

MINUTES OF PLANNING COMMISSION MEETING

May 12, 2010

Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at City Hall on the 10th day of May, 2010 at 6:30 PM

THE FOLLOWING MEMBERS WERE PRESENT: Nelson, Sannes, Dean, Coleman, Borgstrom, Jorgenson and Ferris

THE FOLLOWING WERE ABSENT: None

THE FOLLOWING WERE ALSO PRESENT: Community Development Director Mike Martin, Deputy Clerk Linda Rappe, Martin and Lorraine Hopkins, Delores Darling, John Buckingham, Jim and Dorothy Larsen, John Talcott, Chuck and Sally Coleman

CALL TO ORDER: Chairman Nelson called the meeting to order at 6:30 PM.

MINUTES FROM PLANNING COMMISSION: Motion made by Borgstrom, second by Ferris to approve the minutes from the April 12, 2010. All Ayes.

PUBLIC HEARING OPENED FOR REZONE REQUEST: The request for rezoning the property at 905 N Mantorville Ave made by Catherine Etchason was tabled at the October 2009 Planning Commission meeting. The request was to rezone the property from R-1 to C-2. This request was tabled to look at making an amendment to the Comprehensive Plan and since it has been decided to look at the Comprehensive Plan as a whole, this request has been brought back for closure.

Public Comment: Lorriane Hopkins stated that all of her objections have been stated at previous meetings.

John Talcott: stated that bufferyards are required when a C-2 abuts a residential zone. Talcott does not see where this would be possible on this lot. Stated there should be a frontage road or access road and he doesn't see where that is possible either.

Dorothy Larsen: Confused by the memo in the planning packet. Martin cleared up this confusion that the amendment process is complete but the update process is ongoing. Larsen questioned how can C-2 even be requested when the land use is R-C. Martin stated that as conditions change the base zoning map is updated through the comprehensive plan updates.

PUBLIC HEARING CLOSED.

DISCUSSION: Chairman Nelson stated that since the amendment to the Comp Plan was not passed and we are in the process of updating the Comprehensive Plan he is not comfortable with rezoning this piece of property.

Borgstrom – Agrees with Nelson

Sannes - Agrees

Jorgenson- Agrees, we would be creating an island and does not want that.

Coleman – Agrees

Ferris – Agrees

Dean - Agrees

MOTION: Motion to recommend denial of the Rezone request based upon the findings in the negative resolution included in the Planning Commission Agenda, made by Dean, second by Coleman. All Ayes.

PUBLIC HEARING OPENED FOR REZONE REQUEST: Bailey property (Carriage House) is similar to the previous request the difference is that the zoning request on this property is essentially a ratification of the existing land use and its structure to allow continued use and modifications of the building. Martin stated that rezoning this property would allow ANY use that is allowed in a C-2 to occupy this property.

Public Comment: John Talcott: When a private party asks for a rezone Talcott is wondering what the intent is here. Talcott does not see Animal Hospital as a permitted use or conditional use. Dean stated that Section 24-134 permitted uses states Veterinary Clinics. Talcott stated that Animal Hospital is different than an Animal Clinic and cannot be closer than 100 feet to any residential district. Talcott stated that since Animal Hospital is not specifically stated it is not allowed. So if the intent of rezoning is to make the use conforming Talcott does not feel that this is the process. Chairman Nelson stated that he feels the definition of Animal Hospital and Animal Clinic are the same. Martin stated that since neither is defined in the definition section of the code, the definition is what the planning commission puts on it. Commissioner Coleman stated that when the Carriage House was annexed it was annexed as R-1 so he is now non-conforming his hands are tied as far as doing anything to his business. By changing the zoning he would be able to rebuild should anything happen or add on if he needed to. Martin stated that by default the City has defined Veterinary Clinic and Hospital as the same thing when they allowed KM Regional to build. Talcott wants the ordinance changed then to reflect the interpretation.

Coy Borgstrom would like to remove himself from the commission for the moment and speak as a member of the public – he would like to hear from Ross Bailey in person. Chairman Nelson stated that Bailey is not required to attend, we have held many public hearings where the requester is not present.

Dorothy Larsen: stated that the Landscaping business that came in in April for a public hearing, that the owner was here to answer questions as to his intentions. And there was a nice exchange between the neighbors and the business owner. Larsen would like to be able to have that same kind of exchange. Chairman Nelson stated that Casey's probably wouldn't send a representative here until they owned the land, they wouldn't buy the land until it was rezoned. Martin stated that the landscaping business in April was a conditional use permit request which is completely different in that we are allowed to put conditions and restrictions on the use, this is completely about the land, we are now making the land fit the use on that land.

Lorraine Hopkins – heard rumors that Bailey would like to enlarge his business and his business is essentially large animal and if he can't enlarge she imagines that he would sell to some business that belongs in a C-2. Chairman Nelson asked Hopkins if she heard that from Mr. Bailey that he is looking to sell or expand his business. Hopkins stated that this is a rumor.

John Buckingham – stated he is here to represent Ross Bailey and that Mr. Bailey is trying to clean up the zoning issue to make the land fit the use. Mr. Bailey cannot do much at all to his business as it stands right now. He does not have plans to enlarge right now. Commissioner Coleman stated that there are controls in place in the zoning code to squelch the rumor of bringing large animals into town.

PUBLIC HEARING CLOSED.

DISCUSSION: Chairman Nelson stated that this one makes sense to him to approve, he has been operating as a C-2 before and ever since he was annexed.

Coleman – stated that when this was sent out in the packet for the meeting tonight he asked Martin to insert a line in the resolution actually specifying that this was zoned commercial before it can in. This does make sense. Would like to make sure that this point is brought up when it goes to council.

Ferris: Before we do this do we need to look at delineating between Animal Clinic and Hospital. Chairman Nelson stated that he views this as a permitted use in a C-2. Ferris stated that everyone who lives around there knew that the Carriage House was there and what they do when they moved in.

Jorgenson: is alright with this, good points came out tonight and we need to rectify this situation, we have set a precedence with the Clinic that is located on 5th St SE.

Sannes: this is OK to be C-2 but would like to put conditions on this. Martin stated that this is a permitted use but there are other sections of the code that would address kennels and large animals.

Borgstrom: If we bring this to C-2 to be conforming then he wants to see a site plan with bufferyard and screening. Martin stated that this is bringing the land use to conforming. Borgstrom wants to talk to Bailey personally. Borgstrom thinks we should talk about this more. Borgstrom brought up a garage on Mantorville Ave that was torn down and rebuilt non-conforming. Martin stated that is a garage in a residential area and it was a variance needed to do this, if the Veterinary Clinic burned down it would not be allowed to rebuild there because it is not allowed in a R-1 district.

Ferris asked that if the annexation had been done correctly the Carriage House would have come in as a C-2 or C-3 and no conditions would have been placed on him. Martin informed him that he was correct. Borgstrom asked if there were any complaints from the neighbors, Martin stated not in the last five years. Borgstrom concerned with a natural progression from C-2 to R-1 and the buffer between the districts.

Staff brought in a map of the Carriage House and approximate measurements of 76 feet on the south and north of the building to the property lines and 176 feet from the building to the west property line.

Dean: Would have been nice to hear from Mr. Bailey. Lacking anything that indicates anything different he doesn't see this becoming anything other than what it has been all along. Dean is comfortable with the Clinic/Hospital distinction we have made. Dean is much more comfortable rezoning this property than the Etchason property. Kennels housing more than three dogs are not allowed in any of the City zones.

Chairman Nelson encouraged the citizens with questions to go directly to Mr. Bailey. It would be nice to hear from him but it is not a requirement that he show up, he sent John Buckingham as his representative.

MOTION RECOMMEND APPROVAL: Motion to recommend approval of the rezone accepting the findings in the positive resolution made by Coleman, second by Jorgenson All Ayes.

RATIFICATION OF ZONING ADMINISTRATOR'S RECOMMENDATION OF KENNETH ETCHASON REQUEST: Martin stated that the action the Commission took to recommend denial of the rezoning of Catherine Etchason's property makes this request now an administrative function, it is not allowed.

ADJOURN: Since the agenda had been met the meeting was adjourned at 7:35

Respectfully submitted,

Linda Rappe, Deputy Clerk

