

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
JULY 20, 2016
5:30 P.M.**

The Planning and Zoning Commission meeting of July 20, 2016, 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: Bennett, Bert, Rafferty, Wennlund

MEMBERS ABSENT: Kappeler, Peters, Stoltenberg

STAFF PRESENT: Greg Beck, City Planner; Lisa Fuhrman, Secretary; Kristine Stone, City Attorney; Steve Knorrek, Fire Marshal; Brian Fries, Assistant City Engineer

2. Approval of the minutes of the meeting of June 15, 2016.

On motion by Bennett, seconded by Rafferty, that the minutes of the meeting of June 15, 2016 be approved as submitted.

ALL AYES

Motion carried.

3. Review of Commission procedures.

Land Use Amendment

4. Case 16-053; Proposed Lot 1, Creek Ridge Estates Second Addition, Multi-family Residential to Commercial, submitted by Creek Ridge, LLC.

Rezoning

5. Case 16-054; Proposed Lot 1, Creek Ridge Estates Second Addition, R-5, Multi-family Residence District to C-3, General Business District, submitted by Creek Ridge, LLC.

Beck reviewed the staff reports.

Wennlund commented that the original plan for the site was to construct three additional multi-family buildings and asked why that had never occurred. Beck explained that after the developer passed away, the original plan was abandoned.

Bert commented that typically homeowners object to the possibility of commercial development near their homes. He indicated that he is not inclined to support amending the land use designation or rezoning the property unless there is some compelling reason for it to occur. He added that in his opinion the homeowner's association (HOA) may regret selling the replatted lot as they would have no control over the development. Bert stated that he feels that allowing a commercial encroachment into a residential area is a dangerous precedent to set.

Rafferty concurred, adding that approving the land use amendment and rezoning would encourage other property owners to make similar request for properties along the length of State Street. He commented that while he can't say that the Commission would never approve such a request, he does not believe it is warranted in this case.

William Patterson, 3812 Creek Hill Drive, stated that his understanding from the last Commission meeting is that the HOA members wish to replat their subdivision for the purpose of reducing their tax burden and maintenance responsibilities. He indicated that their prime objective was to separate the parcels so that the vacant lot could be sold, not necessarily to sell the property to a commercial interest.

Mike Gelaude, 4080 Creek Hill Drive, explained that his willingness to sign the agreement to replat the property is because it would have to be rezoned before it could be used for anything other than residential purposes which is what he would prefer.

Shane Seymour, representing Logan Contractors, stated that he has been working with Creek Ridge, LLC, the HOA, and the City of Bettendorf for 15 months on this project. He explained that Logan wants to be good neighbors, adding that there are no plans to use the entire property to expand their business. He expressed confusion about why he was not contacted by the city so that he could clarify their plans. Seymour stated that there would be no access to the lot that would require the use of 39th Street, adding that their business has outgrown their current property. Seymour explained that the HOA had indicated to him that they would want a greenspace that could be used for a children's play area, a place to walk pets, and an area for residents to enjoy the outdoors. He indicated that his company is willing to provide that space to the HOA by some means such as an easement.

Seymour explained that when he approached the city regarding the proposed project, Bill Connors had indicated that the most important thing would be to get the approval of the HOA members. He stated that the HOA voted almost unanimously in favor of the Logan expansion rather than three additional residential buildings as indicated on the original plan. He questioned why the city has changed its stance regarding the proposed project when they had originally indicated that the HOA approval was of paramount importance. He explained that only about half of the property would be used for the business expansion with the remainder being reserved for use by the HOA as a greenspace. Seymour stated that the HOA members had also indicated a need for storage space, adding that Logan would be willing to build storage units on the north side of the lot which would be rented at an affordable rate.

Scott Walker, 4094 Creek Hill Drive, stated that he is the Vice President of the HOA and that he had met with Seymour to discuss his plans for the property in question at an owner's meeting. He explained that the vacant property is not actually owned by the HOA but rather by the original investors who comprise a separate legal entity. He reiterated that the HOA members had indicated a desire for some extra greenspace and had requested that no access from 39th Street to Creek Hill Drive be allowed. Walker stated that Logan had indicated at that meeting that their business traffic would use State Street to access the property where a cold storage area would be located. He stated that Logan seems willing to provide a greenspace and to grade the property to minimize the commercial appearance. He suggested that a more finalized plan be submitted detailing the plans for the property before a final decision is made. Walker stated that one homeowner had objected to the proposed project because of a concern about what the view from his property would be. He reiterated that the property that now being replatted is not owned by the HOA which only manages the 4 existing buildings.

Wennlund stated that the Commission members had been given the impression that the HOA is the owner of the property in question and asked who in fact is the owner. Walker explained that Connie Kassewitz, who is a part of Creek Ridge, LLC, is the applicant and is a separate entity from the HOA. He indicated that it is his understanding that the HOA has no financial interest in Lot 2 of the original Creek Ridge Estates Addition which is owned by Creek Ridge, LLC.

Bert stated that the applicant is not actually present. Walker confirmed this. Wennlund stated that at the last Commission meeting, his impression is that the HOA wishes to replat the property in question in order to reduce their tax liability and associated expenses. He asked for clarification as it appears as though the HOA has no obligation to pay the property taxes. Walker explained that Creek Ridge, LLC owns the property in question and that the comments made by Doreen Youngberg at the last meeting regarding the reduction in tax liability and expenses were related to the pool. He

added that his impression is that if the original plan were followed and 3 additional buildings are built, the tax and insurance liability would increase. He indicated that once the property is replatted and made separate from the existing 4 buildings, the HOA would not be responsible for maintenance of whatever type of building is constructed on the lot. He reiterated that he does not believe that there is enough information available to make a decision regarding the rezoning request.

Walker explained that as it stands now, the 4 existing buildings are all on one lot along with the vacant area of the lot and that the HOA would be responsible for whatever is built there. He indicated that once the replat is finalized, the HOA would have no further interest or responsibility for the vacant area. He stated that the concerns of the HOA include increased liability and maintenance responsibilities and the loss of control over what could be built there when it is sold.

Stone explained that if the Commission recommends denial of the requests, a supermajority of the City Council would be required to approve them. She added that if the City Council denies the requests, the applicant could not reapply for the same land use designation and rezoning classification for 3 years. She suggested that it might be best to withdraw the requests until such time as more information is available regarding the proposed project.

Bert asked if anyone in the audience has the power to request withdrawal of the requests as the applicant is not present. Stone stated that the audience members could ask that the Commission defer the request.

Walker requested that the Commission defer the request until complete details are available to the members.

Bert asked why the applicant is not present. Seymour stated that he believes that Kassewitz lives in Florida.

Bert expressed concern about the possibility that if the rezoning request was approved, the applicant would not be bound to the proposed plan. He added that once the property is rezoned, any use that is allowed in the C-3 district could be located there.

Greg Youngberg, 4032 Creek Hill Drive, expressed concern that if further multi-family residential units were built there the property values of the current owners would be lowered.

Wennlund asked how Youngberg had arrived at that conclusion. Youngberg explained that there have been many issues caused by residents of the apartment buildings on

39th Street. He expressed concern about the possibility of rental apartment complexes being built closer and closer to the condominium units.

Wennlund asked what type of uses would be allowed in the C-3 district. Beck stated that materials storage, contractor's yard, tire retreading operation, fuel oil storage, and almost any other commercial use would be allowed. He explained that storage units are not allowed in the C-3 district.

Bert asked if there is the possibility that the applicant could request a special use permit to accomplish Logan's goals rather than attempt to rezone the property. Beck explained that there is no special use permit allowed in the R-5 district that would accommodate the proposed project.

Rafferty stated that regardless of what type of site plan is submitted, he is opposed to the rezoning request. He indicated that approving the rezoning request would set a negative precedent throughout the city and suggested recommending denial rather than deferral. Wennlund concurred, adding that the fundamental flaw in the plan is that it requires the encroachment of commercial into a residential area. He indicated that he sees no way to solve that flaw regardless of what site plan is submitted. Rafferty reiterated that the possibility exists that in the future Logan may relocate and a future owner would then be allowed to use the property for any of the permitted uses in the C-3 district.

On motion by Rafferty, seconded by Bert, that the land use amendment for the proposed Lot 1, Creek Ridge Estates Second Addition be recommended for denial subject to staff recommendations.

ALL AYES

Motion carried.

Wennlund reiterated that a supermajority of the City Council would be required in order for the land use amendment to be approved.

Final Plat

6. Case 16-055; Morrell's First Addition, submitted Todd Morrell.

Beck reviewed the staff report.

Rafferty asked if the two lots would be comparable in size to the other lots in the area. Beck explained that the lots meet the minimum size requirement for the A-2 district which is all that is required.

On motion by Bennett, seconded by Rafferty, that the final plat of Morrell's First Addition be recommended for approval subject to staff recommendations.

ALL AYES

Motion carried.

Wennlund asked if the Commission is required to address Case 16-054 as the recommendation was for denial of the associated case. Beck explained that procedurally it would not be possible to act on Case 16-054 as it is dependent upon a favorable recommendation of the land use amendment.

Other

7. Commission update.

Beck stated that subsequent to the last Planning and Zoning Commission meeting the public hearing and first reading of an ordinance rezoning the proposed Haley Heights Fourth Addition was held and the final plats of Old Hunters Woods Sixth Addition and Creek Ridge Estates Second Addition were approved.

There being no further business, the meeting adjourned at approximately 6:15 p.m.

These minutes approved _____

Gregory W. Beck, City Planner