

**MINUTES
AUSTIN CITY PLANNING COMMISSION
TUESDAY, NOVEMBER 9, 2010
5:30 P.M.
AUSTIN CITY COUNCIL CHAMBERS**

MEMBERS PRESENT: Jeff Bednar, Tony Bennett, Steve Kime, Jodi Krueger, Shawn Martin, Jim Mino, Lonnie Skalicky, Lynn Spainhower, and Kathy Stutzman

OTHERS PRESENT: Craig Hoium, Council Member Dick Pacholl, and public

The meeting was called to order at 5:30 P.M. by Commissioner Spainhower with no corrections to the agenda.

Commissioner Bennett made a motion to approve the October 12, 2010 Planning Commission Minutes as written, seconded by Commissioner Bednar. Motion passed unanimously.

Open Public Hearing: To consider a request from Jim and Jayna Heimark, 1707 28th St NE for the rezoning of their property from an "R-1" Single-Family District to a "PDR" Planned Development Residential District. This requested action would accommodate a new residential subdivision and is pursuant to City Code Sections 11.02 and 11.65.

Referring to the monitor Mr. Hoium explained the property location which is approximately a 10 acre area that is located just northwest of the Austin Country Club at the interchange of Interstate 90 and 28th Street NE. The requested action is a petition of rezoning the property. When planning and development is taking place there is more involvement needed to reach the approval process. The petitioner has gone through and had the property annexed, we have gone through a concept statement and in our City Ordinance there a Preliminary Review Process and a Final Review Process that needs to still take place. The action being taken at this meeting would be the Preliminary Review. The City Ordinance has a provision to which the site in review is less than 2 acres and it is not a substantial development, Mr. Hoium can waive the Preliminary Review Process. With this site being 10 acres in size we must go through all the required steps.

Mr. Hoium went over what the development consists of on backup material in the monitor. The road will be maintained as private road. There are four new proposed lots ranging from just under 1 acre up to 1.8 acres along with the petitioners parcel. There will be a rural section road with no curb, gutter and will consist of ditches on both sides of the hard surfacing. Maps in the backup material show the storm water drainage, final grading plan, and wetland delineation. There is also a report submitted on the wetland delineation which was requested and is available for review.

The area is 11.31 acres and the density of the development is actually 1 unit per 2.126 acres which is in compliance with the comprehensive plan. The petitioners would like to have a municipal sanitary sewer to the site. The adjacent facilities would be the Hormel Nature Center, Todd Park, the Country Club, Decker Park. Other recreation facilities would include the pedestrian trails in the immediate area. Extending the road will be discussed more in detail at a later date. Also in the backup material are the 13 conditions for approval of the plat which will be petitioned for at a later date. Rezoning the property is the topic of this Open Public Hearing.

Information regarding the private road contained two letters from the consulting engineer dated September 14, 2010 and September 16, 2010 addressing a number of conditions originally requested. The City Ordinance in this Preliminary Review Process actually contains 24 items that in the least must be addressed. Mr. Hoium went over the 24 items located in the backup material regarding City Code Provisions listed in Section 11.65 Subd. 6 (A). The development will possibly start in the Spring of 2011 and a mailing did go out to all adjacent property owners and no responses were taken.

Commissioner Stutzman referred to #12 of the Conditions of Approval wondering if the developers ever decide to move/sell the property, will that create a problem. Mr. Hoium explained typically with an out lot that is a parcel of land that cannot be developed, so if the petitioner would like to market the property they would have to go thru the platting process. Commissioner Stutzman asked for more clarification on the acronym NPDES. Mr. Hoium explained this is an NPDES protection enforcing erosion control & material be put in place to protect the adjacent natural water ways from the slit entering them.

Commissioner Mino inquired once the plat is approved is there a time frame of when the sewer and street has to be completed? Mr. Hoium explained the only time frame as being that the city will need enough time to do the feasibility study and install the requested utility. Time will be needed to go through the process. There is a provision in the City Ordinance that one year from the time of approval, development needs to begin.

Commissioner Spainhower referred to an email from Craig Byram explaining that all parties need to agree to the process on the road. Mr. Hoium indicated there is an agreement enclosed that addresses the private roadway and it is the responsibility of the property owners on the private road.

Commissioner Skalicky made the motion to recommend approval with the condition that the final plat be approved. Second from Commissioner Mino and approved unanimously.

Other Business: Review of Minnesota Supreme Court decision regarding variance appeal case of Krummenacher vs. City of Minnetonka

Mr. Hoium included this material to assist in making the Planning Commission aware of the action that was taken by the Supreme Court regarding a variance request related to expansion in height to a detach garage in Minnetonka. This has changed how municipals handle variance requests. In previous actions municipals had more of a broad discretionary power and as far as an undue hardship and the regulations in place prohibited a land owner in a reasonable manner. This case will make it hard to approve a variance. The League of MN Cities is hoping to clarify this matter. If Commissioners receive calls for or against the variance, this will give them a background of the court hearing. Mr. Hoium referred to the Commercial Activity Report through September showing variances that have been given to locate businesses within the City.

Commissioner Martin made a motion to adjourn the Planning Commission Meeting at 6:00 pm, seconded by Commissioner Kime. Motion passed unanimously.