

Plat, Annexation and Zoning Committee Minutes

July 20, 2011

11:05 to 12:00 noon.

Council Chambers, 140 W. Pine

Members Present: Bob Jaffe, Ed Childers, Lyn Hellegaard, Marilyn Marler, Renee Mitchell, Stacy Rye, Pam Walzer, Jon Wilkins, Jason Wiener

Members Absent: Dick Haines, Dave Strohmaier, Cynthia Wolken,

Others Present: Janet Rhoades, Jenn Clary, Jim Nugent, Jeff Stevens, Jim Betty, Kent Pratt, Linda Fry, Marsha Fry, Deni Forestek

I. Approval of Minutes – The minutes of June 29, 2011 were approved as presented.

II. Public Comment on Items not on the Agenda

III. Staff Announcements

IV. Consent Agenda Items

V. Regular Agenda Items

1. An [ordinance](#) to rezone property located at 1500 39th Street. The property is currently zoned RM1-35 (Residential, 43 multi-dwellings per acre) and RT2.7 (Residential, 16 dwellings per acre) and if approved the property will be zoned to B1-1 (Neighborhood Business) and RM1.5 (Residential, 29 multi-dwellings per acre). ([Memo](#)) ([PAZ](#))
(Returned from Council floor: 06/06/2011)

MOTION: The Committee recommends that City Council deny the request to adopt an ordinance to rezone property at 1500 39th Street from RM1-35 (Residential, 43 multi-dwellings per acre) & RT2.7 (Residential, 16 dwellings per acre) to B1-1 (Neighborhood Business) and RM1.5 (Residential, 20 multi-dwellings per acre).

This item was returned from City Council based on concerns regarding notice of protest. There is a legal protest on all elements of the rezone. Chair Jaffe hoped for debate on issues as well as hearing public comment on this issue.

Janet Rhoades reported that the legal protest was valid; therefore, it would need a two-thirds vote of City Council to pass.

Chair Jaffe asked Lyn Hellegaard to restate the protests she had raised at the meeting. These were:

- ✓ the infrastructure is not sufficient for the kind of density this project would cause;
- ✓ the height of the buildings proposed would hinder light and air;
- ✓ this project would negatively affect the wetlands across the street; and
- ✓ the character of the neighborhood did not fit in with the differences of height and density.

Jon Wilkins added that the zoning allows for zero setback, which would also impact the neighborhood character.

Jon Wilkins made the motion to deny the rezoning.

Chair Jaffe asked Jennifer Clary of Encompass Design, who represented the property owners to speak on the proposal. Ms. Clary presented a poster showing the worst-case scenario of an

increase in density while meeting the requirements of the building footprint, landscaping, and parking. She explained that this would create a buffer between commercial and residential areas. The owners of the property have asked for the lowest intensity rezoning possible in order to provide more dwelling units with a smaller footprint. They envisioned a charrette process, including the neighbors in the design process. They held a neighborhood meeting on July 13th to begin this process. Ms. Clary felt that there was sufficient infrastructure in place with bike lanes, traffic lights, curbs, sidewalks, and gutters to meet the density. She pointed out that there was a gas station closer to the wetlands than this project would be.

Discussion on the motion by Committee Members included:

- ✓ Ed Childers wondered how to justify approval in light of the Montana Supreme Court ruling that these decisions had to take the Growth Policy into consideration and this does meet the Growth Policy. Ms. Hellegaard did not feel that there had been an increase in infrastructure to handle this much density.
- ✓ Renee Mitchell questioned the claim that this would create a buffer zone and asked Ms. Clary to explain that statement. Ms. Clary felt that buffering was done by walls, landscaping and green space and this project met all those requirements. Ms. Mitchell would not support this rezoning since there was no guarantee of what it will bring.
- ✓ Mr. Childers felt the project that has been presented is a good alternative to the worst-case scenario and would have been interested in looking at it closer. He will be supporting Jon Wilkins' motion.
- ✓ Chair Jaffe is torn between the project, which looks like a fine use of this land, and the concerns brought up by public comment as well as the legal protest. He will vote against the motion.
- ✓ Stacy Rye asked for clarification on the presentation by Ms. Clary. She thinks that the project is not out of place in the neighborhood, which has a large gas station, a large church and a shopping center across the street. She did not feel that even the worst case scenario was not out of place. She will vote against the motion.
- ✓ Ms. Rye asked about a multi-dwelling unit proposed for Dore Lane and how many units it was proposed to have. Ms. Clary believed it would be three stories and 80 units.
- ✓ Jon Wilkins felt that the Dore Lane proposal was not pertinent to the discussion, it was a half-mile down the street, already zoned commercial and closer to commercial.
- ✓ Jon Wilkins thought this project should have been brought to City Council as a PUD. As a zoning issue, he has to look at it as the worst case scenario; it could be rezoned and a completely different building could be built; there was no guarantee.

Public Comment included:

Linda Frey, 100 Hillview, felt this a very nice residential neighborhood and she was afraid this project would start a degradation down the street. There should be a compelling reason to switch the zoning, and there is not one here. Looking at the worst case scenario, this would be a very bad idea.

Jeff Stevens, leadership team council, felt that 39th Street was a residential oasis in a sea of commercial and would like to keep it that way.

Marsha Frey urged the council to represent the wishes of the neighborhood and not allow this rezoning. There are already vacant commercial lots across the street. Besides the increased density, she felt this would increase traffic.

Chair Jaffe asked the owner of the property to speak:

Jim Betty, the owner of the property wanted to share that the most-compelling reason for this rezoning was to make the properties more attractive. At this point, their only option is to put up more multi-dwelling apartment buildings rather than the mixed-use commercial property he would like to build. They are going to make it as attractive and accommodating to the neighborhood as possible.

Chair Jaffe asked Mr. Betty what he felt about the protest; it is a little unusual to have such a high protest with the small amount of neighborhood participation they have had. Mr. Betty felt that the neighbors on Mission Court were afraid this would increase parking problems; he felt it was lack of understanding and communication.

Kent Pratt, the owner of the apartment unit on Mission Court, explained he was approached to protest by the neighbors. His chief concern is traffic flow and parking; he also concurs with Jon Wilkins that there is no guarantee. He felt it should be presented as a PUD so everyone knew what was going in there.

Jon Wilkins encouraged Mr. Betty to bring a PUD to the Council.

The motion to deny **passed** with Jaffe, Marler, Rye, and Wiener voting nay.

VI. Items to be Removed from the Agenda

VII. Held in Committee or Ongoing in Committee

1. Annexation. (see separate list at City Clerk's Office for pending annexations) (Ongoing in Committee)
2. Request to rezone the property legally described as Lot 3 of Scott Street Lots Subdivision, located in Section 16, T13N, R19W, P.M.M. form D (Industrial) to I-1 (Light Industrial), based on the finding of fact and conclusions of law. (PAZ [05/21/08](#)) (Returned from Council floor: 6/2/08)
3. Ongoing discussion of City planning issues with members of the Planning Board.— Regular Agenda (Bob Jaffe) (Referred to committee: 3/20/06)
4. Resolution repealing resolution No. 7404 and declaring the annexation of Lots 53 and 54 Dinsmore's Orchard Homes No. 5 null and void. ([memo](#))—Regular Agenda (Jessica Miller) (Referred to committee: 01/10/11)
5. Resolution to annex and incorporate within the boundaries a certain parcel of land described as Linda Vista 12th Supplement, and zone the property Miller Creek View addition planned unit development with the underlying zoning of R-215 residential in the city all located in Section 13, Township 12 North, Range 20 West, P.M.M. ([memo](#))—Regular Agenda (Jessica Miller) (Referred to committee: 04/11/11)
6. An [ordinance](#) to rezone property located at 1500 39th Street. The property is currently zoned RM1-35 (Residential, 43 multi-dwellings per acre) and RT2.7 (Residential, 16 dwellings per acre) and if approved the property will be zoned to B1-1 (Neighborhood Business) and RM1.5 (Residential, 29 multi-dwellings per acre). ([Memo](#)) ([PAZ](#)) (Returned from Council floor: 06/06/2011)
7. Consider an ordinance amending Title 20 Chapter 20.75 Signs and Chapter 20.100 Terminology Chapter, as amended by Planning Board. ([memo](#))—Regular Agenda (Louis Yellowrobe) (Referred to committee: 06/27/11)

VIII. Adjournment

The meeting adjourned at 12:03 p.m.

Respectfully Submitted,

Deni Forestek

Recording Secretary
Office of Planning and Grants

The recording of these minutes is available in the City Clerk's Office (for up to three months after approval of minutes). These minutes are summary and not verbatim.