

MILL CITY PLANNING COMMISSION
Meeting of October 19, 2018

The Planning Commission held a short site visit beginning at 9:00 a.m. at 512 SE Kingwood Avenue in preparation of the public hearing that begins at 9:30a.m.

Planning Commission members present: Chair Ann Carey, Dennis Chamberlin, Marge Henning, Woody Koenig, Grant Peterson and Frances Villwock. David Leach was absent.

Staff in attendance: Planning Advisor David Kinney.

City Council Representatives: None.
Agency Representatives: None.
Citizens: Bob Ward and Vicki Ward.

The meeting was called to order at 9:30 a.m. Chair Ann Carey led the pledge of allegiance.

APPROVAL OF MINUTES: *Frances Villwock moved, seconded by Grant Peterson to approve the minutes of September 21, 2018. The motion carried unanimously (6:0).*

PUBLIC COMMENT: None.

PUBLIC HEARINGS: Proposal: Minor Partition – Partition 4.68 acre site into three parcels
Location: 512 SE Kingwood Avenue
Prop Owner: Robert & Vicki Ward

Chair Carey opened the public hearing at 9:02 a.m. and called for any conflict of interest, bias or ex parte contact.

Frances Villwock said that she has a conflict as the applicants are her immediate family. Chair Carey stated that she also has a personal relationship with the applicants but feels that she can review the proposal without bias.

APPLICANT'S TESTIMONY: Bob Ward said that they are asking the Planning Commission to approve division of the property. Mr. Kinney clarified that the proposal is to create two small parcels along SE Kingwood and leave a larger parcel to the rear that could be divided and developed further in the future.

STAFF REPORT: Mr. Kinney said that the two small lots that are being created will be approximately 10, 625 and 11,500 square feet. These sizes may change once the actual survey is completed. This leaves an approximate 4.17 acre tract of land to the south and west for future development.

The large parcel has a large shed and well on the site. There are no plans to do anything with the well at this time. The City has spoken with the Wards about the opportunity to obtain this well from the Wards at some point in the future.

The biggest concern with the large parcel is to ensure that it can be developed in the future and connect to the cul-de-sac that is along the west edge. Should the property be redeveloped for single family homes then the cul-de-sac would be used to gain access to the development. The road system could then connect into the property to the west.

The fire department stated that they have no concerns with the proposal. Linn County Roads was asked for comments if they wish to have additional road improvements along SE Kingwood. They did not respond. The Linn County Surveyors Office gave their standard response that this proposal must comply with survey law.

Mr. Kinney said that this proposal can comply with zoning requirements if the applicants complete a series of conditions of approval. Those include:

1. Partition approval expires October 31, 2019.
2. Survey must be completed and recorded with Linn County by October 30, 2019.
 - Survey must include; parcels as shown on draft map, street dedication of 5' wide on SE Kingwood Avenue and roadway roadway easement of 30' wide along SE 5th Avenue.
 - Recording of Sewerage System Easement and reference of the easement on the final plat.
 - 7' wide PUE on SE Kingwood Avenue.
 - No access strip for parcel 3 along SE Kingwood Avenue frontage and the first 50' of SE 5th Avenue.
 - Parcel 3 street side setback of 20' east from future SE 5th Avenue ROW.
 - Parcel 2 side setback from house of 5' from existing house to Parcel 1 property line
3. Obtain construction permit from Linn County Road Department for any work performed in the Kingwood Avenue ROW.
4. Execute and record Deferral and Non-Remonstrance Agreement for SE Kingwood Avenue and SE 5th Avenue as stated in staff report.
5. Install new water service to Parcel 1 prior or concurrently with building permit.
6. Install new sewer service for Parcel 1 prior or concurrently with building permit.

Staff recommends approval of the application subject to the conditions of approval.

Dennis Chamberlin asked what the purpose of the 5' no access strip is. Mr. Kinney said that it is a county requirement to reduce the number of driveway approaches on the county road.

PROPONENT'S TESTIMONY: None.

OPPONENT'S TESTIMONY: None.

GENERAL TESTIMONY: None.

QUESTIONS OF CLARIFICATION FROM PLANNING COMMISSION: None.

APPLICANT'S SUMMARY: None.

STAFF SUMMARY: None.

CLOSE OF HEARING: Chair Carey closed the public hearing at 9:21 a.m.

DELIBERATION: *Dennis Chamberlin moved, seconded by Grant Peterson to approve the application of Robert & Vicki Ward for a minor partition, File No. 2018-08 subject to the conditions of approval as proposed and to adopt the findings of fact as recommended. The motion carried, (5:0:1) with Frances Villwock abstaining.*

Mr. Kinney said that this will be referred to the Council for ratification at their next regular meeting.

PRESENTATIONS: None.

OLD BUSINESS:

File 2017-02 – Lucas/Baughman UGB Amendments & Annexation: Mr. Kinney said that he attended Linn County's hearing on the Lucas/Baughman UGB Amendments. There were no comments from the audience. The Linn County Commissioners then held a hearing on October 12th. They asked for verification of prior split zoning on the Drake and Stafford properties and felt that removing them from the UGB was a good idea. There was one person in attendance who was very concerned about this application creating development on Tuers Lane. The person was misinformed and was advised that this action would remove the property from the UGB and lessen changes for development.

The Commissioners approved the amendments and directed Linn County Planning to draft a final order. There is a 21 day appeal period from the date the County order takes effect. Both the City and DLCD will be advised at the end of the appeal period if there is no appeal filed.

Once the appeal period is over then the application will need to come back to the City for the annexation process.

Chair Carey said that she wants to be sure that the comprehensive plan is addressed when the annexation is considered, as well as utility connections. Mr. Kinney said that both water and sewer connections will need to be reviewed. Part of the overall review will require that the applicants complete a capacity study for the sewer system in order to ensure that there is capacity available for an 80+ unit subdivision.

Nuisance Ordinance Amendments: Mr. Kinney said that the revisions in draft two of the nuisance ordinance amendments incorporate some items from other city codes.

Mr. Kinney explained that there are two sections for noxious vegetation. Currently the code addresses noxious vegetation between May 15th and September 30th of each year. Legal counsels have recommended to other cities that they add an additional section on hazardous vegetation

which applies all year round. The new section, 8.04.100 does this. Hazardous vegetation is defined as:

1. *Vegetation which impairs the traveling public's view of the street or public thoroughfare or traffic signs located thereon.*
2. *A dead or decaying tree which is a hazard to the public use of the public thoroughfare or to persons or property near the tree.*
3. *Any vegetation which is near combustibles or creates a fire hazard.*
4. *Any vegetation that is found to conceal trash or debris, create rat harborage or harborage for people involved in criminal or prohibited activity or for products used for criminal activity.*

Marge Henning asked where you draw the line on harborage vs. privacy. Mr. Kinney said that the best example is the home on SE 3rd Avenue and SE Hazel Street where there are large hedges and they are hiding sheds and trash.

Mr. Kinney said that the abatement procedure, violation and penalty changes the process. The current process is that the Council must declare a nuisance. The code needs to designate declaration of a nuisance to staff. Section 8.04.160 Prior to Notice will include a section delegating investigation and determination to staff and providing a step for voluntary compliance.

Frances Villwock asked if the determination is made after a complaint is made and noted that she doesn't like the complaint based process. Mr. Kinney said that it is complaint based, however, speaking with Code Enforcement Clerk Kimberley Johnson and City Recorder Stacie Cook, if a complaint is filed then the entire neighborhood is looked at instead of just the one property.

Dennis Chamberlin asked why there is an issue with the complaint basis. Mrs. Villwock said that she does not like it because it can cause problems for neighbors making the complaints.

Chair Carey said that she has also spoken with Mrs. Johnson and Mrs. Cook and they don't like the anonymous complaints. There needs to be a process to move the complaints forward without using the attorney.

Mr. Peterson said that he doesn't feel that we know what our standard is if an issue is getting to the City Attorney.

Mr. Kinney said that the biggest change to the code is that it will give staff the ability to issue a complaint directing a violator to appear in court.

Mr. Kinney asked for volunteers to go over the language to see if it can be finalized and presented to Council.

Mrs. Villwock said that she has an issue with the portion of the unnecessary noise code and generators. Section C should include specifically, generators.

Chair Carey said that the City's code doesn't address trailers that are parked in the right-of-way that may be full of wood or garbage or similar. Mr. Kinney said that the question is whether the

nuisance code addresses storage of vehicles or private property on public land. There have been a couple of cases where this has been an issue in the past. The language will need to be reviewed to see how this can be modified.

Mr. Chamberlin, Mr. Peterson and Ms. Henning will work with Mr. Kinney to review the code language for a final draft.

Mr. Chamberlin said that he would like to understand anonymous complaint better. Chair Carey said that staff won't accept an anonymous complaint at this time. Mr. Chamberlin asked if staff can initiate a complaint themselves. It was noted that they can.

Mr. Kinney explained that staff needs to have discretion to ignore an anonymous complaint if there is no basis to it. If someone files a formal complaint then this puts more onus on staff to address the issue. In a small town an anonymous complaint may have its place but it also needs to be understood that staff may ignore the complaint.

Landlord/Tenant Code Amendments & Enforcement Discussion: Woody Koenig handed out copies of the duties and rights of landlords and tenants to those present. The information includes contact for tenants who need free legal aide. The rights and duties of landlords information states that landlords may not retaliate against tenants. This information needs to be provided to tenants.

TIGER Grant Agreement Status: Mr. Kinney said that there was a phone call with FHWA to go over the grant agreement. This agreement should be back to the City by the end of October.

NEW BUSINESS:

Safe Routes to School Grant Proposal: Chair Carey said that the Council discussed this at the last meeting and the City Attorney said that an IGA should be entered into with the school for the engineering and survey work that has been done.

Mr. Kinney said that the Safe Routes to School grant application was submitted this week requesting \$1.4 Million to complete street improvements that will provide safer crossings within the area of SW 2nd Avenue, SW Evergreen Street, SW Cedar Street and SW 4th Avenue.

INFORMATIONAL ITEMS:

City Recorder Report: City Recorder Stacie Cook provided a written report to the Planning Commission.

Chair Carey asked if notifications have gone out to the neighbors for the Trio Tavern zone change application. Mr. Kinney said that they have. Chair Carey asked why the remaining properties are not being looked at for a possible zone change within this area. Mr. Kinney said that this is a site specific application so the Planning Commission should not discuss additional rezoning. The reason for the application is because the City's code does not allow for expansion of the existing use due to it being a non-conforming use. The business owners have requested that the zone change be approved so that they have the ability to expand the business beyond what is the current

footprint inside the building.

Planning Consultant Time Report: Mr. Kinney provided a copy of his September timesheet and bill.

Current Applications:

Trio Tavern – comp Plan/Zone change from Residential to Commercial

Prospective Applications:

1. Minor Partition – NW 8th Street and NW Beech Street. This application will not go through as the property sale fell through.
2. Subdivision – SE 6th Avenue (Freeman property next to the City wells). No movement on this application.

BUSINESS FROM THE PLANNING COMMISSION: None.

OTHER BUSINESS: None.

The meeting was adjourned at 11:12 a.m.

Prepared by:

Stacie Cook, MMC City Recorder

Minutes approved by the Planning Commission on the 20th day of November, 2018.