

PLANNING AND ZONING COMMISSION

PZ AF 03-27-2023

Chairperson Drake called the regular meeting of the Planning and Zoning Commission to order at 5:30 p.m. on Monday, March 27, 2023, 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: Costa, Davis, Drake, Hatfield, ShawPresent
Conlin, Crowley.....Absent

Item 1- Consent Agenda

Item 1a – Minutes of the meeting of February 27, 2023

Chairperson Drake asked for any comments or modifications to the February 27, 2023, minutes.

Moved by Commissioner Hatfield, seconded by Commissioner Costa, the Planning and Zoning Commission approved the February 27, 2023, meeting minutes.

Vote: Costa, Davis, Drake, Hatfield, Shaw.....Yes
Conlin, Crowley.....Absent

Motion carried.

Item 2 – Public Hearings

There were 2 Public Hearing items.

Item 2a – Booneville Road – SW corner of Booneville Road & S Grand Prairie Pkwy – Vacate a portion of Booneville Road right-of-way – VAC-005952-2023

Chairperson Drake 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 March 17, 2023.

Chairperson Drake 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 Costa, seconded by Commissioner Shaw, the Planning and Zoning Commission accepted and made a part of the record all testimony and all other documents received at this public hearing.

Vote: Costa, Davis, Drake, Hatfield, Shaw.....Yes
Conlin, Crowley.....Absent

Motion carried.

Development Director Lynne Twedt summarized the request on behalf of City Attorney Richard Scieszinski, who was absent due to illness. She noted that the road had shifted, leaving old right-of-way needing to be vacated. The vacation will be brought before City Council for approval.

Commissioner Costa questioned whether this was due to a grading issue. Director Twedt stated the road has already been completed, and this was just the result of a realignment to allow Booneville to intersect S Grand Prairie at a 90 degree angle.

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Chairperson Drake 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 Costa, the Planning and Zoning Commission approved a resolution recommending the City Council approve the vacation of right-of-way.

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

Item 2b – Repeal Assigned Zoning District, South of Raccoon River and east of Interstate 35 – Amend the Zoning Map to repeal assigned zoning designations on properties which are inconsistent with the Comprehensive Plan Land Use designation – Development Services Staff - ZC-005920-2023

Chairperson Drake 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 March 17, 2023.

Chairperson Drake 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 Costa, seconded by Commissioner Davis, the Planning and Zoning Commission accepted and made a part of the record all testimony and all other documents received at this public hearing.

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

Karen Marren, Development Services Planner explained this action brings the City Zoning Map into compliance with the State Code requirement for consistency between the Comp Plan and the Zoning Map. Several parcels of undeveloped property are having previous zoning designations removed until such time that development occurs. This action is necessary as the previous designations are no longer appropriate under the newly adopted Comprehensive Plan Land Uses assigned to these parcels of land. Zoning is not being applied to these parcels at this time, to allow for greater flexibility for the landowners to apply for what will be appropriate when they choose to develop the parcels.

Chair Drake clarified that the parcels would remain under the new Comp Plan designations. Planner Marren affirmed that they will.

Commissioner Davis asked if there was a time frame for becoming compliant with the state regulations. Planner Marren said there was no specific time frame.

Commissioner Davis asked Staff's recommendation is for the parcels to remain unzoned. Planner Marren affirmed that leaving the parcels unzoned at this time will allow the landowners to zone their lots appropriately at the time of development.

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Chair Drake asked if the new zoning Code currently under revision will be applied to the unzoned parcels when it is adopted. Planner Marren clarified that the zoning will not change until development.

Commissioner Shaw asked if there was a difference between these and the unique parcels which were addressed with the Comp Plan adoption. Planner Marren noted there was some overlap, however some of the parcels had zoning designations which are not inconsistent with the new Comp Plan and so were not having the zoning repealed.

Commissioner Hatfield commented that the clarifications were helpful.

Chairperson Drake asked if anyone from the audience would like to speak to this item.

Mark Lee, 10430 New York Avenue, Urbandale, spoke on behalf of Misty Wittern, stating they had not had a chance to look through the staff report, and noting that the white areas having zoning removed did not match the crosshatch areas marked on the public hearing notice.

Planner Marren clarified that the crosshatch map is the larger property boundary and the map with the white areas were those which had inconsistencies between zoning and the Comp Plan. Some of the crosshatch areas contained zoning that is consistent with the Comp Plan and did not require change.

Commissioner Costa asked Mr. Lee if they had received a public hearing notice. Mr. Lee affirmed they had; it just didn't include the staff report.

Katrina Shay, 4030 Maffit Lake Road asked if a legal agreement she had protecting their home which exists in an industrial area would be impacted by this action. Assistant City Attorney Grove stated she did not believe it would, however she requested Ms. Shay's contact information in order to research the matter and reply more fully. Development Director Twedt asked whether this was the property commonly referred to as "Slipknot house." Ms. Shay stated it is. Director Twedt summarized the history which allowed this house to be rebuilt in an area which is not designated as residential, with the owners fully understanding the property around them could be built as non-residential. She informed Ms. Shay that the previous designation was now changed, and it is likely that this will become a residential area. It was restated that staff would look into the details of the agreement and get back to her.

As there were no additional questions or comments from the public, Chair Drake closed the public hearing and asked for continued discussion or a motion.

Commissioner Costa commented that the action was less confusing now than earlier.

Moved by Commissioner Costa, seconded by Commissioner Davis, the Planning and Zoning Commission approved a resolution recommending the City Council approve the repeal.

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

Item 3 – Old Business

There were no Old Business items to address.

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Item 4 – New Business

There were four New Business items.

Item 4a – Chick-fil-A, 6555 Mills Civic Parkway – Approve Level 1 Minor Modification to Site Plan to allow construction of new drive-thru canopies – Chick-fil-A, Inc. – MML1-005873-2022

Alex Park, 111 W. Jackson St, Chicago, representing Chick-fil-A, presented their request to modify an existing dual-drive through area to improve the flow of traffic through the lanes. The area will be expanded with two full canopies. He stated they would be encroaching slightly into the landscaping area to meet the parking and drive lane width requirements, and to expand the drive-thru overall.

Chair Drake asked if the applicant is in agreement with staff recommendations and conditions of approval. Mr. Park stated they are.

Brian Portz, Development Services Planner, noted the two conditions of approval, the slight encroachment into the landscaping area, the replacement of any removed trees and shrubs, and stated that the applicant is working with the Fire Marshal regarding a requirement for sprinklers in the canopies.

Commissioner Costa asked whether the City gets complaints regarding how tight the area is for traffic. Planner Portz responded that the City is aware of the circulation problem, and this proposal is intended to help mitigate the problem. Commissioner Costa asked whether there is any conversation with adjoining landowners to assist in resolving the traffic issues. Planner Portz stated there is not; adding that Chick-fil-A is widening the internal entrance slightly and that they've made many changes to the site in the past two to three years trying to help alleviate the issue.

Commissioner Davis asked about another Chick-fil-A location on University Avenue, whether that design has been successful. Planner Portz commented that there is a problem there as well, and the applicant is planning to submit a proposal soon to help with that.

Chairperson Drake 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 Shaw, seconded by Commissioner Costa, the Planning and Zoning Commission approved a resolution recommending approval of the minor modification, subject to the following conditions:

1. The applicant acknowledging and agreement that any landscaping removed due to the parking lot encroachment must be replaced.
2. The applicant installing fire suppression under the new canopies to the satisfaction of the Fire Marshal.

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

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Item 4b – Primrose School, 8080 Coachlight Drive – Approve a Preliminary Plat to create 2 lots for Commercial development and Approve a Site Plan to allow construction of a daycare building – Hurd Parkway, LLC – PPSP-005889-2022

Kelsey Scallon, Shive-Hattery, 4125 Westown Parkway, West Des Moines, summarized the request for a preliminary plat and site plan for a daycare center. She informed that the lot is to be subdivided, and one lot reserved for future development. The applicant is requesting deferral of part of the parking requirement until it is needed and requesting waiver of part of the parking requirement based on usage at their other locations. Ms. Scallon concluded that there is an extensive outdoor play area which far exceeds City requirements.

Chair Drake asked if the applicant is in agreement with staff recommendations and conditions of approval; Ms. Scallon stated they are.

Brian Portz, Development Services Planner, pointed out that City Code requires 75 parking spaces, that the applicant will install 49, and is requesting a deferral of 19 spaces, and waiving 7 more. Staff is in agreement with the proposed parking space deferral and waiver.

Commissioner Costa questioned what type of building this amount of parking is referred to in the Code. Planner Portz stated it is specific to a daycare. Commissioner Costa asked if Code needs to be amended; commenting that there is nothing worse than not being able to meet the parking requirements to develop a site. Planner Portz stated the parking requirements were recently amended and Staff are continuing to evaluate for need for revisions. Staff are waiting to see what the consultants working on the new Zoning code are going to recommend.

Chairperson Drake 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 Planning and Zoning Commission approved a resolution recommending approval of the preliminary plat, subject to the following conditions:

1. The City Council accepting the parking needs and parking analysis study of existing Primrose sites provided by the applicant and approving the waiver of the installation of 7 parking spaces.
2. The City Council deferring the installation of 19 parking spaces until such time that on-site events in which parking on the grass or other non-designated parking areas occurs due to th lack of available parking stalls. At the time when the existing parking is not sufficient to accommodate the facility’s operations, the City reserved the right to provide the applicant notice to increase the number of parking stalls. The applicant will be required to provide at least the additional 19 parking spaces in accordance with City regulations within the first available construction season. Prior to implementation of additional parking to satisfy the deferred parking stalls, the applicant shall submit for approval a Site Plan Application to the City identifying the location and engineering details for he stalls to be constructed.

Vote: Costa, Davis, Drake, Hatfield, Shaw.....Yes
Conlin, Crowley.....Absent

Motion carried.

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Item 4c – The Pines at Glen Oaks, Southwest quadrant of I-35 Interstate and Mills Civic Parkway interchange – Approve a Preliminary Plat to create 33 lots for Multi-Family Residential development – Paramount-Destination Homes, Inc. – PP-005395-2021

Ed Pelds, Pelds Design Services, 2323 Dixon Street, Des Moines, presented the application for preliminary platting of the site. He informed there will be 33 lots, built with two and three-story townhomes, and noted that they have been working with Glen Oaks Homeowner Association which has approved the plat with the addition of extra landscaping and fencing.

Commissioner Costa asked whether the buffer dispute had been resolved. Mr. Pelds stated it was taken care of with the PUD.

Kara Tragesser, Development Services Planner, informed that the site plan has not been scheduled for approval yet, however the preliminary plat would allow the beginning of grading and site utilities onsite. She noted that this is at risk for the developer, being installed prior to site plan approval. Planner Tragesser reported that the City has received access easements from Glen Oaks Master Association and a letter of approval from the Glen Oaks HOA Architectural review committee.

Chairperson Drake asked if anyone from the audience would like to speak to this item.

Robert Brown, 903 Tulip Tree Lane, reported concerns that the HOA had not kept the residents fully informed of action being taken on this project, that the residents had not had the opportunity to vote on the issue, and that there will be traffic congestion both with contractors and future residents.

Marianne Ksiazak, 917 Tulip Tree Lane, asked where the three-story units would be located, and if they fit the zoning height restrictions.

Jamie Myers, Paramount-Destination Homes, 2547 23rd St, Urbandale, responded that the three-story units would be placed in the outer ring, and the two-story units would be closer to the Glen Oaks developed area. He noted that as far as they are aware, they have met all zoning codes and have met many times with the Homeowners Association. The HOA Board has signed off on their agreements for access easements.

Chair Drake asked whether the Master Association includes all the units in the development. Mr. Myers stated it does. Chair Drake asked whether the new development would be a sub-HOA. Mr. Myers affirmed that it will, and that the residents would pay dues to the Master HOA, in addition to their own dues for snow removal and lawn maintenance.

Ms. Kayzak asked what would be comparable to the height of the new units, as she did not want them to be a distraction to drivers.

Dan Geneser, 1181 Glen Oaks Drive, agreed with Mr. Larson that the residents had not been kept informed by the HOA board. He asked that the item be tabled until the residents were all fully informed. He also expressed concern for the security of the area.

Commissioner Davis noted that the staff reports stated a traffic study had been performed and noted that this action was a preliminary plat only. Planner Tragesser summarized the order of the steps for development, noting that approval of the site plan would allow construction.

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Commissioner Costa stated that the Commission had recently recommended approval of the rezoning of this site for residential construction, and noticing had been sent out for that action. He pointed out that some owners did attend that Planning and Zoning meeting. As the zoning has been approved, plans for the project are expected to go forward. He concluded that he believed the units will be priced upward of \$400k, with a huge investment by the developer, and he did not believe this would cause a security risk. Mr. Myers inserted they will be above \$600,000.

Commissioner Shaw questioned the construction logistics concern voiced earlier, and the impact on the residents. Planner Tragesser responded that the contractors will be using the closest access point to the site, from Mills Civic Parkway. This would avoid having the construction traffic go through the residential area and was in agreement with direction from the Master Homeowners Association. She noted that the Master HOA would deal with any issues impacting the residents privately, concluding that the City has fulfilled their requirements.

As there were no additional questions, Chair Drake asked for continued discussion or a motion.

Moved by Commissioner Costa, seconded by Commissioner Davis, the Planning and Zoning Commission approved a resolution recommending approval of the preliminary plat, subject to the following conditions:

1. The applicant acknowledging that prior to issuance of any building permits for buildings within The Pines at Glen Oaks development, that the associated Final Plat must be approved by the City Council and recorded with Polk County.

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

Development Coordinator Linda Schemmel asked Chair Drake to close the public hearing. Chair Drake declared the public hearing closed.

Item 4d – Easy Go Liquor, 900 Grand Avenue – Approve Level 1 Minor Modification to Site Plan to allow site and façade modifications – Pinky, Inc. – MML1-005880-2022

Phillip Vlieger, VdW, 10190 Hickman Court, Clive, stated his design firm is representing the applicant. They are renovating an existing building from a dry-cleaner into a liquor store, and the current parking requirements won't work for this location due to setback requirements. They've agreed to remove the eastern entry to make sure there's no conflict with traffic. The existing parking lot will be allowed to remain as it is.

Chair Drake asked if the applicant is in agreement with staff recommendations and conditions of approval. Mr. Vlieger stated they are.

Commissioner Hatfield noted this business has received a conditional use permit from the Board of Adjustment. Mr. Vlieger stated they have.

Kate DeVine, Development Services Planner, noted the three conditions of approval pertaining to parking and closing the eastern access point.

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

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Moved by Commissioner Hatfield, seconded by Commissioner Shaw, the Planning and Zoning Commission approved a resolution recommending approval of the minor modification, subject to the following conditions:

1. Until such time that the entire site is redeveloped, the City Council granting waivers from adherence to provisions stated in subsections E, G, H and J of Section 6, Chapter 15: Off-Street Parking and Loading of city Code, as such relates to parking lot setbacks, curbing, drainage, and visual screening of parking.
2. Until such time that the entire site is redeveloped, the City Council authorizing the use of wheel stops.
3. The property owner agreeing to the closure of the eastern access drive off of Grand Avenue, including the removal of pavement and establishment of lawn prior to the issuance of a Final Occupancy Permit for the business.

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

Item 5 – Staff Reports

The next meeting is scheduled for Monday, April 10, 2023.

Development Coordinator Schemmel provided information to the Commission regarding an upcoming training session for Boards and Commission members being provided by Iowa State University.

Item 6 – Adjournment

Chairperson Drake adjourned the meeting at 6:22 p.m.

Andy Conlin, Vice-Chair

Jennifer Canaday, Recording Secretary