

PLAN AND ZONING COMMISSION MEETING

PZ_AF_07-16-2018

Chairperson Erickson called the regular meeting of the Plan and Zoning Commission to order at 5:30 p.m. on Monday, July 16, 2018, in the Council Chambers of the West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines.

Roll Call: Andersen, Costa, Crowley, Erickson, Hatfield.....Present
Drake, Southworth.....Absent

Item 1 - Consent Agenda

Item 1a - Minutes of the meeting of July 2, 2018

Chairperson Erickson asked for any comments or modifications to the July 2, 2018 minutes.

Moved by Commissioner Crowley, seconded by Commissioner Andersen, the Plan and Zoning Commission approved the July 2, 2018 meeting minutes.

Vote: Andersen, Costa, Crowley, Erickson.....Yes
Hatfield.....Abstained
Drake, Southworth.....Absent

Motion carried.

Item 2 – Public Hearing

Item 2a – Somerfield PUD, SE Corner of Mills Civic Pkwy and S. 50th St - Amend the Somerfield PUD to modify buffer park regulations - Kyle & Maureen Barton - ZC-003948-2018

Chairperson Erickson opened the public hearing and asked the Recording Secretary to state when the public notice was published. The Recording Secretary indicated that the notice was published in the Des Moines Register on June 29, 2018.

Chairperson Erickson asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Commissioner Hatfield, seconded by Commissioner Andersen, the Plan and Zoning Commission accepted and made a part of the record all testimony and all other documents received at this public hearing.

Vote: Andersen, Costa, Crowley, Erickson, Hatfield.....Yes
Drake, Southworth.....Absent

Motion carried.

Chairman Erickson noted that there were two letters on the dais. One letter expressed support of the applicant by a neighbor. The second letter was provided by the applicant detailing their request.

Chairman Erickson informed the applicant that the Commission supported the construction of a fence for safety reasons, but requested that the applicant limit comments to those related to the location of the fence as that was the decision the Commission would be making.

Kyle & Maureen Barton, 4931 Fieldstone Drive, West Des Moines, presented views of their property with vegetation and landscaping, noting lack of privacy and safety concerns with proximity to I-35 and commercial properties. Mr. Barton stated that installing the fence through vegetation would require

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zigzagging or removal of ten trees. He noted that there was a lot of poison oak and poison ivy in the area, plus two pine trees by the sidewalk and some mulberries. He stated that there is not a place to put a fence except on the front end by the sidewalk. He added that he allows weeds to grow to create a natural fence, and regularly receives notice from the City to remove the weeds or be fined \$600. Mr. Barton showed progress of landscaping from purchase of home to date. The previous owner had removed much of the landscaping, and Mr. Barton is improving his property. He listed criminal activity in the area since purchasing the home, adding that his neighbors have not had any crime recently since installing their own fence. Mr. Barton added they have a lot of trash blown onto their property from adjacent commercial dumpsters, and noted that there will be more commercial development across the street. Mr. Barton thanked his neighbors for coming to support his request.

Chairman Erickson asked Mrs. Barton if she would like to add anything. Mrs. Barton stated that the fence would not fit at the 15' setback location. She stated that by placing the fence next to the sidewalk, it would not affect people's travel or the Right of Way area.

Chairman Erickson commented that it seemed the Barton's were at cross-purposes, allowing low value trees for screening but not wanting to remove them. Mr. Barton responded that there are pine trees next to the sidewalk, and better trees are located back in the 15 foot setback area.

Brad Munford, Development Services Planner, presented history of the PUD. He stated that the parcel was platted in 1995. The PUD was created in 1992, and has been amended six times. The City created a 60' buffer to enhance the streetscape area of the larger arterial streets. Required landscaping on this parcel was installed and later a large part of it was removed by a previous homeowner. Corner lots in this PUD were platted wider to accommodate the required buffering. The PUD language prohibits fencing within the 60' buffer zone. The north location of the fence is not in question. Fencing along the west side of the parcel would need to be at the 60' buffer line. If the Commission removed the fence language from the PUD, the fence could be allowed 15' back from the property line, as required by Code for corner lots. The Subcommittee was asked their opinion on May 28, 2018 and were supportive of the 15' distance to the property line, with half of the landscaping being required for a 30' buffer. Additionally, the sketch plan of the PUD needs to be corrected as the City legal department determined that a clerical error in 1997 inadvertently omitted Parcel C. Staff will update the map to show that Parcel C is still included in the PUD.

Commissioner Andersen questioned why several of the photos presented showed fences closer to the property line. Planner Munford replied that some applicants came forward with a variance; some didn't get building permits; others were grandfathered in. Staff does not police the City for fences. More people have been denied variance applications than approved.

Chairman Erickson asked why this application was being reviewed by the Plan & Zoning Commission, rather than the Board of Adjustment as a zoning issue. He stated that it seems like a strange issue for the Commission to rezone a property based on a single fence. The Board of Adjustment could consider this based on hardship. Planner Munford replied that it was brought before the Plan & Zoning Commission on advice from the City Attorney as it is part of a PUD. Zoning is not the issue prohibiting the fence's location.

Chairman Erickson clarified that the PUD negates the zoning. Planner Munford affirmed the City Legal department recommended dealing with the issue by amending the PUD rather than rezoning. He added that this is different from setback in straight code.

Chairman Erickson stated he had done research on Google and also went out this week to measure fences along 50th Street, noting that almost all are located 30' back of the sidewalk. He asked why a corner lot requires a 60' buffer. Planner Munford replied that there was a sub-area of the 1995 comp plan which required 60' foot buffers.

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Chairman Erickson added that he wanted to be fair to the applicant but there are other owners further down the road who would like more yard.

Chairperson Erickson asked if anyone for the audience would like to speak to this item.

Michael O'Mara, 4621 Fieldstone, West Des Moines, stated he has lived there since 2002. He expressed appreciation for being able to go online and read all the documents there. He agreed that it sounded like a zoning issue. He expressed support of the Barton's request, noting they have made great improvements to the property; he said they work hard, and are an enhancement to the neighborhood and the community. He encouraged the Commission to balance the interests of residential property owners with commercial interests. He noted that there have been six amendments to the PUD in favor of commercial interests. This situation would be good for an amendment. The effect to the area is minimal. The property owners are going to improve the street appeal, the usage, not only to people driving, and pedestrians. With impending commercial development to the West, they want to make that walk inviting and enhance it as best as they could. He was here in favor of the Barton's, speaking in support.

Jim Simpson, 4930 Fieldstone Dr, West Des Moines, stated he lives directly across the street. He commented on development of the fencing and lights on S. 50th Street. Most of that area on the east side has a berm, a 4' area with trees, installed before PUD was established. He stated there is a 30' barrier. The other side is concrete with a 30' setback. There is also an easement of 30' on each side, as well. The owner wants to fence his property to improve it and keep garbage from flowing in. Mr. Simpson noted that he picks up trash as well. In the back part of the property are trees, brush, and wildlife. We don't need garbage in there. He believes a fence is logical where Mr. Barton wants to put it, removing non-valuable trees and making the property look better. The buffer was put in originally by Hubbell. They put aspens, pines, hundreds of trees. He added that he will need to maintain the trees on his lot, some of which are overgrown. He feels owner is entitled to block the view of the commercial, and the indoor storage unit being built across the street. He concluded that the PUD established in 1995 should be changed.

Jon Kelderman, 4917 Fieldstone, West Des Moines, stated he lives right next door to applicant. He said he could attest to the garbage, and that the Barton's were closer to commercial property. He commented that when his family moved in, there was open field all the way to Valley Church. Walgreens wasn't there. There wasn't a lot of commercial. Now it's right on top of them. He concluded that he was there to speak in support of the Barton's.

Chairperson Erickson asked if anyone else from the audience would like to speak to this item; seeing none, closed the public hearing and asked for continued discussion or a motion.

Commissioner Andersen said she supported removing the fence language from the PUD, but was also in support of letting the Barton's have the fence next to the sidewalk. She asserted that tearing down the trees to put a fence through the middle of the landscaping barrier would look worse.

Development Director Lynne Twedt responded that the Commission would need to direct staff to write language to allow fencing at the property line; to just remove the fence language from the PUD would result in application of code which would be a 15' setback and thus would require a variance. She added that the Board of Adjustment does not rule on PUDs because they are zoning regulations intended to address code requirements in unique circumstances. The PUD was put in place via the Commission and Council and therefore modifications to it are also via the Commission and Council. Additionally, the easement document prohibiting a fence in a buffer zone can only be changed by Council action.

Commissioner Andersen questioned whether they would need two motions, one to remove from the

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PUD, and one to allow the fence at the property line. Director Twedt responded that the Commission could make a motion allowing the fence within the buffer and stating where it should be allowed – at zero setback, 4' setback, 8' setback, etc.

Commissioner Hatfield stated that he agreed with Commissioner Andersen's position and would support both of those.

Commissioner Crowley commented that a setback 2 to 3 feet off the sidewalk would make sense; whatever would be safe. He noted that others along 60th Street have not been allowed a variance and have to live with a 30' setback, but I really see with the commercial use and the traffic there along 50th Street, I think it's a good use of the fence.

Chairman Erickson disagreed. He believed the visual impact of a fence would be too much, with everything else going on in that area. He thought they were being set up with the trashy trees; being told that the owner will clean it up when the fence goes up. Instead, better landscaping could be put in today; the Scotch pine will die sometime soon and the ash will need to be replaced, adding that we all have the same responsibility as homeowners to trim and replace unsafe trees on our property. He stated that the 15' setback is a reasonable compromise, allowing 45' additional relief from what they see as too much of an impingement into their yard. This protects the public right of way a little more, it protects the people who've invested in maintaining their buffer for the next mile and ½ south. Chair Erickson expressed sensitivity to the applicant's desire for safety and mitigation of the of the garbage issues, he feel that putting the fence right at the public right of way is impacting to the rest of that experience. He noted that Planner Munford commented on the City intent to create a parkway, and investing in public infrastructure is part of the signature look of West Des Moines. There needs to be a balance between what the property owner is trying to achieve, which is reasonable, against the impact to the public realm and the investment the City has made in our parkways.

Commissioner Costa stated he supported a 15' setback. He added that it looks like the back area is not being used as backyard currently. He believed anything that encroaches on a ROW looks trashy, and affects people. A 15' setback provides them with a safety net to keep people from coming into their yard, and trash.

Commissioner Hatfield said that the image on the screen tells the story the Barton's are dealing with. The dumpsters to the north aren't properly screened from the ROW; he recommended a setback closer to the sidewalk in a snow removal area is better; maybe 4' away to allow for snow piles.

Commissioner Costa replied that he wasn't sure how 4' from the ROW affects the north area.

Commissioner Hatfield stated that if the sidewalk and the fence are within 4' of each other, traveling from the north, your attention will be theoretically drawn from the dumpster and the cars.

Commissioner Costa asked if the 15' fence would do the same. Commissioner Hatfield didn't believe it would.

Commissioner Crowley commented that this is the same situation up on 60th and Ashworth where the bike shop was, adding that there's a fence there, because of the commercial application.

Moved by Commissioner Andersen, seconded by Commissioner Hatfield, the Plan and Zoning Commission adopted a resolution recommending the City Council approve an amendment to the Somerfield PUD allowing a fence within the 60' buffer zone, located 4' from the west property line, with the following condition of approval:

Condition of Approval

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1. Prior to issuance of a Fence Permit for a 6' privacy fence within the S. 50th Street buffer, the applicant providing written confirmation and a landscape plan demonstrating the minimum landscape vegetation as required per the PUD is, or will be located between the fence and the S. 50th Street ultimate right-of-way.

Vote: Andersen, Crowley, Hatfield.....Yes
Costa, Erickson.....No
Drake, Southworth.....Absent

Motion carried.

Commissioner Andersen left the meeting at 6:16 p.m.

Item 3 – Old Business

There were no Old Business items to address.

Item 4 – New Business

Item 4a – Aventura at Greenway Crossing, 9065 Bishop Drive – Approval of a Site Plan to Construct 62 unit Senior Apartment Building – Hubbell Realty Company - SP-003748-2018

Andy Maurer, McClure Engineering Co., 1360 NW 121st St, Clive, stated he was representing the applicant, and with him were Sadie Kleppe and Eric Bohnenkamp from Simonson & Associates. He detailed the site plan for the proposed 3 story, 40,000sf senior living building, noting parking requirements, detention ponds, stormwater management and underground parking.

Commissioner Costa asked if the units would be for lease or for sale. Mr. Maurer replied they were for sale.

Commissioner Hatfield asked if the applicant was in agreement with staff recommendations. Mr. Maurer affirmed that they are.

Kara Tragesser, Development Services Planner, stated she had nothing to add but was in support of the site plan as presented.

Chairperson Erickson asked if anyone from the audience would like to speak to this item; seeing none, asked for continued discussion or a motion.

Moved by Commissioner Crowley, seconded by Commissioner Hatfield, the Plan and Zoning Commission adopted a resolution recommending the City Council approve the site plan to construct a 62 unit senior apartment building at 9065 Bishop, subject to the applicant meeting all City Code requirements and the following:

1. That the ordinance amending the Greenway Crossing Planned Unit Development is adopted, prior to obtaining a building permit.
2. The Parkland Dedication Agreement is executed prior to obtaining any building permit.
3. That when the mechanical units and utility meters are installed, whether on the ground, building or on the roof, that opaque screening will be added to satisfy screening requirements of the city code.
4. That the access road is constructed west and south to a public street, according to the agreement with Hubbell Realty Company dated February 18, 2018, and recorded in the Dallas County

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Recorder’s Office at Book 2018 Page 2467, prior to any occupancy permit, including temporary occupancy.

Vote: Costa, Crowley, Erickson, Hatfield.....Yes
Andersen, Drake, Southworth.....Absent

Motion carried.

Item 4b– Wolfe Clinic Surgery Center, 6100 Westown Parkway – Approval of Major Modification to a Site Plan to allow full construction of a surgery center building with site modifications – Wolfe Eye Clinic – MaM-003821-2018

Jim Host, Confluence, 525 17th St, Des Moines, stated he came to the Commission with a phased site plan a couple months ago. Since that time, they had resolved architectural issues and access agreements. They were in agreement with City staff for rooftop screening; and in agreement with all conditions in the staff report.

Mackenzie Locey, Development Services Associate Planner, stated she had nothing to add; but pointed out the suspending of terracing requirements on the loading dock retaining wall.

Chairperson Erickson asked if anyone from the audience would like to speak to this item; seeing none, asked for continued discussion or a motion.

Moved by Commissioner Hatfield, seconded by Commissioner Costa, the Plan and Zoning Commission adopted a resolution recommending the City Council approve the site plan subject to the applicant meeting all City Code requirements and the following:

Conditions of Approval

1. City Council granting a waiver from City Code (Section 9-14-11 B1d) stating no single wall face shall be greater than six feet (6’) in height without terraces to break up the wall expanse.
2. The applicant acknowledging and agreeing to ensure consistency in the pattern of the concrete forms and fasteners utilized for the concrete retaining walls.

Vote: Costa, Crowley, Erickson, Hatfield.....Yes
Andersen, Drake, Southworth.....Absent

Motion carried.

Item 5 – Staff Reports

Item 5a-There was a memo on the Dais regarding the withdrawal of the application for Della Vita Townhomes Phase 2 Site Plan. This item was deferred at the July 2, 2018 Plan & Zoning Commission meeting to July 16, 2018. The applicant has tabled the item indefinitely. No re-noticing is necessary as it is not a public hearing matter.

Item 6 - Adjournment

Chairperson Erickson adjourned the meeting at 6:21 p.m.

Craig Erickson, Chairperson

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Jennifer Canaday, Recording Secretary

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