

# PLAN AND ZONING COMMISSION

PZ AF 06-28-2021

Chairperson Andersen called the regular meeting of the Plan and Zoning Commission to order at 5:30 p.m. on Monday, June 28, 2021, in the Council Chambers of the West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines, and Electronically through Zoom.

Roll Call: Andersen, Conlin, Costa, Crowley, Drake, Hatfield, Davis....Present

## **Item 1- Consent Agenda**

Item 1a – Minutes of the meeting of June 14, 2021

Chairperson Andersen asked for any comments or modifications to the June 14, 2021 minutes.

Moved by Commissioner Hatfield, seconded by Commissioner Conlin, the Plan and Zoning Commission approved the June 14, 2021 meeting minutes.

Vote: Andersen, Conlin, Costa, Crowley, Drake, Hatfield, Davis.....Yes  
Motion carried.

## **Item 2 – Public Hearings**

There were 4 Public Hearing items.

### **Item 2a – Westowne Center Planned Unit Development, west side of 22nd Street between I-235 and Westown Parkway – Establish the Westowne Center Planned Unit Development Ordinance to govern development of the existing shopping center – Westowne Center Associates – ZC-005069-2021**

Chairperson Andersen 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 18, 2021**.

Chairperson Andersen 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 Crowley, seconded by Commissioner Conlin, 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, Conlin, Costa, Crowley, Drake, Hatfield, Davis.....Yes  
Motion carried.

Aaron Mesmer, Block Real Estate Services, 4622 Pennsylvania Avenue Suite 700, Kansas City, MO, introduced Scott Lipovac, and provided a comprehensive overview of their \$4.5 million proposal for renovation and façade improvements to the Westowne Shopping Center. Mr. Mesmer noted areas of disagreement with Staff, particularly the restriction on uses, sign size and parking modifications. He provided areas where they have compromised with Staff requests, and listed barriers to meeting full compliance even over 40 years into the future.

## PLAN AND ZONING COMMISSION

Scott Lipovac, Score Development, 4450 J C Nichols Pkwy, Kansas City, MO, explained the importance of the sign size, noting that rather than cluttering the front of the site with multiple monuments, they preferred to consolidate onto one larger sign.

Planner Bryce Johnson summarized a memo provided to the Commission on the dais outlining differences to be decided with the applicant. Mr. Johnson also informed that the impetus which began this process to write the PUD was caused by a request by McDonalds request for a Plat of Survey. The parcel did not comply with the minimum lot size for regional commercial use, so a condition of approval was to write a PUD which would establish a minimum lot size to make the lot size legal. Non-conforming setback issues, parking, landscaping, open spaces, internal drives were addressed with the PUD. The PUD identifies two specific sign issues, ground monument with a maximum size of 7' tall, 64sf sign area; It was noted that they are eligible for two interstate signs. Planner Johnson informed that his research did not find other interstate signs where the City deviated from Code to allow exceeding the maximum size.

Commissioner Conlin questioned the sign restriction and asked if there were other issues beyond code requirements. Development Coordinator Schemmel responded that at this point in the process, the request for the size of the sign does not comply with code so that is what is being discussed. Other issues which would require review would include placement and visibility obstruction. Ms. Schemmel informed that the sign code was updated 3-4 years ago, and it's very important to apply the code consistently to all applicants. Granting exceptions could lead to increasing height requests as each applicant may want a larger sign than the previous applicant.

The applicant was provided with an opportunity to comment on the issues stated by Staff. Mr. Mesmer informed that they don't believe they will be able to bring the center into compliance. As the drive aisle dimensions are adjusted, the number of parking spaces lost makes it untenable. Also, he noted future tenants would not want a reducing parking area.

Mr. Mesmer listed concerns they have with the uses being restricted. He informed that he hadn't seen the list of prohibited uses until a week ago, although they had been working on this PUD since February. He commented on which uses they questioned being restricted. Mr. Mesmer also pointed out areas they are trying to accommodate regarding the landscaping, and how some of the requirements could not be implemented. He concluded with support for the request for increased size for one size rather than multiple smaller signs.

Development Coordinator Schemmel responded that the use restrictions were based on parking requirements for specific uses which exceed availability at the center, and that some uses were deemed inappropriate for a shopping retail area.

Commissioner Costa questioned whether the applicant knew about the PUD process prior to a week ago. Mr. Mesmer responded that they had been working on the PUD for several months, however, hadn't seen the use restrictions until a week ago, and also the traffic caps had not been a discussion topic prior to this week. He stated they had been talking about the signage, parking stalls, and landscaping issues during the whole process.

Commissioner Crowley asked if the applicant had done any due diligence prior to closing this deal, to see what they could and couldn't do with the property. Mr. Mesmer replied that they absolutely had, including due diligence on the storm water agreement in place.

## PLAN AND ZONING COMMISSION

Director Twedt clarified that some of the uses considered as restricted were not prohibited but would have size restrictions. Other uses with an outdoor component were considered not feasible due to the parking limitations, however it did not prohibit an indoor use. Mr. Mesmer objected to agreeing to restrictions over the perpetuity of the PUD. Director Twedt pointed out that PUD amendments are common. Mr. Mesmer commented that limiting the uses based on anticipated high traffic volume, when they were located on a major arterial, didn't support the shopping center. Director Twedt clarified that the use restrictions were based on anticipated parking needs. Mr. Mesmer stated there hasn't been a parking problem for 30 years, so they didn't want to do something that would create a parking problem.

Commissioner Crowley recommended tabling the item this evening as he didn't feel they would come to an agreement, and encouraged the developer to work with Staff to come up with a plan that would work for the applicant and for the City. Commissioner Conlin seconded the motion and added a comment regarding uses with terms that weren't defined. He hoped that the discussion would include taking time to define the uses. Development Coordinator Schemmel clarified that there is an SIC manual which defines the uses. She asked if the item is being tabled to a specific date. Chair Andersen asked if the applicant would like to bring the item back to the next meeting.

Mr. Mesmer responded that they do not want further to delay in the process which was started in February. He noted they've been continued on this meeting once, and continued on the subcommittee meeting once as well, so they feel they've already lost a lot of time in the process. He expressed their desire to advance this prior the holiday blackout season, in hopes of completing the renovations this year. He agreed that they'd like to come back as quickly as possible, however he did not feel they would change their position over the next week or so.

Commissioner Conlin asked if they wanted to go forward with an up and down vote this evening. Mr. Mesmer stated their contractor is ready to go and they've had a lot of discussion already. He noted that Staff had pointed out that one of the options was for the Commission to provide feedback on some of the items but allow the project to move forward.

Chair Andersen responded that normally these documents don't come before the Commission with so much that needs work, and so the Commission is requesting that the Applicant work through these issues with Staff over the next two weeks and come back with a proposal that is buttoned up and ready to go. The Commission can then act on it quickly. She stated this is the Commission's recommendation and she expressed her confidence that the Applicant could make that happen in the next two weeks.

Commissioner Hatfield called for a vote.

Moved by Commissioner Crowley, seconded by Commissioner Conlin, the Plan and Zoning Commission approved a resolution deferring Item 2a to July 12, 2021.

Vote: Andersen, Conlin, Costa, Crowley, Drake, Hatfield, Davis.....Yes  
Motion carried.

**Item 2b – Ordinance Amendment, Amend Title 9 (Zoning), chapter 2 (Zoning Rules and Definitions), Section 2 to add a definition for Drive-In Theater Seasonal – City Initiated – AO-005189-2021**

## PLAN AND ZONING COMMISSION

Chairperson Andersen 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 18, 2021.

Chairperson Andersen 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 Drake, seconded by Commissioner Crowley, 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, Conlin, Costa, Crowley, Drake, Hatfield, Davis.....Yes  
Motion carried.

Planner Bryce Johnson summarized the text amendment defining seasonal use of a drive-in to accompany a recent temporary use approval for outdoor theatres.

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

Moved by Commissioner Crowley, seconded by Commissioner Costa, the Plan and Zoning Commission approved a resolution recommending the City Council approve the Ordinance Amendment to City Code.

Vote: Andersen, Conlin, Costa, Crowley, Drake, Hatfield, Davis.....Yes  
Motion carried.

### **Item 2c – Galleria, 645 S 60<sup>th</sup> Street – Amend Comprehensive Plan Land Use Map and Amend the Galleria Specific Plan Ordinance to designate and regulate Regional Commercial (RC) within Lot 1, Galleria at Jordan Creek Plat 9 – Chilipeppers, LLC – CPA-005014-2021/ZC-005015-2021**

Commissioner Drake recused herself from this item.

Chairperson Andersen 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 18, 2021.

Chairperson Andersen 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 Crowley, 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, Conlin, Costa, Crowley, Drake, Hatfield, Davis.....Yes  
Motion carried.

Doug Seidenberg, representing Chilipeppers, 1350 NW 138<sup>th</sup> Street, Suite 450, Clive, presented their request to amend the comp plan to allow a regional commercial use of the area in addition

## PLAN AND ZONING COMMISSION

to the existing office use. He explained that they have been unsuccessful in marketing the space as office, however they would like to retain that as a potential future use.

Planner Brian Portz added that this is a comp plan amendment and a specific plan ordinance amendment. The current PUD restricts one car wash to the area. Staff asked the applicant to contact all three property owners in the area (that have the potential to locate a car wash on their property) regarding the potential use of a car wash on lot B-1 (the applicant's property). Two property owners responded with a written agreement indicating their agreement and the third property owner did not respond. It was written into the specific plan to allow a car wash on the site, in addition to other potential uses. Commissioner Costa clarified that there are three owners of lots who could potentially have car washes, and only two responded. Planner Portz affirmed that to be true.

Commissioner Drake requested that the motion include an exception to SIC 5812 Eating Places and SIC 7997 Membership Sports and Rec Clubs. Planner Portz clarified that these two exceptions are in the existing code and apply to lots B-2 and D, not the property in question. He noted that this was not a change, this is an existing code.

Development Coordinator Schemmel questioned whether it would not be allowed under the current office zoning, but it would be allowed under the regional commercial zoning. Planner Portz stated that B-2 remains office and that section being discussed is not allowed in the Office PCP designation. Development Coordinator Schemmel concluded that those restrictions would now only apply to Building B-2 and D. Mr. Portz affirmed and stated B-1 was removed from this use and therefore the restriction did not apply.

Commissioner Drake thanked Planner Portz for the explanation and stated that it made sense.

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

Moved by Commissioner Crowley, seconded by Commissioner Conlin, the Plan and Zoning Commission approved a resolution recommending the City Council approve the Comp Plan Land Use Amendment subject to the applicant meeting all City Code requirements.

Vote: Andersen, Conlin, Costa, Crowley, Hatfield, Davis.....Yes  
Drake.....Abstain  
Motion carried.

Moved by Commissioner Hatfield, seconded by Commissioner Crowley, the Plan and Zoning Commission approved a resolution recommending the City Council approve the Rezoning request, subject to the applicant meeting all City Code requirements.

Vote: Andersen, Conlin, Costa, Crowley, Hatfield, Davis.....Yes  
Drake.....Abstain  
Motion carried.

PLAN AND ZONING COMMISSION

**Item 2d – Majestic Oaks, NE corner of Stagecoach Drive and S Kingswood court – Amend the Majestic Oaks Planned Unit Development Ordinance to revise the setbacks indicated for Lot 14 within the PUD – Majestic Land Company LLC – ZC-005048-2021**

Chairperson Andersen 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 18, 2021.

Chairperson Andersen 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 Drake, seconded by Commissioner Conlin, 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, Conlin, Costa, Crowley, Drake, Hatfield, Davis.....Yes  
Motion carried.

Planner Johnson informed that this came before the Commission a couple weeks ago with a request to remove Outlot Z to facilitate development to the east of this outlot. The applicant has withdrawn that application since that meeting, and Staff are recommending reducing the rear yard setbacks of Lot 14 from 40 to 35 feet. This was due to a difference between the final plat and the PUD language.

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

Moved by Commissioner Hatfield, seconded by Commissioner Crowley, the Plan and Zoning Commission approved a resolution recommending the City Council approve the amendment, subject to the applicant meeting all City Code requirements.

Vote: Andersen, Conlin, Costa, Crowley, Drake, Hatfield, Davis.....Yes  
Motion carried.

**Item 3 – Old Business**

There were no Old Business items to address.

**Item 4 – New Business**

There were 2 New Business items.

**Item 4a – King’s Grove Plat 1, West and South of the Intersection of Stark Drive and S 100<sup>th</sup> Street – Approve a Preliminary Plat to create 25 lots for Single Family residential development and one outlot for common area – King’s Grove LLC – PP-005016-2021**

Jared Murray, Civil Design Advantage, 3405 SE Crossroads Drive, Suite G, Grimes, presented on behalf of King’s Grove for approval of the preliminary plat to extend private streets through the development, connect up to Booneville and create 25 single family lots. He pointed out where public sanitary sewer would extend into the development, and extending private water

## PLAN AND ZONING COMMISSION

main and storm sewer, with an existing detention pond which would be shared with the existing development.

Planner Johnson showed the site on an aerial map, pointing out existing attached townhomes and outlot for common area. One condition of approval is that the Council approves the PUD rezoning, which is due for second and third hearings on the next Council agenda.

Chairperson Andersen 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 Costa, seconded by Commissioner Drake, the Plan and Zoning Commission approved a resolution recommending approval of the preliminary Plat subject to the following conditions:

1. City Council approving and adopting the King's Grove Planned Unit Development ordinance.

Vote: Andersen, Conlin, Costa, Crowley, Drake, Hatfield, Davis.....Yes  
Motion carried.

**Item 4b – Fox Ridge, South of Veterans parkway and west of Fox Valley development – Approve a Preliminary Plat to create 191 lots for Single Family Residential, and 130 footprint lots for Medium Density Residential Development, 9 outlots and 9 street lots – Forester USA Real Estate Group, Inc & Charles 1. And Ruth Colby Investment Trust – PP-004863-2020**

Brandon Stubbs, Stubbs Engineering, 431 NE 72<sup>nd</sup> Street, Pleasant Hill, presented the application with Seth Moulton, stating they are finishing up a preliminary plat with single family to the south, multi-family townhomes to the north. He noted they have worked with the City and surrounding properties to the east to provide a larger lot buffer to the east for the Fox Development, transitioning into 55-60 foot lots to the south and 5 and 6-plex townhomes on the northern two outlots.

Planner Portz added that Staff are continuing to work with Warren County on their land between Veterans Parkway and this development, occupied by the Great Western Trail. The rails to trail program does not allow Warren County to give the right of way for the road to the City, so an agreement or easement is being developed to allow for 25<sup>th</sup> Street to go through to Veterans Parkway. This connection will prevent the new traffic from funneling through the existing Fox Valley development. Passing this approval allows the developer to get started on infrastructure, streets, and utilities, however no permits will be issued until that connection is made to Veterans Parkway.

Chairperson Andersen 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 Conlin, the Plan and Zoning Commission approved a resolution recommending approval of the preliminary plat subject to the applicant meeting all City Code requirements, and the following conditions of approval:

PLAN AND ZONING COMMISSION

1. The applicant acknowledging that construction within the Warren County property will not occur until the City and developer obtain access rights through the property from Warren County.
2. The applicant acknowledging that the Fox Ridge final plat(s) shall not be approved, nor any building permits being issued for Fox Ridge until the connection to Veterans Parkway is complete or an alternate secondary access is provided. Any infrastructure work completed within the Fox Ridge development as allowed by the approval of the Fox Ridge preliminary plat will be at the developer's own risk in the event that an access can't be obtained through the County property.


Vote: Andersen, Conlin, Costa, Crowley, Drake, Hatfield, Davis.....Yes  
Motion carried.

**Item 5 – Staff Reports**

The next meeting is scheduled for Monday, July 12, 2021.

**Item 6 – Adjournment**

Chairperson Andersen adjourned the meeting at 6:42 p.m.

  
Jennifer Canaday, Recording Secretary

  
Erica Andersen, Chairperson