

PLANNING & ZONING COMMISSION

The Planning & Zoning meeting was called to order at 5:30 p.m., by Chairman Fitzgerald.

Present: Duea, Fitzgerald, Bruns, Penfold, Wicker, Angle

Absent: Prohaska

Motion by Wicker, second by Penfold to approve the agenda. All ayes.

Motion by Duea, second by Angle, to approve the minutes of the 12/29/09 meeting. All ayes.

Fitzgerald stated this was the time and place for the citizen's forum. No citizen comment.

Communications: None

Unfinished Business: None

New Business:

A. Final Plat Approval – Morehouse's 1st Subdivision.

Zoning Official Marino stated that Cerro Gordo County requires a territorial review by the City of Clear Lake for any proposed subdivisions that are to be located within 2 miles of the City limits. Dan & Patti Morehouse wish to divide their 17-acre tract of land into one 10-acre and one 7-acre parcel. No infrastructure improvements are planned for the subdivision. Charlie Biebesheimer, City Legal Counsel, noted that Cerro Gordo County requires the platting of a subdivision if more than three parcels exist within 40 acres, which applies to the Morehouse's property.

Motion by Wicker, second by Duea, to recommend the Clear Lake City Council accept the Final Plat – Morehouse's 1st Subdivision, subject to Cerro Gordo County approval. All ayes.

B. Review proposed re-write of the current Public Zoning District classification section of the City Zoning Ordinance.

City Administrator Scott Flory presented a proposed re-write of Chapter 165.27 Public Zone (P) of the Clear Lake Code of Ordinances, which the City Council forwarded to this Commission for its recommendation prior to a public hearing by the Council scheduled for July 6, 2010. Flory explained the existing ordinance contains only two narrowly defined permitted uses, and no conditional uses. Under the current ordinance, any use by a governmental body—federal, state, county, city or local school district—would be permitted, except in the case of correctional facilities, with no chance for public input or local approval. The proposed re-write would broaden the permitted uses to allow more flexibility in the way public land may be used, as well as adding conditional uses that would allow the Planning & Zoning Commission, City Council, and/or Board of Adjustment to consider the appropriate use of a site following discontinuance of its public or semi-public use. An offer for the purchase of the recently vacated Sunset School had brought to light the inadequacies in the current ordinance, and Flory stressed the re-write of the ordinance does not just apply to the Sunset School property, but to all Public Zone parcels in the community.

Penfold questioned why the required site area was being set at one acre. Flory replied that it seemed like an appropriate size since public land is typically comprised of larger parcels. Bruns asked who had drafted the proposed re-write and if there were any examples of ordinances from other towns. Flory responded that he had written the proposal, and that he had no examples to offer since each community has its own unique criteria. Fitzgerald and Wicker questioned the intent of the second paragraph of the proposed re-write, with Flory saying it was only a general statement emphasizing the uniqueness of the Public Zone and

to allow more flexibility in the way former public lands could be used. Fitzgerald then asked if it was meant to ensure that the Board of Adjustment, Planning & Zoning, or the City Council would conduct a review of any proposed use. Flory replied that the re-written ordinance, as with all Zoning Ordinances, would allow those uses listed as permitted uses, with no review; however, any conditional use or request for rezoning would have to go before the appropriate body for approval. Both Fitzgerald and Wicker felt the second paragraph should be stricken from the proposed ordinance, since it confuses the procedural process. Bruns asked Flory how he had determined those items listed as permitted uses, and was told that they were his best thoughts at the time, but that more could be added. Marino noted that the suggested permitted uses are not all-encompassing so that if someone requests a particular use of the property, they can come before the Board of Adjustment for clarification and a ruling. Bruns was of the opinion that it would have been better for a group of people to decide what constitutes permitted uses, stating that it is always easy to add items, however, once adopted, it is more difficult to remove them from an ordinance. Fitzgerald took special exception to the inclusion of hospitals as permitted uses, due to the high volume of traffic they would generate in a residential neighborhood. Marino stated that it was more the intent that permitted uses include medical clinics rather than hospital facilities. Wicker and Fitzgerald felt there should be adjustments made to the proposed ordinance, by striking the second paragraph, and further discussing and clarifying permitted uses before recommending it to the City Council.

There being no further discussion, Fitzgerald opened the floor for public comment:

Kristen Ollenberg, 209 Mars Hill Drive. Mrs. Ollenberg appeared representing her family and neighboring property owners in the Sunset School area and asked that Commissioners recommend the City Council reject adoption of the proposed ordinance. She distributed copies of a petition signed by approximately 60 neighboring property owners protesting the change, citing their opposition to the broadening of the permitted uses. Mrs. Ollenberg said the current ordinance states the purpose of Public zoned land and serves notice of its intended uses to those who own or may purchase such property. She indicated it has been stressed that the purpose and intent of rewriting the ordinance would allow for more City control of the use of public land. Under the current ordinance, if land in a Public Zone is to be sold it must be rezoned by the City, which requires a 50% approval from neighboring property owners; but the proposed ordinance allows the sale of public land for a permitted use to occur without a public hearing or any type of City review. Mrs. Ollenberg stated that in recent years, the sale of the public property for Central Gardens and at the former Lincoln School site had required purchasers to seek rezoning. Neighboring property owners feel that the re-write of the ordinance is being used by the City as a means to by-pass a possible rezoning of the former Sunset School property, which over half of them object to at this time. She also cited the City's Comprehensive Plan that states a Public Zone is compatible with residential areas, but commercial uses, as allowed by a Conditional Use Permit, should be avoided in residential zones. In the opinion of neighboring property owners, the pending sale of the Sunset School property and anticipated request to rezone the land for commercial use would be against the Comprehensive Plan and constitute illegal spot zoning.

Chris Masters, 9 Sunset View Drive, said she feels the proposed Ordinance re-write is being used to sidestep the issue of rezoning of the former Sunset School property. In her opinion, rather than expanding the permitted and conditional uses of the Ordinance it would be more appropriate for the purchaser of this site to request a rezoning of the property. She also stated that nearby property owners are not receptive to a commercial business being located in their residential neighborhood.

Bonnie Hall, 29 Sunset View Drive, asked that Commission members use caution when considering expanding the uses of a particular zone classification, citing the possible devaluation of adjacent property owners' investments.

Ed Masters, 9 Sunset View Drive, stated that he owns 3 properties along Sunset View Drive, and feels that zoning laws are made to protect citizens. In his opinion, the rewriting of this Ordinance was being done to sidestep a possible rezoning issue on the Sunset School property.

Joe Rottinghaus, 305 Mars Hill Drive, questioned the need for changing an Ordinance that had served the community well for over 25 years. He also questioned the need for Conditional Uses in any of the Zones.

Motion by Wicker to table discussion pending further clarification of permitted uses. Motion died for lack of second.

Motion by Wicker, second by Angle not to recommend the proposed changes to the Public Zone classification of the City Zoning Ordinance to the City Council tonight. All ayes.

C. Review Site Plan – Mark Minard – Shady Beach Condos, 1525 S Shore Drive.

Marino stated the proposed development was slated for the Lakefront Mixed-Use Zone (LMU), which had only been used once since being adopted. He had anticipated the submission of a Site Plan for Commission review, however developers had changed their mind and were back in the planning stages. Since this or a similar project will likely be submitted for consideration in the future, Marino asked that Commissioners familiarize themselves with the LMU form-based standards criteria.

D. Review Preliminary Plat – Groves 2nd Subdivision.

Jason Petersburg, Veenstra & Kimm, Inc., Project Engineer for the developers, distributed a Revised Preliminary Plat for Phase 2, which consists of 11 lots. The developers are also platting Phase 3 at this time, with the Overall Development Plan addressing and correcting drainage problems created by the lack of fill in Phase I. Mr. Petersburg reviewed a letter of response to the Preliminary Plat review comments prepared by Monte Applegate of Yaggy Colby Associates, the City's engineering consultant. He satisfactorily addressed all concerns expressed by Public Works Director Joe Weigel and Mr. Applegate. Weigel noted that the 66' City Right-of-Way requirement was being waived, citing the proposed 60" ROW is appropriate in this development to allow for additional lot depth to accommodate utilities. Discussion was also held concerning the proper naming of the platted street in this phase of the development.

Motion by Penfold, second by Bruns, that the street in Groves 2nd Subdivision be named Rylea Drive. All ayes.

Penfold asked for clarification on sump pump drainage, and was told discharge lines would be stubbed out to the street to avoid interfering with other utilities.

Motion by Wicker, second by Penfold, to forward the Preliminary Plat – Groves 2nd Subdivision to the City Council with the recommendation that it be accepted. All ayes.

Reports/Recommendations of Zoning Official: None.

Reports/Recommendations of Engineering Department: None.

Fitzgerald declared the meeting adjourned at 7:25 p.m.

Dennis Fitzgerald, Chairman

ATTEST:

Sharon Springer, Secretary