

## MINUTES OF PLANNING COMMISSION MEETING

July 8, 2019

Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at City Hall on the 8th day of July, 2019 at 6:30 PM

**THE FOLLOWING MEMBERS WERE PRESENT:** Commissioner Ferris, Commissioner Torkelson, Commissioner Tinsley, Commissioner Fitch, Commissioner Thompson, Commissioner Zelinske and Commissioner Burton.

**THE FOLLOWING WERE ABSENT:** None

**THE FOLLOWING WERE ALSO PRESENT:** Administrator Theresa Coleman, City Clerk Rappe, City Attorney Leth, Tim O'Morro, Jason Wilker, Justin Zea, Gary and Carol Smith, Jerry Berg, Rich Massey, Mark Utz, Julie Nagorski, Sandy Wilker, Christie Bowsman, Coy Borgstrom, Doug Buck, Ken and Janice Borgstrom-Durst

**CALL TO ORDER AT 6:30PM**

**MINUTES OF THE PREVIOUS MEETINGS – June 10, 2019 – Motion to Approve the Minutes, made by Commissioner Zelinske, second by Commission Torkelson with All Voting Aye.**

**PARKWAY DISCUSSION** – Administrator Coleman stated the general development plan was approved in 2014. It eliminated a parkway that would have gone from 13<sup>th</sup> Ave NE to 16<sup>th</sup> St NE to allow for development in northeast. Rich Massey spoke on behalf of Carter Blaine. Mr. Massey stated that in 1999 they had about 7 scenarios for this area and that development will happen to the north of the creek for now. The planning commission consensus is to go ahead and present a preliminary plat at a future meeting.

**PUBLIC HEARING WILKER LANDSCAPING REZONE REQUEST** – Administrator Coleman referred to the City's Comprehensive Plan and the staff planning review.

Public Hearing Opened –

**Mark Utz** – Wendland and Utz Law Firm – Mr. Utz is here on behalf of Jason Wilker and is supporting the zoning application. Mr. Utz referred to a letter Jason submitted on June 5. Mr. Utz believes that the legal standard is whether this is appropriate within the changes of goals and policies in the City. The property adjoins County 21; which is a truck route. Mr. Utz noted that the only other M-1 zone is the CHS elevator. He wants to know what to do to keep and grow this business. He believes that the Comprehensive Plan promotes this use.

**Julie Nagorski** – Dewitt co-counsel for Jason Wilker – Ms. Nagorski displayed a large diagram of information that was in the packet.

**Lyle Smith** at 803 10<sup>th</sup> St NW called City Hall to relay that he has no objections.

**Jerry Berg** 506 5<sup>th</sup> Ave NW – Mr. Berg stated that the City has a history of not spot zoning and he believes this is spot zoning and this is better served as residential. Mr. Berg stated that Mr. Wilker has not followed the conditions of his conditional use permit and has had 9 years to comply and did not. Mr. Berg does not wish him any bad luck but wishes he would comply. Mr. Berg was under the impression that the owner had to apply for the CUP. As an example, Kent Keller was denied a spot rezone and Casey's was denied a rezone when they wanted to build across from the fairgrounds.

**Justin Zea** – 803 10<sup>th</sup> St NW – Mr. Zea is concerned as to what would be a permitted use in the event the property is rezoned to M-1 and Mr. Wilker sells the property.

Public Hearing Closed

Planning Commission Meeting June 10, 2019

Commissioner Thompson asked if it is still two pieces of property. Ms. Nagorski stated that the parcels were combined into one in 2017.

Commissioner Burton – per the Comprehensive Plan the current zoning is appropriate and a nursery is appropriate in this zone but a landscaping business is not.

Commissioner Zelinske - stated that we are not impeding his business we are encouraging him to apply for another CUP.

Chairman Ferris – read the permitted and conditional uses for an M-1 and doesn't feel these would be appropriate in a residential area.

City Attorney Leth – a rezone is not in alignment with the Comprehensive Plan and believes there would be an issue in rezoning this to M-1. She would strongly recommend against a zoning amendment and a more appropriate route would be to have a conditional use permit and then, if the use were to change, the City would have more control. She noted that the City has asked Mr. Wilker more than once to apply for a new conditional use permit. He has applied, and then, through his attorney has withdrawn the requests.

Chairman Ferris – stated that originally Mr. Wilker applied for a conditional use permit for a nursery and it has morphed into a landscaping business that is not allowed in an R-1 zone.

**Motion to Deny the rezone to M-1 since it does not meet the goals of the City set forth by the Comprehensive Plan and encourages Mr. Wilker to come back to the City to Apply for a Conditional Use Permit made by Commissioner Burton, second by Commissioner Zelinske with All Voting Aye.**

**OTHER** - Nothing

ADJOURN 7:10PM

Respectfully Submitted,

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Linda Rappe, City Clerk