the addition of property is why he questioned whether approving the plat would be a code violation. Rafferty stated that while it might not be a violation, the plat would help facilitate the proposed building addition. Kappeler stated that in this case she believes that the non-conforming use improved the appearance of the property even though it does not change the principal of it. Rafferty questioned what might have been developed on the property had the non-conforming use not been allowed to continue using permanent structures. He added that it is possible that surrounding properties have not been developed because of the presence of an industrial use.

Curran stated that the proposed building would not actually be creating a new non-conforming use. Bert commented that the Commission's approval of the plat which adds property to the lot would create the opportunity for an expansion of the non-conforming use assuming Board of Adjustment approval. Stoltenberg stated that while he agrees in principal about the expansion of non-conforming uses, perhaps the time to have prevented the use was 10 years ago. He commented that the improvement of the drainage system would be beneficial to the city.

Bert commented that he assumes that the typical notification to the neighbors was sent and that no one is present to object to the proposed plat. Beck commented that state law requires that notice be given regarding replatting of property.

Kevin Koellner, the applicant, explained that Outlot A is under the same ownership as the adjacent apartment building. He indicated that he intends to purchase the outlot and move the boundary of the lot containing the storage units. He explained that the additional property will essentially serve as the buffer yard while the proposed 25-foot deep addition to the southernmost building will be entirely located within the original footprint of Lot 3. He indicated that the paving for the new units will end at the current property line. He reiterated that he would not be building on the additional property being added.

Bert asked if the non-conforming use will remain within the original lot boundary. Koellner confirmed this, adding that he understands Rafferty's concerns. He indicated that the owners of the adjacent properties are aware of his plans. He stated that he has made attempts to purchase the lots to the north which are owned by Genesis but that he has been unsuccessful. Koellner stated that he has agreed to a 50% cost share up to \$100,000 for improvements to the regional detention to increase volume and quality of water being released into the stream.

Wennlund commented that he would not want to create the precedent of continuing a non-conforming use by adding property to the lot. He indicated that in this particular case, he could be supportive if a negative precedent is not being set for future matters as the expansion would not affect other property owners. He added that he might feel differently if the expansion were to occur to the north or west. Rafferty concurred, adding that the fact that the building will still be within the original lot boundary and that the regional detention will be improved alleviates his concerns.

On motion by Bert, seconded by Kappeler, that the final plat of Hoffman's Second Addition at Devils Glen be approved subject to staff recommendations.

ALL AYES

Motion carried.

Other

7. Case 17-072; Temporary sewer easement in Wyndham West Second Addition, submitted by Wyndham West, Inc.

Beck reviewed the staff report.

Connors explained that the easement is necessary because there is a gap between The Woodlands and the Wyndham West subdivisions. He indicated that sewers were not installed in that gap because the property has not been final platted. He stated that an agreement between the city, Advance Homes, and Windmill Development was reached to facilitate installation of the sewer. He explained that the agreement allows the creation a temporary easement which is larger than the final easements will be and which will be eliminated when the property is final platted. Connors stated that the easement must be recorded in order to allow the city to accept the improvements prior to platting. He indicated that this type of easement has never occurred before.

On motion by Rafferty, seconded by Stotlenberg, that the temporary sewer easement in Wyndham West Second Addition be approved subject to staff recommendations.

ALL AYES

Motion carried.

8. Commission Update.

Connors stated that the City Council followed the recommendation of the Commission regarding the following cases:

- VenWoods Estates Fourth Addition, preliminary plat
- Lewis First Addition, final plat
- Crow Creek Estates, final plat

Connors commented that the developer of Crow Creek Estates had submitted confirmation of the agreement with the Springs at Bettendorf regarding storm water as per the Commission's recommendation.

There being no further business, the meeting adjourned at approximately 6:00 p.m.

These minutes approved _____

Gregory W. Beck
Community Development Director