

MINUTES OF THE
AUSTIN CITY PLANNING COMMISSION REGULAR MEETING
TUESDAY JULY 10, 2001

MEMBERS PRESENT: Jack Rosenberg, Brian Johnson, Sue Howard, Lois McConnell, Gordy Kuehne, Sue Grove, Janet Anderson, Glenn Mair, and Richard Bergstrom

MEMBERS ABSENT:

OTHERS PRESENT: Community Development Director Craig Hoium, Craig Byram from the Hoversten Law Office, and City Council Member Pete Christopherson

Planning Commission Chair Brian Johnson called the meeting to order at 5:37 p.m., July 10, 2001, in the Austin City Council Chambers located at 500 4th Ave. N.E., Austin, Minnesota.

Correction was made to the minutes of the June 12, 2001 meeting; Sue Howard present, Sue Grove absent, change quotation marks in correction to minutes, delete paragraph #9 on page 4 second paragraph (repeat), & correct editing of last page. Motion was made by Commission Member Grove to approve the June 12, 2001 minutes as corrected. Motion was seconded by Commission Member Rosenberg. Unanimous Ayes. Motion passed.

- 1.) **OPEN PUBLIC HEARING: To consider a request from LaVerne Kehret, Rt. 4, Box 35, Austin, MN, & Peter Stalland, Ladysmith, WI, for an amendment to a conditional use permit to allow twinhomes to be constructed within an "R-1" Single-Family Residence District on the property legally described as Crestwood Hills 4th Addition in Austin. Said action is pursuant to Austin City Code Section 11.30, Subd.3(F)**

Craig Hoium reviewed the request. The surrounding land uses are "R-2" and "B-2" Districts to the north, an undeveloped "R-2" District to the west, single family residence district to the south, and to the southeast and northeast is a combination of "A-1" Recreational Area, "R-2", and "R-1" Districts. City Code Section 11.30 Subd. 3(F) allows for the development of 0 lot line twinhomes in an "R-1" District. This action was in front of the Planning Commission June 13, 1995 where a similar request to this was approved. The property boundaries of the subdivision have not been changed since it was originally platted. Mr. Hoium presented the site plan that was approved in 1995. There are still storm water issues to be worked out, extension of utilities, etc. They would like to develop this site in three phases. Phase I would be two twinhomes immediately west of 27th St., Phase II would be the middle section of the development, and Phase III would be the westerly portion of the development. Mr. Hoium did not receive any replies to the mailings and publishings of this meeting.

Commission Member Rosenberg asked if there is a time frame for the phases. Mr. Hoium said that will be in the developer's agreement to be coordinated between the Austin Utilities and City Engineer's Office. Similar developments would be Orchard Creek and SouthPointe Additions.

Commission Member Howard asked why this is in front of the Planning Commission for the second time. Mr. Hoium said that when a conditional use permit is issued the footprint is included with restrictions and setback requirements. The footprint is now different. Three different types of units are being proposed that have the same elevation appearance, but different floor plans. The individual units will run 1200- 1500 sq.ft.

Duane Gerber, of 2907 5th Ave. S.W., questioned the quality of work. Mr. Hoium said he has recommended to the Planning Commission to enter into a developer's agreement with the City of Austin and that the developer also provide a landscape plan. Mr. Gerber questioned if the area is desirable considering the crime at the neighboring apartment buildings. Mr. Hoium said that if the developer meets the criteria of the City ordinances and codes, then the City is limited to what they can enforce. Mr. Gerber asked if 29th St. S.W. would be constructed. Mr. Hoium said eventually. Currently there is a storm sewer that runs north and south and ends at 6th Ave. S.W. This storm sewer will be extended up to 4th Ave. S.W. and there will be a

subgrade drainage system with curb and gutter. The water from the development site will run to 29th St. S.W. Commission Member McConnell asked who pays for 4th Ave. S.W. Mr. Hoium said the developer pays for all road construction and installation of utilities.

Scott Ulland, representing the developer, said the house prices will be between \$120,000- \$145,000. The buildings will be 2x6 construction and meet energy codes. The developer is in Ladysmith, Wisconsin and runs a large company. The buildings will be on frost footings with a crawl space underneath. The ductwork will be under the floor. Basements are optional. Approximate square footage will be 1250 sq.ft.

Commission Member Howard asked the reason this was not constructed when it was approved in 1995. Scott Ulland was not the owner/developer at that time. There will be a fence and trees across the north end of the property. The exterior finish will probably be vinyl siding.

Commission Member McConnell asked why the Wisconsin developer chose Austin- did he see a need for townhomes. Mr. Ulland said the developer approached him as he was looking for communities that have a market demand. They are also searching out other communities. They are trying to offer townhomes in the \$100,000- \$150,000 range.

Mr. Hoium said there is a letter in his files from LaVerne Kehret in 1995 explaining that there was a developer's agreement drafted with the city. Mr. Kehret also owns Cresthaven Addition and at that time he requested holding off on this development.

Leighton Nelson owns 20 acres to the south of this property that was previously zoned "R-1". He had a developer and was going to use it for that purpose 25 years ago and the City changed the zoning district. He asked that if twinhomes are to be allowed in the area adjacent to his land that he be treated the same way so he can put twinhomes on his 30 acres.

Commission Member Mair asked if this is a conditional use permit or an amendment. Mr. Hoium said this is an amendment.

Motion was made by Commission Member McConnell to approve the amendment to Mr. Kehret's property along with the listed conditions: a landscaping plan to meet the approval of the Austin Planning Department and that the petitioner enter into a developer's agreement that identifies all the necessary public improvements along with responsibility for the placement of said improvements, and the costs involved for the improvements. Motion was seconded by Commission Member Kuehne. Unanimous Ayes. Motion passed.

Commission Member Kuehne replied to Mr. Nelson's request by stating that each and every property within the City of Austin is taken on it's own merits. Commission Chair Johnson said that each piece of real estate is unique and each is considered on it's own.

- 2.) **OPEN PUBLIC HEARING: To consider a request from Orchard Properties of Austin, MN, for the re-platting of property for the development of 28 townhome units. Said subdivision is to be known as Orchard Creek 2nd Subdivision (currently the southwestern portion of Orchard Creek Addition). This action is pursuant to Austin City Code Section 13.10.**

Mr. Hoium reviewed the request for re-alignment of some established property lines to accommodate a twinhome development. This conditional use request was in front of the Planning Commission May 15, 2001, when the petitioners requested a conditional use permit for this 5.0 acre site. One of the conditions for approval of the conditional use permit was that the developer re-plat the property to accommodate the proposed twinhomes. The site is located in the outmost southwest corner of the City of Austin- by 16th Ave. and 31st St. S.W. There is a proposed right-of-way of 28th St. S.W. Mr. Hoium presented a list of seven conditions for approval of this request if the Planning Commission wishes to make a recommendation to the City Council to approve it.

Commission Member Rosenberg questioned the number of townhouses. Mr. Hoium said the original conditional use permit is for twenty-eight townhouses, but in this subdivision only twenty-four are platted.

Motion was made by Commission Member Kuehne to recommend to the City Council the re-platting of the Orchard Creek 2nd Subdivision and to include the seven recommendations presented by Mr. Hoium. Motion was seconded by Commission Member Mair. Unanimous Ayes. Motion passed.

- 3.) **OPEN PUBLIC HEARING: To consider an request from Stephen E. Blum, 1703 20th St. S.W., for the re-platting of property to be known as Blum Addition (currently described as Lot 1, Block 8, Austin Homesteads, Austin, MN). This proposed subdivision of 3.79 acres would consist of five single-family lots. Said action is pursuant to Austin City Code Section 13.10.**

Mr. Hoium reviewed the request from Stephen Blum who has petitioned to re-subdivide an approximate 3.79 acre site. This property is located just southeast of the intersection of 16th Ave. and 20th St. S.W. It is surrounded completely by "R-1" Districts and single family dwellings. The petitioner currently resides on Lot 1 of this proposed development. Lot 2 will contain two accessory buildings and a new residence for Mr. Blum. Lots 3,4 & 5 will be on the market for sale for the construction of new homes. There will be a public right-of-way extension of 17th Ave. S.W. with a cul-de-sac at the east end. Mr. Hoium reviewed fourteen conditions:

1. To acquire any necessary utility easements
2. Easements necessary outside the plat
3. Street lighting
4. Storm water management plan approved by the City Engineer
5. Sanitary sewer extension permit from MPCA
6. Park dedication
7. Enter into developer's agreement
8. Design of infrastructure to meet approval of the City Engineer and Utilities
9. Obtain petitions from Austin Utilities for municipal gas, water, and electric
10. Public right-of-way extension of 17th Ave. S.W.
11. Boundaries of proposed right-of-way extension shall be relocated to comply with all setback requirements for existing structures located on the proposed Lots 1 & 2 of Blum Addition.
12. Cul-de-sac shown shall have the minimum radius of 60 feet.
13. Road design shall meet the minimum design criteria set forth in Austin City Code Chapter 13 and approved by the Austin City Engineer.
14. Provide minimum right-of-way width of 66 feet.

Mr. Hoium said he received two calls from neighbors asking for clarification of the development.

Commission Member Rosenberg asked if this would be asphalt curb and gutter. Mr. Hoium said yes. Austin Homesteads has been developed as more of a rural setting with ditch design used for storm water runoff. This decision is made by the City Engineer.

Commission Member Anderson asked what park requirements would be in a small area like this. Mr. Hoium replied that the living units are multiplied by .008- this determines the number of acres (or fraction of an acre in this case the developer has to provide, or pay a fee to the Park & Rec. department.

Mr. Hoium added that the petitioner would like to sell Outlot A to the adjacent property to the east.

Motion was made by Commission Member Grove to recommend to the City Council to consider re-platting the 3.79 acres for development of five single-family lots according to the thirteen conditions that Mr. Hoium reviewed. Motion was seconded by Commission Member Anderson. Unanimous Ayes. Motion passed.

OTHER BUSINESS

Mary Janning, of 409 2nd St. S.W., has a property line dispute. She has lived at her residence for five years. She removed a wire fence that was existing when she moved in. The neighbors on the side of her put up a wooden fence after removing the wire fence and placed it 6" closer to her house five years ago. This May Ms. Janning planted 50 daylily & 10 hosta plants and on Mother's Day the neighbors mowed them down. Three years ago Ms. Janning had planted 3 hostas around her tree and they mowed those down also. The County Attorney told Ms. Janning to have a survey done to be able to file for property damage. He also suggested Ms. Janning ask the neighbors (the Shockers) to pay for half the survey. Ms. Janning went to the Assessor's office to research the property descriptions. Ms. Janning asked Ms. Shocker to pay for half the survey and she said no. Ms. Janning asked Ms. Shocker if it would be okay for Ms. Janning to use a tape measure to measure the yards and she said yes. The measurements matched the original survey stake. They agreed that this was the property line. Ms. Janning asked Ms. Shocker if she mowed the plants down and Ms. Shocker said yes. Ms. Janning asked if Ms. Shocker would reimburse her for the plants and Ms. Shocker said no. Ms. Janning told this to the County Attorney who then gave Ms. Janning papers to file for property damage. A week ago the Shockers put in fence posts up to the sidewalk from their existing fence-right where the plants had been planted.

Mr. Hoium said he was at the Shockers at 405 2nd St. S.W. about three years ago. There were property line questions at that time. The City of Austin staff does not go out and locate property monuments- this has to be done by a Registered Land Surveyor or Civil Engineer. If there are property line disputes the staff will go out if they have time to verify or measure out where a property line MAY be according to their base map. At the time Mr. Hoium was at this residence the front corner of this property was measured out from 3rd Ave. S.W. going south and nothing more was heard until this spring. The Shockers called Mr. Hoium and asked him to come out again and Mr. Hoium told them at that time that the Planning & Zoning Department does not get involved in property line disputes- a Registered Land Surveyor needs to be hired. The plant issue is a civil matter and Mr. Hoium's department has nothing to do with that- that is between the two property owners. Mr. Hoium told Ms. Shocker that if she would make arrangements to meet with him and Ms. Janning he would come out and show them what his map shows for property lines. At that time Mr. Hoium went out and Ms. Shocker and Ms. Janning's daughter were there. They reviewed the abstracts at that time and measured and placed marks on the sidewalk according to the information reviewed. If the parties are not in agreement to this decision then a professional survey needs to be done- the Planning & Zoning Department is not responsible for that. After this meeting a letter was sent from Mr. Hoium to both parties verifying the ordinances establishing property lines and fencing. Ms. Janning said that both parties did not know that both of their abstracts were incorrect until after going to the Assessor's office. When they measured it and agreed on it Ms. Janning thought the issue was over.

Commission Member Anderson asked if it is the responsibility of the fence owner to be sure of the property line before erecting the fence. Mr. Hoium said yes.

Commission Member Kuehne asked if the City issued the permit for them to put up a fence on property that does not belong to them. Mr. Hoium said the City approves a site plan the property owner turns in- with the fence located on their own property.

Craig Byram said that this issue is not within the powers of this committee or the City of Austin, but Ms. Janning can take this issue to court to establish a boundary line- a civil action between the two adjoining landowners.

Mr. Hoium said that if the Shockers are in violation of the fence ordinance then they are subject to misdemeanor charges for that. The two times Mr. Hoium has been out to locate what his office has on record and review the abstracts, Mr. Hoium marked a paint line on the sidewalk as to where the property line should be- where the monument is located is not the same. It is not within Mr. Hoium's power to remove the monument or move it where it should be, or move the mark. It is now within the power of the property owners. When Mr. Hoium went out to measure in regard to the fence being erected, his measurements were consistent with what is on his base map, and also what was given as a legal description on both abstracts. If there is a problem with the abstracts that is beyond Mr. Hoium's power.

In another matter, Planning Commission Members discussed their conflicts with the Planning Commission Meeting. Mr. Hoium said he will do some research in the City Charter to find out what their options are.

As the third item of Other Business Mr. Hoium said that included in the Comprehensive Plan Update was to revise/implement new ordinances necessary. Mr. Hoium & Jeff Mundt have put together some drafts along with ordinances from other cities. Mr. Hoium is asking for input from the Planning Commission, which will then go on to a final draft and then in front of the Ordinance Committee for their review. A recommendation will then come back from the Ordinance Committee to the Planning Commission. At that point a recommendation will be made from the Planning Commission for final approval or denial by the City Council.

Commission Member Anderson questioned the R-1 Single Family Residence District- the zoning conditional use permit. She questioned the "similar uses"- should that be stated more clearly- such as group home, etc. Mr. Mundt said that group home is included now. Member Anderson also asked about accessory building use- in the past, accessory buildings were related to the size of the lot. Now as larger lots became annexed into the city the issue has become gray. Could a percentage be used instead of just a flat size. Mr. Hoium also suggested looking at height limitations- taking into account what factor is height- the peak of the roof, exterior wall, etc.

Commission Member Kuehne said that the conditional use permit is a tool for the Planning Commission to be able to review accessory buildings and for the neighbors to be notified when large structures are going up.

Mr. Hoium reviewed R-1 Single Family Residence Districts and Multi-Family/Higher Density Land Use adjacent to a lower density area. If this were a conditional use permit option in an R-1 Single Residence Family District, and 5-10 years down the road an owner changed a senior residential facility to a market rate rental use, it would then have to go through the public hearing process to do that- this would protect the neighborhood.

Mr. Mundt reviewed an addition of a conditional use permit to Section 11.30 Subd. 3- a new addition of a convalescent home description.

Mr. Hoium discussed the item which lists that accessory dwellings shall have a floor area no greater than 50% of the floor area of the principal dwelling- there are a number of residents in the community that this section would prohibit them from even having a double garage.

Mr. Hoium also discussed accessory building exterior finish. Mr. Hoium suggested language including accessory building exterior wall and roof finish- if the dwelling has an asphalt roof then the accessory structure would have an asphalt roof.

Mr. Hoium discussed the possibility of having the minimum accessory structure setback be 3' and eliminate the Agreement to Build form. In the Building Code there are minimum distances to property lines and some include firewall requirements.

Mr. Mundt reviewed the option of a new zoning district/ designation for medium density to deal with townhomes and twinhomes- something that doesn't allow as much as a multi-family district, but could be more of a transition between a very large multi-family development and single family residences. Townhomes are now presently being allowed as a conditional use permit in an R-1 District. If a new district was created for medium density- should the conditional use permit for R-1 also be re-considered.

Mr. Hoium reviewed R-1 Residential Mobile Home Districts- to look at changing the spacing requirements in these districts. Oakland Park was developed in the mid 60's. At that time the infrastructure and utility connections were put into place to accommodate 10 foot side to side spacing between structures. At some point between the mid 60's and a couple of years ago that spacing was increased to 20 feet and has caused a hardship for the park because of the location of the water, sewer, and gas hookups, and also the manufactured home industry has increased the size of the homes which is making it hard for the park to utilize its entire area. The state law for spacing is currently 10 feet side to side and 3 feet back to back and 10 feet from the road to the structure. Currently our spacing is 20 foot side to side, 10 feet from the front

and 15 feet end to end. There are minimum tenant space requirements for each- each has to have a minimum square foot area. The layout for the new area in Oakland Park does accommodate the 20 foot spacing.

Mr. Byram reviewed business type uses. Do we do want to designate a specific district where it could occur- like an industrial manufacturing district. What type of zone should they be in. He also discussed distance requirements- distances from certain type of uses- residences, churches, schools, etc. Also distances between uses- adult type uses, etc. Can we even find a place in town that would accommodate a distance requirement of 1,000 feet for example.

Mr. Byram also reviewed the requirements for review of subdivisions and requirements for the types of planning sheets for storm water management. Should it be written into the ordinance detailing that if regional detention ponds are created, a developer could buy into it through developer rights and not have to develop those facilities on his own property if they can find the transmission to get to that facility.

Mr. Hoium reviewed setbacks for B-2 Districts. Currently zoning setbacks for this zoning district is seven feet in front, and 0 on sides and rear. The Blockbuster video store meets all the setbacks, but there is some obstruction for traffic on 18th Ave. N.W. If the setback is amended there are a lot of existing B-2 Districts that would have to meet the new setbacks if they decide to add onto their business.

Mr. Byram discussed the issue of historic preservation. He would like to see a citizen review committee that would perhaps include a commission member and provide a process for identifying certain properties as heritage preservation sites. Once they are established they are then recorded with the State Historical Society and become part of a re-zoning process along with the historic character of the area and the impact on the sites. This would provide special exceptions when it comes to variances and redevelopment of the property.

Mr. Hoium will ask City Council Member Lang to schedule an Ordinance Committee meeting with Mr. Mundt and Mr. Hoium. Mr. Hoium will then schedule a special meeting with the Planning Commission to discuss the possible changes/revisions.

ADJOURN

Motion was made to adjourn by Commission Member Kuehne. Motion was seconded by Commission Member Bergstrom. Unanimous Ayes. Motion passed. Meeting adjourned at 7:40 p.m.