



PLANNING & ZONING COMMISSION REGULAR MEETING

Minutes

Monday, July 27, 2020 at 5:30 pm

HIAWATHA COUNCIL CHAMBERS (101 Emmons Street Upper Floor)

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1. Call to Order – Roll

Minutes:

The Hiawatha Planning and Zoning Commission met in regular session in the Hiawatha Council Chambers on July 27, 2020. Chairperson, Mark Powers called the meeting to order at 5:30 P.M. Board members present: Lisa Jepsen, Kenny Jones, Terry Trimpe and Mark Ross. Board members absent: Darryl Cheney and Kevin Neef. Staff present: Community Development Director Patrick Parsley, City Administrator Kim Downs and City Attorney Mark Parmenter. Guests in Attendance: Council Liaison Jerry Mohwinkle, Joni Adkins, Judy Avis, Nick Hatz, Marty & Kathy Labs, Matt Shock, Tom Byer, Amanda Ellickson and Rodney Hudepohl. Not all attendees signed in for the meeting. Guest who joined via Google Hangout: Felicia Richardson, Jo Ann Neppl and Todd Miller.

2. Approval of Agenda

Minutes:

Jones moved to approve the agenda. Seconded by Ross. **Motion carried.**

3. Approval of July 13, 2020 Special Meeting Minutes

Minutes:

Ross moved to approve the special meeting minutes of July 13th, 2020. Seconded by Jones. **Motion carried.**

4. Business

- a. **Consider Resolution for recommendation to City Council to approve the KNS Investment request to rezone Lot #1 of Hadish's First Addition in Linn County, Iowa from A to C-3 amending the Zoning District Map as specified in Ordinance 165 Section 165.17.**

Minutes:

Director Parsley started by introducing the property known as 3506 County

Homes Road. This item has been recommended by staff to rezone as requested for a C-3. Matt Shock is the owner representing that project. Matt Shock- 628 Ashford Drive, Cedar Rapids- KNS Investments has been working with staff to walk through the annexation process and moving forward with the C-3 rezoning request. We have owned the property for 3 years now and slowly making progress with removing the buildings over the last year. Just a way of bringing our property to the forefront. Part of working with staff to get the opportunity to get the property listed on the website for existing inventory with the city. I am here to answer any questions you might have.

Todd Miller- 3523 Timber Ridge Trail, Cedar Rapids- asked if it was normal procedure to take land from agricultural to C-3? To me this is not a minor adjustment.

Director Parsley explained this property was just annexed into the city of Hiawatha. Generally, property annexed into the city comes in as agricultural land use. In this particular case that is what happened. For the city of Hiawatha retaining it as an agriculture use is not part of our comprehensive plan. In this case the lot is designated in an area for commercial use because it is on a major highway.

Todd Miller- 3523 Timber Ridge Trail, Cedar Rapids- asked if it was normal to put commercial property next to residential homes.

Director Parsley explained in this case there is a border between the County and the edge of the city of Hiawatha. We do take into consideration what the County has done and where they look at their comprehensive plan along with our own. This area of the County is designated as an urban service area which is known to the County to be ready for rezoning when it becomes part of a city. With this being an urban service area, the potential is there for commercial zones to be next to residential. This can be done with the proper setbacks and limits on the types of commercial uses that are allowed. In this case it is a C-3 and anything that gets fairly major for a commercial use in this zone will require a conditional use process which enhances the screening and setback potential.

Todd Miller- 3523 Timber Ridge Trail, Cedar Rapids- asked what type of business plan to be put on this property.

Matt Shock- 628 Ashford Drive, Cedar Rapids- answered at this time we have no offers.

Amanda Ellickson- 3121 Norman Drive, Cedar Rapids- I was raised in this house and my family bought this house. For my family to buy this home and spend the money we spend to have that property what is holding this back from being residential at the very least. When Hiawatha tried to annex

Norman Drive in the past, they wanted everyone to pay to hook to city water. During a time like this especially with covid people don't have that kind of money. I want to know what is going to happen to my investment.

Kelly Baier- 3110 Norman Drive, Cedar Rapids- my land is adjacent to the proposed rezoning. As you know the burden is on the applicant to demonstrate the need to rezone and I don't see the need demonstrated for rezoning, no need was put forth in the application. For that reason, I ask that you not recommend this for rezoning and there are several reasons you should not recommend this for rezoning. Kelly read a letter of objection into the record (Attached).

Chairperson Powers requested a copy of Kelly Baier letter for the record.

Judy Avis- 3139 Norman Drive, Cedar Rapids- we have lived there for 46 year. We moved out there for the peace and quiet, if we wanted to live where there is commercial, we would have stayed in Cedar Rapids. We raised our daughters out there and now our grandkids are going to be getting married and are going to be having children. They will be coming to our house and play in the yard and we don't want commercial behind us.

Felicia Richardson- 3533 County Home Road, Cedar Rapids- we live across the street from the proposed rezoning. We have lived out here for 25 years. We like the rural setting. I leave my curtains open most of the time because I love the darkness at night, I can see the stars. I just want to stay I agree with the people who spoke before me that this is a rural setting there are no commercial business out here so far. There is a part by I-380 that is zoned C-4 but I see no reason for it to go further than that because all of the properties around here are zoned residential. I wanted to show my support for all of the other residents around here. Also, there are a few water easements one on my property and one on the property next to me. Those need to be taken into consideration on what needs to be done with those because there is definitely streams that go through our property.

Barb Matias- 3063 Brittany Circle, Cedar Rapids- I wanted to point out to the Council that Loggerhead Road which is now referred to as Edgewood road was rebuilt recently, bike trails and walking trails were built on both sides of that road making it pedestrian friendly. We love that because people have a safe place. Now we have a wonderful pedestrian area we are going to put commercial building by and it doesn't make sense. Why was that road completely reconstructed if this was the intention?

Mike Crilley- 3569 Timber Ridge Trail, Cedar Rapids- after all the trouble and cost to make a pedestrian friendly way where people can walk their dogs, ride a bike and the City even lowered that speed limit to a 35-mph speed limit, it was 45-mph. That is not a major thoroughfare. County Home Road and I-380

may be but Edgewood Road is not designated to be commercial. Everything along Edgewood Road to Miller Road is residential. So if you are looking at it to be a C-3 restricted and looking at the matrix not a lot is restricted in C-3 and if you are looking to put something commercial there that's going to increase traffic flow and that will create a problem for the corner of County Home Road and Edgewood Road. We moved out there 20 years ago to be away from the City lights and to be in the quiet. Seems like every 4 or 5 years it gets brighter coming from the South coming toward us. We think it can stop where it is now, that area does not have a demand for commercial. We are happy to go into Hiawatha and Cedar Rapids for it. If we wanted to be closer to the city we would have stayed in the city.

Steve Armstrong- 3520 Timber Ridge Trail, Cedar Rapids- Patrick you mention that if there were a case where they might look at putting heavy industrial or different type of facility or center there it would be augmented or permitted it would be conditional. I don't see anything on the current zoning matrix that says terms were conditional. Could you expand on what we can expect to be conditional.

Director Parsley explained if you look at the C-3 zoning matrix there are blank squares, permitted uses squares and conditional uses squares. Anything that's designated with a "C" would be a conditional use required. In the comprehensive plan for the city of Hiawatha and looking toward the future considering the corridor growth and what Hiawatha has in mind this neighborhood commercial zone fits in nicely with our comprehensive plan 2036.

Bill Schmelzer- 730 Kainz Drive- I don't live in your neighborhood, I live over by the Dave Wright dealership and I just wanted to let you all know no matter what you guys say or do nothing is going to happen. The city is going to do whatever they want to do and you have no control over it. When I bought my house in 2010, I had a horseshoe neighborhood with about 12 houses but since then the city and Dave Wright has taken over my neighborhood and now I'm down to 5 houses in my neighborhood. I can't sell to try to get out so basically it is a moot point for you guys to be here. It's a terrible situation for everybody. They will develop behind your houses, in front of your houses just for money. That is the way government is and that guy over there with a nice smile on his face has always been a smug guy throughout this whole situation, so you can't trust a word he says. Since 2010 when I bought my house on three quarters of an acre lot it was a nice treed neighborhood Couldn't hear the interstate, couldn't see Casey's from my house. I could enjoy a fire, a grill out with friends. Can't do that anymore. When I bought that house my wife and I had no kids, now we have two kids ages 7 and 4. We are

scared to let our kids outside because we have Dave Wright's cars going 25-35-mph down our street which is now a cul-de-sac that has an exit and entrance into Dave Wright's parking lot. I didn't come here for myself tonight, I wanted you guys to understand what we went through with Dave Wright's dealership coming to our neighborhood. So basically, right now I am surrounded right across the street from me is a parking lot, right next door to me is a parking lot and that's it. There use to be a park right next door to me, but now the greedy people of the city, Dave Wright and the developers have taken everything away from us. So, I just wanted you guys to know no matter what this city says or does its not going to be in your best interest.

Amanda Ellickson- 3121 Norman Drive, Cedar Rapids- So, I was born and raised out there then bought my parent home. I understand that property is gold, it will make you a lot of money and it would fit into any city's growth plan. I wish somewhere inside yourself you could find the heart to turn it into something residential. Please don't make my back yard and community that I have invested in dangerous and full of traffic. It wipes out any sentimental values of living there. You're going to do what you want but what I am asking for is for you to find a spot inside your soul where you can respect if someone was doing that to you. At least consider residential if you're not going to consider agricultural because it would be a nice residential area too.

Matt Shock- 628 Ashford Drive, Cedar Rapids- I want to point out right across the street from this property is C-4 and that property is located in Hiawatha. I just ask what the general public has in mind with residential because there are different types of residential I don't think it's appealing to have acreages on Edgewood Road next to a C-4 so we went with the approach that that basically the town village that we just didn't want to be at a disadvantage with the C-4 property in Hiawatha. We are just trying to move forward and get some interest and part of it to reduce friction that proactively trying to rezone on our own and like I said, not at a disadvantage with the property across the street from us

Kelly Baier- 3110 Norman Drive, Cedar Rapids- Mr. Shock, taking your rationale then there is no reason to ever stop zoning commercial, because if across the street is C-4 then why shouldn't you be able to rezone to C-3. Some of us with a little history here know about the C-4 property and that's a property Linn County would not zone commercial but once it was annexed into Hiawatha it was zoned C-4. It's a really good-looking corn field right now but it is zoned C-4. It would make a lot more sense to stop there and Edgewood Road be the determining factor as for some kind of buffer for the rest of us that are residential.

Doss asked with that in mind as a group would you consider residential in

ROSS asked with that in mind as a group would you consider residential in that spot.

Group response everyone agreed residential would be preferred over commercial.

Judy Avis- 3139 Norman Drive, Cedar Rapids- how come the people have owned this property for 3 years and have done nothing on it. You can't tell me they don't have plans to put a gas station or business places on it. How come all of the sudden after 3 year they decide to do something. I don't understand that.

Chairperson Powers commented please understand it is the right of the property owner to have the property zoned to his uses if it fits.

Kelly Baier- 3110 Norman Drive, Cedar Rapids- if he shows the need. We have not heard any reason, any need to rezone that property to C-3. Nothing in the application and nothing we have heard today.

Judy Avis- 3139 Norman Drive, Cedar Rapids- shouldn't we have been informed when the property across the street was rezoned from agriculture to commercial. We weren't told.

Director Parsley clarified the property to further east was rezoned 5 years ago and would have went through the same rezoning process.

Administrator Downs stated there were no questions or comments submitted via Google Hangouts or on YouTube livestream.

Guest asked the city attorney how we got into this habit of proactive zoning. I have purchased property myself throughout the years and I have gone through a zoning process but I had a buyer with specific needs or specific desires to put a facility on that property. I went to Cedar Rapids zoning to get the zoning changed to fit that particular need. Right now, we rezoning with nothing in mind. Are we getting the cart before the horse?

Attorney Mark Parmenter responded it can be done both ways. Patrick might be able to answer this more in depth.

Director Parsley added we see rezoning both ways. Sometimes the property owner makes the application, sometimes it is part of a purchase agreement and sometimes it is an applicant who wants to prepare their property and not have to go through the rezoning process in middle of a purchasing process. From a planning perspective we prefer this part of it because we don't get wrapped up in the specifics about what might be on site and what might not be on the site. rather we can talk the value in general terms. In this case we are looking at an area that was designated in our comprehensive plan as a neighborhood commercial business area. A place that could be a center of activity for the residents in that area. We look at those areas because the city is growing and the corridor is very fast-growing area, this particular area along I-380 with the interchange at County Homes Road we know that there is going

to be substantial traffic there whether its residential or commercial. It's highly unlikely that in given the new planning requirements or goals that cities have that incorporate sustainability and green construction that you will ever see commercial totally separated from residential because it is more convenient to be able to walk or ride a bike to some of the stores and amenities than it is to always have to get in your car to go down to the central business area. So, a lot of cities are taking these nodes into perspective. Unfortunately, this is a very recent comprehensive plan and it does indeed bring forward that concept and this is one of those locations.

Guest stated from my understanding what zoned C-3 with the best intentions could go out the door. Like the idea to put a little shopping center but later decide I'll get more money for a car lot.

Director Parsley stated that is correct. Anything that works for a C-3 would be in there. However, even if you change it to a C-3 based on a particular project you are not assured of that project because it could certainly change to any other C-3.

Guest asked what the downgrading from a C-3.

Director Parsley answered there isn't a downgrade or upgrade. It's more of the differences in each zone. In this area we look at the C-4 to the east then we go to a C-3 and there might eventually be an incorporation of multi-family dwellings before we even get to the single-family dwelling and there may even be high density residential not multi-family and single family building such as row housing. So, there are quite a variety of things that it can still be.

Guest asked what would be less impactful.

Director Parsley answered presently being an agricultural zone and being recognized by the County as a transition zone we are moving in the exact direction that was intended.

Amanda Ellickson- 3121 Norman Drive, Cedar Rapids- what about the rights of the people who own their property.

Public meeting closed at 6:18 Chairperson Powers asked if the board members had questions.

Ross asked for clarification on option for tonight; 1. consider resolution to recommend to approve or deny 2, does the City Council have final say on this or is it dependent on what we vote.

Chairperson Powers clarified City Council has the final say.

Ross replied so no matter if we approve or disapprove, we are just recommending.

Jepsen asked with having little history of the application process are they typically silent as to the reason for the required need for the rezoning or whether it is enough of a reason to say the rezoning will be consistent with the future land use plans.

Director Parsley answered generally we receive rezoning requests because the owner has either found some use for it that it is not zoned for or it is initiated by the city council or an annexed property comes into the city as agricultural and there is desire change it to a different zone.

Chairperson Powers asked if the board had any other questions.

Trimpe moved recommendation to City Council to approve the KNS Investment request to rezone Lot #1 of Hadish's First Addition in Linn County, Iowa from A to C-3 amending the Zoning District Map as specified in Ordinance 165 Section 165.17. Seconded by Chairperson Powers.

AYES: Trimpe, Jepsen, Powers

NAYS: Jones, Ross

ABSENT: Cheney, Neef

Motion Carried.

Resolution #20-009 Approved

- b. Consider Resolution for recommendation to City Council to approve the Next Level 22 request to rezone Auditor's Plat 372 lots 16, 17 and 23 in Linn County, Iowa from R-1 to C-3 amending the Zoning District Map as specified in Ordinance 165 Section 165.17.**

Minutes:

Director Parsley introduced Nick Hatz a representative for the owner of this property for this rezoning and started by introducing the Dave Wright rezoning properties going from R-1 to C-3. The properties have been developed as Dave Wrights property. One of them used to be a park and the other two are presently detention basins on Boyson Road. The request is for Dave Wright to be able to use his dealership license on all the parcels so he is seeking a rezoning for the R-1 parcels to C-3.

A map of the lots being affected by this rezoning was displayed on the screens for the board members and audience present.

Ross asked if this was a topic that was voted on a year ago.

Director Parsley answered this project has been a three-part process starting back in 2014 for the rezoning of this area in compliance to our comprehensive plan and yes it has slowly been moving towards a commercial zoning. In 2018 he added space for his dealership and now in 2020 he's adding more parcels he already purchased and developed.

Jones asked the parking lot in relation to the rezoning. The parking lot was intended to be used for overflow parking for the dog park.

Director Parsley answered there is a public use mandate that goes along with the property and also with the detention basin properties which is separate from this rezoning. That is presently still in place and it is a requirement in place that is the County's responsibility to monitor and whether we change

the zoning to C-3 it will have no bearing on that.

Jones asked what percentage of parking is supposed to be for the dog park. Director Parsley answered it's an agreement between the owner and the county.

Nick Hatz added there was a land swap associated with these parcels. Dave Wright gave the County the land for the dog park in transfer for these parcels. Chairperson Powers asked about the landscaping and screening screen shots provided in the packet. Is maintenance to that landscaping and screening requirements in place.

Director Parsley answered yes, he is required to maintain the screening.

Nick Hatz added he does need to maintain the screening; he just needs to be made aware of that if he is outside of the ordinance.

Chairperson Powers asked if the audience any questions or comments

Matt Callanan- via phone- an attorney representing the Schmelzers and

Backens stated he drafted a letter he sent in to the city in opposition of this proposal.

Chairperson Powers asked if the city has received the letter to be made part of the record.

Clerk Stinson responded we have received an email to be submitted on

record: Clerk Stinson read the letter of objection into the record. (Attached)

Jones asked what percentage of the parking lot is for the dog parking and for his use.

Attorney Mark Parmenter answered there is no stated percentage in the conveyed documents from the County to Dave Wright as it relates to lot 23, it just says shared use between public purpose which would be up to the County to enforce if there is shared parking between the two.

Ross asked how the County engaged with this. Is the dog park part of the county now?

Director Parsley answered there was a land swap as part of this whole thing and Mark Parmenter, the City's representative could clarify.

Attorney Mark Parmenter added originally lots 16 and 17, as they are now, are retention area. Lots 16, 17 and 23 where conveyed by the county to Hiawatha years ago. In the deed there was a requirement that lots 16, 17 and 23 were used for a public purpose. Clearly lots 16 and 17 as a retention pond would be a public purpose, clearly a park is a public purpose. So, Dave Wright had acquired this property now known as the dog park. His proposal was to do a land swap but the city couldn't swap any land with him because there is a requirement in the deed when it went from county to the city that it must remain a public purpose so it's not our land to convey to anyone. What the city did was conveyed its interest by quit claim back to the county, along with lots 16 and 17. Dave Wright then conveyed his interest where the dog park is

now to the county, that's the land swap. Then what the county did is it conveyed the dog park to the city but it still has that requirement that it has to be for a public purpose. So as long as the city continues to use it as a dog park or other public purpose the city continues to control it. So, the county has conveyed lots 16, 17 and 23 to Next Level 22 and there is a requirement in the deed and agreement that the shared parking, lot 23 is for overflow from the trailhead park. Lots 16 and 17 must remain a retention pond that Dave Wright is now required to maintain. The city no longer maintains lots 16 and 17.

Chairperson Powers asked if the board had any other questions.

Chairperson Powers moved recommendation to City Council to approve the Next Level 22 request to rezone Auditor's Plat 372 lots 16, 17 and 23 in Linn County, Iowa from R-1 to C-3 amending the Zoning District Map as specified in Ordinance 165 Section 165.17. Seconded by Jones.

AYES: Jepsen, Powers, Ross

NAYS: Jones, Trimpe

ABSENT: Neef, Cheney

Motion Carried.

Resolution #20-010 Approved

c. Consider Resolution for recommendation to City Council to vacate the north 30 feet of Brandon Avenue Hiawatha, Iowa right of way as requested by City Council on July 15, 2020.

Minutes:

Director Parsley displayed a map on the screens for the board members. He explained on Brandon Avenue on the north end is a dead end and what has happened during the platting process the north 30 feet was platted as right of ways as a separate plat from the original Reynold's 1st plat. These 30 feet were set aside for right of way. Sewer and water are located inside this area. The Community Development memo does mention if we do make a recommendation to vacate this as public right of way there would be a couple of things we would want to do. First, a turnaround shall be provided at the end of the Brandon Avenue ROW as approved by the City Engineer. Second, a utility easement shall be recorded for access to existing sewer and water lines. The requestor is present Rodney, he owns the adjacent properties. Rodney Hudepohl- 840/850 Robins Road- I have owned the property for 6 years now and over the course of that time I've made many improvements to the complex as far as new doors and seal, landscaping and asphalt but with in the last few months the has been an uptick in vandalism of my tenants units and I am trying to curtail that by putting up a perimeter fence around the entire property with and electric gate.

Jones asked how tall of a fence would you be wanting.

Rodney Hudepohl- 840/850 Robins Road- replied a standard fence, so 6 feet. Director Parsley explained in Rodney's current situation he would have to run the fence around the 30 foot right of way that extends into his property. With the vacation of the right of way he could run his fence across the vacated way and make it a gate. There would be ramification with the gate which would be address at the time of permitting.

Ross asked how public works currently plow snow in that area.

Director Parsley answered currently that last 30 feet of right of way is paved all the way across the 60 feet so the vehicles can turn around without going on private property.

Jones asked about fire truck access.

Director Parsley answered it's a little tight for a fire truck but it would be no different as it is right now if the contingency is to create a turnaround that is the same dimensions as it is now.

Chairperson Powers asked if the board had any other questions.

Ross asked what all the contingencies were.

Director Parsley replied there were four contingences: 1. A turnaround shall be provided at the end of the Brandon Avenue ROW as approved by the City Engineer 2. A utility easement shall be recorded for access to existing sewer and water lines 3. The petitioner shall agree to pay for a Plat of Survey to be prepared and recorded at Linn County. 4. Plans must be reviewed and permits issued before any construction of a fence.

Ross moved recommendation to City Council to vacate the north 30 feet of Brandon Avenue Hiawatha, Iowa right of way as requested by City Council on July 15, 2020 with the following contingencies. 1. A turnaround shall be provided at the end of the Brandon Avenue ROW as approved by the City Engineer. 2. A utility easement shall be recorded for access to existing sewer and water lines. 3. The petitioner shall agree to pay for a Plat of Survey to be prepared and recorded at Linn County. 4. Plans must be reviewed and permits issued before any construction of a fence. Seconded by Chairperson Powers.

AYES: Trimpe, Ross, Jepsen, Powers, Jones

NAYS: None

ABSENT: Cheney, Neef

Motion Carried.

Resolution #20-011 Approved

5. Adjourn

Minutes:

Jones moved to adjourn the meeting at 7:14 P.M. Seconded by Chairperson Powers.

Motion Carried.

Planning & Zoning meetings will also be conducted electronically through an electronic format until further notice due to the concerns regarding person-to-person transmission of the COVID-19 virus. The meetings are also broadcasted live on the City's YouTube channel. You can join the July 27th meeting by going to: meet.google.com/bmo-jguw-dpn

Contact: Tiffany Stinson (tstinson@hiawatha-iowa.com 319-393-1515) | Minutes published on 09/03/2020, adopted on 08/24/2020