

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
MARCH 18, 2015
5:30 P.M.**

The Planning and Zoning Commission meeting of March 18, 2015, was called to order by Kappeler at 5:30 p.m. in the City Hall Council Chambers, 1609 State Street.

1. Roll Call

MEMBERS PRESENT: Bert, Kappeler, Peters, Rafferty

MEMBERS ABSENT: Bennett, Stoltenberg, Wennlund

STAFF PRESENT: Greg Beck, City Planner; Bill Connors, Community Development Director; John Soenksen, City Planner; Lisa Fuhrman, Secretary; Kristine Stone, City Attorney; Brian Fries, Assistant City Engineer; Steve Knorrek, Fire Marshal

2. Approval of the minutes of the meeting of February 18, 2015.

On motion by Rafferty, seconded by Peters, that the minutes of the meeting of February 18, 2015 be approved as submitted.

ALL AYES

Motion carried.

3. Review of Commission procedures.

Land Use Amendment/Rezoning

4. Case 15-017; 2235 Grant Street, Commercial to Medium-density Residential, submitted by Anthony Bradley.

5. Case 15-018; 2235 Grant Street, C-5 to R-4, submitted by Anthony Bradley.

Beck reviewed the staff reports.

Kappeler asked if the structure had originally been used for residential purposes, changed when Habitat for Humanity purchased the property, and is now reverting back. Beck confirmed this.

Rafferty asked if the proposed land use amendment and rezoning would be in conformance with the revised land use map that is currently being drafted. Beck explained that categories

listed on the new land use map will be more general and will be tolerant of mixed uses and densities. He indicated that it is likely that the proposed use would be compliant with the new land use map.

On motion by Rafferty, seconded by Peters, that the land use amendment for 2235 Grant Street, Commercial to Medium-density Residential, be recommended for approval subject to staff recommendations.

ALL AYES

Motion carried.

On motion by Rafferty, seconded by Bert, that the rezoning for 2235 Grant Street, C-5 to R-4, be recommended for approval subject to staff recommendations.

ALL AYES

Motion carried.

Preliminary Plat

6. Case 15-020; Old Hunters Woods Fifth Addition, submitted by Old Hunters Woods Development Co., LC.

Beck reviewed the staff report, adding that staff had decided that the storm water detention area on Lots 12 and 13 is sufficient to serve the entire subdivision. He indicated that because of this, the proposed storm water detention area proposed to be located on Lots 2 and 3 would no longer be necessary. Beck requested that Condition #9 listed in the staff report be removed.

Kappeler asked if Lot 12 is buildable since it has a storm water detention area located adjacent to it on Outlot A. Beck confirmed this, adding that it is of sufficient width and depth to meet the standards for the R-1 district.

Kappeler asked if a storm water detention area would also be located on Lot 3. Beck explained that storm water runoff will flow over Lots 2 and 3 and will then be piped into Outlot A.

Kappeler asked for clarification of the condition regarding offsite storm water contributions. Fries explained that a portion of the field to the north drains through Lots 2 and 3, adding that a detention area that is built will serve the proposed subdivision. Kappeler asked if the detention areas that have already been built will be adequate to serve the proposed homes. Fries confirmed this, adding that the developer will be required to stabilize the waterway in the subdivision.

On motion by Bert, seconded by Peters, that the final plat of Old Hunter Woods Fifth Addition be recommended for approval subject to staff recommendations with the exception of the deletion of Condition #9.

ALL AYES

Motion carried.

Site Development Plan

7. Case 15-006; 1801 Kimberly Road, submitted by Reed Windmiller.

Beck reviewed the staff report.

Kappeler asked if the applicant has obtained permission from the owner of Lot 2 to construct the car wash building which would encroach onto the shared easement. Reed Windmiller, the applicant, explained that he has discussed the issue with the lot owner who indicated that he is not opposed to the encroachment. He indicated that the property owner has not yet seen the easement plat or the legal document which would grant permission for the encroachment.

Bert asked if the 45-foot wide easement was intended to be used for traffic flow. Beck confirmed this. Bert asked if it would be of a sufficient width for traffic flow if the proposed structure encroaches into it. Beck explained that the building's encroachment would still allow a 23-foot wide access drive.

Peters asked if parking spaces would be lost. Beck confirmed this, adding that no parking spaces would be required for the proposed car wash. Kappeler asked if the only parking that would remain would be the spaces adjacent to the Subway restaurant building. Beck confirmed this, adding that he is unsure whether or not the parking spaces within the easement are actually used for parking.

Kappeler asked if the access on the east side leading into Duck Creek will remain. Beck explained that legal counsel for the owners of Duck Creek have indicated that if the car wash is allowed to be built, they would like to cut off access for those two lots.

Reed Windmiller, the applicant, explained that there is a 50-foot wide space between the rear parking spaces at the restaurant and the proposed building. He indicated that a 32-foot wide space is available for access. He stated that he believes that the remaining parking spaces would be sufficient to meet code requirements for the Subway restaurant. Beck indicated that he would need to verify the required number of spaces according to the zoning ordinance. Rafferty asked why that information is not available. Beck explained that until a final determination is made with regard to how many spaces would be lost, a calculation cannot be performed.

Rafferty asked if staff is aware of how much traffic the proposed use would generate and how much stacking space would be required. Beck explained that a traffic study has been conducted but that the results are not yet available. He commented that no traffic studies were required of other car wash owners in the past. Rafferty stated that if inadequate stacking space is available, motorists might have to stack up on Kimberly Road. He added that traffic congestion may negatively impact the restaurant. He suggested deferring the request until such time as more information is available about traffic flow, stacking spaces for the car wash,

and whether enough parking spaces would be available for Subway. Kappeler concurred, adding that she is not necessarily opposed to the concept.

Windmiller explained that there would be a total of 17 spaces available for Subway even if all of the parking spaces in the easement are removed. He indicated that if there are more than 3-4 motorists waiting, a customer will not wait for an automatic wash. He stated that there is room for 4-5 cars to stack at the automatic wash bays which should be more than adequate. Windmiller added that typically customers will not wait at a manual wash bay.

Rafferty asked if the applicant believes that customers who do not wish to wait will be required to turn around to exit the property. Windmiller stated that if there are too many customers stacked at the bays, a motorist will likely exit the curb cut to the east. Rafferty commented that there is the possibility that the curb cut will be closed. Windmiller stated that he will likely install signage instructing motorists that the intersection should not be blocked.

Kappeler stated that she would like to know definitively how many parking spaces are required for the restaurant versus how many are provided. She indicated that an agreement must also be reached regarding the encroachment of the building into the access easement. Windmiller explained that he recently received the easement drawing and would share it with the owner of the adjacent lot. Rafferty commented that he would be more comfortable with the proposed use and its encroachment into the easement if he could be assured that there is adequate space for efficient and safe traffic flow on the site and the surrounding area. Windmiller explained that he had originally intended to move the entrance from Kimberly Road further south so that it would be more of a shared access. He indicated that the owner of Subway is opposed to that idea because he is concerned that moving it might negatively impact use of the parking spaces adjacent to the building. Kappeler commented that shifting the entrance from Kimberly Road further south would improve the traffic flow on the site. Rafferty concurred. Windmiller commented that the entrance could be shifted approximately 10 feet without involving the restaurant owner.

On motion by Rafferty, seconded by Peters, that the site development plan for the 1801 Kimberly Road be deferred until such time as more information is available regarding the access easement, parking requirements for Subway, and whether the eastern curb cut will remain.

David Smith, representing SJ Russell who is the owner of the Duck Creek office building, expressed concern about the high volume of traffic that enters and exits from that section of Kimberly Road. He explained that the only two truck entrances for merchants in the Duck Creek development are the applicant's shared access with Subway and the main entrance for the shopping center further south. Smith indicated that because there are only two access points, there is a high volume of traffic in that area. He commented that he does not believe that the proposed use is appropriate for such a small lot and does not feel that it fits into the development because the area warrants a restaurant or office use. Smith stated that he believes a car wash would be more appropriately located in the downtown area. He stated that the proposed building's encroachment into the access easement would decrease maneuverability for truck traffic entering the Duck Creek development. He indicated that he feels that the proposed car wash would be a detriment to the overall Duck Creek development.

Kappeler asked for clarification of the location of the primary truck entrances for the Duck Creek Development. Smith explained that no truck traffic is allowed from Middle Road, adding that the only two entrances for trucks are from Kimberly Road. He stated that the applicant's access easement is currently being used for truck traffic as it is straighter and more easily navigable than the entrance nearer the bank. Kappeler asked if the designated truck entrance shown on the original design of the development created by Smith is the one near the bank. Smith confirmed this.

Smith expressed concern about the possible negative impact of storm water runoff from the site of the proposed use since there is no detention area. He asked if it is possible that any chemicals used at the proposed car wash could migrate to the storm water detention area at Thomas Place which is sometimes used as a fishing pond. Craig Windmiller, representing the applicant, indicated that the property in question has been available for 8 years. He explained that the site was formerly used as a restaurant for which a large number of parking spaces was required and which generated a high volume of traffic. He reiterated that the main entrance to Duck Creek Plaza is the one further south of the property in question, adding that the access easement is merely a means that some motorists use on occasion to enter that development. Windmiller indicated that if the curb cut is eliminated, it will not in any way affect the operation of the proposed car wash or restaurant. He stated that he believes that the responsible thing to do would be to leave the curb cut as a convenience to the patrons of Duck Creek who may also wish to visit the car wash or Subway without their being required to use Kimberly Road. He acknowledged that a written agreement with the owner of Subway regarding the reconfiguration of the access easement and parking space compliance is necessary. Windmiller added that it would be beneficial to relocate the entrance from Kimberly Road further south. He explained that all of the water from the car wash will be directed to the sanitary sewer system, adding that because the site is already comprised almost completely of impervious surface there would be no additional storm water runoff.

ROLL CALL ON MOTION

ALL AYES

Motion carried.

8. Case 15-021; 2123 - 53rd Avenue, submitted by Build to Suit, Inc.

Beck reviewed the staff report.

Kappeler asked if customers would have the option to turn right and left when exiting. Beck confirmed this. Bert asked if the ingress/egress configuration is similar to other businesses on 53rd Avenue. Beck confirmed this.

Kappeler asked if moving and reconfiguring the median on 53rd Avenue would impact any other business on the north side of the street. Beck explained that it would not because the nearest median cut is at Falcon Avenue.

Kappeler asked how many stacking spaces would be available in the new left-turn lane in the median on 53rd Avenue. Fries explained that there would be sufficient stacking space for 4 cars.

Kappeler asked if there was anyone present wishing to speak in favor of or in opposition to the request.

David Fenton, 5182 Dove Court, stated that he and his wife have had numerous conversations with the developer who has accommodated all of their requests to date. He indicated that since the McDonald's restaurant was built there is an obnoxious amount of light that impacts the residents. He stated that if one drives in the neighborhood in the evening it is phenomenally bright. Fenton indicated that he would like the site lighting to be similarly designed as that at Ascentra Credit Union. He explained that the lighting in the credit union parking area is automatically shut off at 8:00 p.m. on weekdays and is not on at all on the weekends. He stated that several layouts of the site have been considered and indicated that he wants the entrance to the lot to be centered on 53rd Avenue. Fenton indicated that the driveway is sloped upward from 53rd Avenue and as a result the headlights from cars entering the property shine into his home. He stated that if the entrance is centered on the lot, the building would block most of the light from vehicles. He explained that by moving the entrance to the western side of the lot, the headlights will shine directly into his house even though there are spruce trees on his property. Fries explained that staff had requested that the entrance be moved to the west side of the lot so that stacking for the left turning movement from 53rd Avenue can be accommodated. Kappeler asked if this is a safety issue. Fries confirmed this.

Fenton questioned the necessity of providing stacking space for so many cars because he does not believe that the credit union will have enough traffic to justify it. Fries explained that the turning movement and stacking space is similar to other businesses in the 53rd Avenue corridor.

Fenton stated that the headlights flashing into his home will devalue it. Rafferty asked if it would be possible to rotate the building so that the entrance is on the east end of the lot or move it so that the headlights could be blocked. Kappeler commented that if the building is rotated, the traffic flow pattern would be lost. She added that Fenton believes that the problem is when motorists enter from 53rd Avenue, not when traversing the lot which is at a different elevation. Beck suggested that arbor vitae could be planted which would eventually block much of the light from the cars.

Kappeler asked if there would be a berm along the southern property line. Beck stated that is unsure about a berm but indicated that the storm water detention area is located on the southern part of the lot.

Fenton commented that he does not believe that landscaping would block the headlights from shining onto his property.

Kappeler commented that it is likely that the credit union will have limited hours of operation which would not include nighttime. Peters indicated that it could be ATM users about whom Fenton is concerned.

Kevin Koellner, the applicant, explained that the latest the credit union would be open is on Fridays when it closes at 6:00 p.m. He indicated that there will be a berm along the southern property line and that he would be willing to install whatever landscaping is necessary.

Rafferty asked if the lighting could be turned off at night. Koellner explained that site lighting had been discussed at the Board of Adjustment meeting during which he had agreed to rotate the building so that the headlights of the drive through customers do not shine into the Dove Court neighborhood. He added that the parking area lighting could be turned off at 8:00 p.m. but that the building lights by entries would have to left on so the security cameras remain functional. He indicated that the light poles will be equipped with LED lights and cutoff shields so that the light shines directly downward.

Rafferty asked if the driveway could be angled which may prevent issues with headlights shining directly into the adjacent neighborhood. Connors stated that it is preferable to have access points be at a right angle to the street.

Connors explained that extending the turn lane in the median not only provides stacking space for motorists entering the site, it allows for those drivers to more quickly move out of the busy travel lane on 53rd Avenue. He added that if the turn lane is shorter, it is much more likely that more rear end collisions would occur because motorists would not have an adequate distance to exit the travel lane. Kappeler stated that a perfect example of a turn lane that is too short to serve its intended purpose is the one on Devils Glen Road leading into HyVee. She added that it is clear to her why staff made the request of the developer to relocate the driveway and lengthen the turn lane in the median.

Rafferty asked how the proposed traffic signal light at 53rd and Falcon Avenues would impact the need for a longer turn lane. Connors explained that the traffic signal would provide gaps in the traffic for motorists wishing to turn west onto 53rd Avenue. Rafferty asked if there would still be a need for so much stacking space in the turn lane if a traffic signal is installed. Connors commented that the signal will not always be red.

Rafferty stated that he believes that Fenton's request is a reasonable one as he would not like to have headlights flashing into his home every 5 minutes. He added that he does not believe that landscaping would be sufficient to block the headlights. Beck commented that arbor vitae is a fast-growing species. Rafferty stated that Fenton already has 25-foot tall trees which do not block headlights. Beck explained that Fenton's trees are spruce, not arbor vitae. Fries indicated that even if the driveway were centrally located, motorists will still be circulating through the property in order to reach the building and/or drive-up windows. He indicated that he does not believe that moving the driveway would solve Fenton's perceived problem with headlights.

Rafferty stated that Fenton's complaint is that there is an incline when entering from 53rd Avenue. He added that once a motorists reaches the flat portion of the property there will not be a problem. Beck stated that there will be a very brief time during which a vehicle is on the slight incline from from 53rd Avenue and when headlights might be an issue.

Kappeler commented that the property in question is commercial, adding that the proposed use is likely one of the least intense allowed in a commercial district.

On motion by Bert, seconded by Peters, that a site development plan for 2123 - 53rd Avenue be recommended for approval subject to staff recommendations.

ALL AYES

Motion carried.

Kappeler asked if the meeting would be adjourned prior to the discussion of the revised Land Use Map. Connors explained that because a quorum of members is present, the public hearing must remain open. He stated that the city attorney had indicated to him that as long as the audio of the meeting is available, the meeting could continue with just the video showing the proposed land use map.

Other

10. Commission update.

Connors stated that subsequent to the last Commission meeting the following cases were acted on by the City Council:

- The Highlands Third Addition, land use amendment, Office/transitional to Traditional Residential, public hearing and first reading of ordinance
- The Highlands Third Addition, rezoning, C-5 to PR-3, public hearing and first reading of ordinance
- The Lodges at Beaver Meadows Third Addition, final plat
- Everest Summit First Addition, final plat and site development plan
- 2421 - 53rd Avenue, site development plan
- Permitted Tower Use Sites, public hearing and first reading of ordinance
- Forest Grove Park 1st Addition, final plat and site development plan

9. Discussion of revised Land Use Map

Connors explained that some concerns have been expressed about the new land use areas that allow single-family, multi-family, and commercial and whether there is enough protection of the commercial areas. He stated that the new categories are intended to inform developers that even though multiple types of uses are allowed, certain areas must develop as commercial. Gary Lozano, representing RDG, explained that new neighborhood commercial areas would be added to mesh with the major commercial areas already indicated on the map. Connors stated that Lozano has added new language to the descriptions of the areas to make the distinction more clear. Lozano suggested that the map indicate the following:

Neighborhood centers
 10,000 - 150,000 square feet
 1-7 acres in size
 Serves 2 mile radius
 Mixed uses

Community centers
 Over 150,000 square feet
 Over 7 acres in size
 Serves entire city
 High-intensity uses

Rafferty questioned whether the commercial areas are large enough to attract multiple developers. Lozano explained that the concept is flexible enough that a major commercial center could be accommodated. Connors commented that the members seem to be in agreement that if a developer wishes to build only single-family homes rather than a mix of residential types of uses throughout the city, the Commission must be firm in their refusal. He indicated that the zoning ordinance must be updated to give the Commission and City Council the authority to deny requests for developments that do not conform to the new land use map. Beck asked how a request for residential development could be denied if it is technically allowed by the zoning ordinance. Rafferty commented that currently the Commission must follow the regulations in the zoning ordinance and allow a development that is not necessarily what the members feel is appropriate for a certain area. Stone stated that the new text of the regulations will state that the city expects neighborhoods with a mixture of commercial and residential uses and that commercial developments should occur along the major thoroughfares and transition to residential. She added that developers must understand that they must somehow incorporate commercial uses into their proposed residential projects. Connors stated that the city has entered into a contract to update the zoning ordinance to reflect the new priorities.

Stone commented that if the land use map and zoning regulations are in place to support the city's position if a request is denied, the Court will not insert its opinion over the City Council.

Kappeler stated that oftentimes a request has been recommended for denial because the proposed project was too dense. She asked if a project could be rejected because it is not dense enough. Stone explained that within the new regulations there will be tables, ratios, and calculations with which a project's density must comply. Connors stated that there is no shortage of property throughout the city which is expected to be developed with single-family homes. He added that a problem that may occur is when a developer who already owns property may not match what the new land use map indicates.

Beck asked how the city can prevent a developer from pushing the boundaries of the residential areas until the property that remains is not viable for a commercial project. Kappeler suggested that developers be encouraged to submit projects for larger areas, not just for small pieces of property. Lozano stated if a developer owns only a small piece of property he or she wishes to develop, there must be a willingness to incorporate connectivity to future adjacent developments instead of terminating in a cul-de-sac as was seen earlier in the meeting. Connors stated that one of the examples of a lack of connectivity he and Lozano had discussed earlier is the Beaver Meadows subdivisions and The Legends of Hopewell Creek subdivisions. He commented that there is no reason why they should not be connected, especially because an elementary school is located so nearby.

Kappeler commented that in the past the Commission has only looked at specific projects to ensure that they are compliant with ordinance requirements. She indicated that the land use map is only considered when someone requests that it be amended. Kappeler suggested that the Commission start considering how a proposed development impacts the surrounding area and how it fits into the overall land use map designations. Connors stated that the former Comprehensive Plan did not account for those types of issues, adding that the revised plan will. Lozano suggested that the Commission's first action is to determine whether a project is in compliance with the Comprehensive Plan. He indicated that only after it is determined that a development complies, should the Commission consider approving it.

He stated that if it is not compliant, the developer's project must be denied or the Comprehensive Plan amended. Bert asked if it would be staff's responsibility to determine whether a project is in conformance with the Comprehensive Plan. Lozano confirmed this, adding that a developer is entitled to a hearing but that staff must recommend denial of a project if that is the case. Soenksen asked if an applicant would have the ability to request a variance related to the density of project if it is not compliant with the Comprehensive Plan. Stone explained that the density tables would actually be a part of the zoning regulations, not the Comp Plan. Connors stated that the Board of Adjustment is not supposed to approve variances that are tantamount to a rezoning. Lozano commented that very few variances should ever be granted because of the conditions that are required to be met. Connors stated that he would prefer that the City Council rely heavily on the recommendation of the Commission members. He commented that if the members are in agreement, the political aspect of development is taken out of the equation. Rafferty stated that he believes that there is still enough flexibility that there could be room for interpretation. Lozano stated that pre-development meetings will become very important so that developers do not invest a substantial amount of money in a project that staff will recommend for denial. He indicated that staff must inform developers of what is expected as it relates to the Comprehensive Plan.

Rafferty suggested that there should be verbiage requiring a transition or buffer yard between commercial uses and those that are less intense. Connors commented that the corner of Crow Creek Road and Middle Road will likely never be developed as commercial because the neighbors were so opposed to a commercial development that the restrictions are very stringent.

Beck suggested that the new zoning regulations be written such that no new nonconforming uses are created. Lozano concurred, adding that even if new requirements are written, verbiage can be included stating that any uses existing prior to the adoption date are considered conforming.

Connors stated that several areas of the text of the Comprehensive Plan have been revised, detail will be added, and the Plan should be ready for review soon. He indicated that there will be an open house in the Bettendorf Room at the Library on April 13 to present the Comprehensive Plan. He stated that the Plan will be adopted with the caveat that it not be enforced until such time as the zoning ordinance is revised.

There being no further business, the meeting adjourned at approximately 7:00 p.m.

These minutes approved _____

 Gregory W. Beck, City Planner