

**MINUTES**  
**CITY OF WATERLOO, IOWA**  
**PLANNING, PROGRAMMING AND ZONING COMMISSION**  
**REGULAR MEETING - 4:00 P.M. OCTOBER 14, 2014**

The regular meeting of the Waterloo City Planning, Programming, and Zoning Commission was called to order at 4:00 p.m. by Acting Chairperson Young on October 14, 2014 in the Harold E. Getty Council Chambers at Waterloo City Hall.

Members present were: Tackett, Thornsberry, Young, Hall, Buckles (left at 5:58 p.m.), and Morrison (arrived at 5:25 p.m.).

Member absent was: Whitehead, Gustafson and Mieke.

Others present: Noel Anderson, Aric Schroeder, Chris Western, Shane Graham, Tim Andera and Adrienne Miller - Planning Department; Eric Thorson, Engineering Department; Councilpersons Tom Lind, David Jones, Pat Morrissey, Carolyn Cole, Ron Welper and Steve Schmitt and approximately 35 citizens.

I. Approval of the Agenda

***It was moved by Thornsberry, seconded by Buckles to approve the agenda. Motion carried unanimously.***

II. Approval of the Minutes from the Regular Meeting on September 9, 2014.

***It was moved by Tackett, seconded by Hall to approve the minutes as submitted. Motion carried unanimously.***

III. Financial Report: August 2014

Anderson indicated that we are on schedule with both revenue and expenses.

***It was moved by Buckles, seconded by Thornsberry to approve the financial report. Motion carried unanimously.***

IV. Oral Presentations

There were no oral presentations.

V. Agenda Items

A. Hearings – Rezones/Site Plan Amendments

1. Request by GMJ2 Industries to rezone 61.11 acres from “A-1” Agricultural District, “C-2” Commercial District, and “M-1” Light Industrial District, to “R-1, R-P” Planned One and Two Family Residence District, to allow for the construction of new single-family homes, generally located north of E Shaulis Road and east of Texas Street.

***It was moved by Hall and seconded by Tackett to receive and place on file the statement of verification at 4:05 p.m. Motion carried unanimously and Young declared the hearing open.***

Andera gave the staff report explaining the request, noting that staff is recommending approval of the rezone request, subject to the condition that the uses within the rezone area be limited to single-family uses.

Thornsberry questioned how often Sink Creek floods, and Andera indicated that he was not sure. Jim Ellis, GMJ2 Industries, indicated that Sink Creek has no water in it at all during dry times, and when it is wet water comes in and out fairly quickly. Ellis commented that they plan on cleaning out that floodway channel and widening it some in order for the water to better flow through it. He also commented that

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they would expand the existing lake at the northeast corner of the property, and would create another lake to the southeast. He indicated that they would take the dirt from the lakes in order to elevate the property to 1 foot above the base flood elevation.

Carolyn Cole, 836 Lynkaylee Drive, 2<sup>nd</sup> Ward Councilperson, commented that whenever it rains, she gets phone calls about that area. She indicated that many homes in that area do not have storm sewers, and commented that the commission should look at the entire area when considering this request.

Ellis commented that the preliminary plat would cover the entire project, but that the final plat would be done in 3 phases, with phase I being the 12 lots along Shaulis Road. Thornsberry questioned if the plat could be approved without a drainage plan, and Anderson commented that the preliminary plat has existing and proposed contours on it, and that Engineering would review those and the drainage plan.

***It was moved by Thornsberry, seconded by Buckles to close the Public Hearing. Motion carried unanimously. Public Hearing was closed at 4:27 p.m.***

***It was moved by Hall, seconded by Tackett, to approve the rezone request, subject to the following conditions: 1. that the uses within the rezone area be limited to single-family uses. Motion carried unanimously.***

2. Request by GMJ2 Industries for a site plan amendment to the “R-1, R-P” Planned One and Two Family Residence District, to allow for residential development to have side yard setbacks of 5’, and to allow for development of single-story ranch style homes, generally located along W 7th Street, between Pleasant Street and Williston Avenue.

***It was moved by Tackett and seconded by Buckles to receive and place on file the statement of verification at 4:28 p.m. Motion carried unanimously and Young declared the hearing open.***

Graham gave the staff report explaining the request, noting that staff is recommending approval of the site plan amendment, subject to the condition that the single story homes have a roof pitch of 6/12 or steeper and that at least 2 windows or dormers be included in the attic level.

Tackett questioned if there was a picture showing what a 6/12 pitch roof with windows looks like, and Graham indicated no.

Jim Ellis with GMJ2 Industries commented that the 5’ setback would allow larger homes to be built. He indicated that allowing access for Lot 1 off of Pleasant Ave would allow for the orientation of the home to be changed if desired by a potential buyer. He commented that most of the homes in that area were constructed between 1909 and 1925, and although most of the homes in the area are 1 1/2 or two story homes, it was not his intention to outlaw single-story homes on these lots.

Ron Welper, 5<sup>th</sup> Ward Councilperson, noted that this area was a heavily used green space area, and it wasn’t a popular idea by area residents to build homes in this area. He indicated that the neighborhood attitude changed when they found out that the plan was being changed to allow single-story ranch homes, as it is not compatible with the area. He indicated that he has talked with 9 area homeowners who are against this request.

Nick Sabo, 1134 W 8<sup>th</sup> Street, commented that the green space is used daily, and that they thought the style of the houses would match the neighborhood, and now it seems like the developer is cheapening out by wanting to construct ranch homes.

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Pat Morrissey, 824 W3rd Street and 3<sup>rd</sup> Ward Councilperson, commented that he is against this request to construct ranch style homes in this area, and would like to see the applicant withdraw the request.

Ralph Longus, 902 Williston Avenue, indicated that he has lived there for 24 years, and that 5' setbacks are very close, as the homes would only be 10' apart from each other. He commented that he is not against homes being there, but is against ranch style homes, indicating that story and a half homes with 2 bedrooms upstairs with windows would be a better option.

Rebecca Mitchell, 1130 W 8<sup>th</sup> Street, indicated that she is opposed to the request, noting that everyone makes mistakes, but make it on another project and not this one.

Jim Ellis commented that homes will be built on this property, as the City Council has already approved housing development there. He commented that the Zoning Ordinance does not disallow single-story homes on this property. He indicated that he is ok with constructing the homes with a 6/12 pitch like staff requested. He commented that the homes would be constructed 18" above existing grade, and then with the sidewall height and roof pitch the homes would probably be as tall as the surrounding homes. He commented that it was never his intention to outlaw single-story homes here, and commented that his goal was to raise the neighborhood and not lower it.

***It was moved by Hall, seconded by Buckles to close the Public Hearing. Motion carried unanimously. Public Hearing was closed at 5:00 p.m.***

Tackett commented that she is hesitant to change the housing types due to the existing residents' concerns. Hall agreed with Tackett.

***It was moved by Hall, seconded by Buckles, to deny the site plan amendment to the "R-1, R-P" Planned One and Two Family Residence District, to allow for residential development to have side yard setbacks of 5', and to allow for development of single-story ranch style homes, generally located along W 7th Street, between Pleasant Street and Williston Avenue, and to deny the request to revise the existing deed of dedication for the final plat of Williston Field Addition, generally located along W 7th Street, between Pleasant Street and Williston Avenue. Motion carried unanimously.***

### B. Special Permits

1. Request by the Bosnian Islamic Association of Waterloo, Inc. for a special permit to allow for the establishment of a cemetery, generally located south of Marigold Drive and north of Memory Lane.

Graham gave the staff report explaining the request, and indicated that staff is recommending approval of the special permit request, subject to the condition that the final site plan meet all applicable city codes, regulations, etc. including but not limited to parking, landscaping, drainage, etc., except as approved by variance, and that a minimum 6' tall solid fence is constructed along the west and south borders of the cemetery to screen the adjacent mobile home park.

Kirk Eschliman with KESS & Associates and representing the applicant, commented that the state approval should not have an impact on groundwater. Young questioned if information could be found out about any state approvals required before they make a recommendation, and Schroeder commented that staff checked with the state and could not find much information on the matter.

Thornsberry commented that she checked with several area funeral homes and they indicated that it is up to the cemetery as to whether burial vaults should be required or not. She commented that the state Board of Health governs cemeteries.

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Tackett questioned a sanitary sewer line that appears to go where the cemetery is being proposed, and Eschliman commented that a sanitary sewer line appears to go where the cemetery is located, and that they would work with the city to abandon that line.

***It was moved by Thornsberry, seconded by Buckles, to approve the special permit request, subject to the following conditions: 1) that the final site plan meet all applicable city codes, regulations, etc. including but not limited to parking, landscaping, drainage, etc., except as approved by variance, 2) that a minimum 6' tall solid fence is constructed along the west and south borders of the cemetery to screen the adjacent mobile home park, and 3) that confirmation of all regulations & permitting are required before proceeding. Motion carried 5-1, with Tackett voting against.***

2. Request by Raul Andrade for a special permit to allow for the legalization of a single-family home converted into a 3-unit dwelling on property zoned "R-3" Multiple Family Residence District, located at 532 Independence Avenue.

Miller gave the staff report explaining the request, and indicated that staff is recommending denial of the special permit request, as the property does not meet numerous density requirements to allow for a 3-family conversion, the request could set a precedence for future requests in the area, and the city sees high density multi-family conversions as potentially having a negative impact on lower density neighborhoods.

Mrs. Andrade commented that they bought the home in 2000, and is not sure who or when the house was converted into a 3-unit dwelling. She commented that there are 3 gas meters, and Mid American Energy has no records of installing them, so it could have been IPS. She commented that they would pave the parking areas as well per code.

Young questioned if all of the units were rented, and Andrade indicated that one tenant just moved out last month, otherwise they were all being rented.

Pat Morrissey, 3<sup>rd</sup> Ward Councilperson, indicated that he is against the request, and is also speaking on behalf of Ward 4 Councilperson Quentin Hart, as he could not attend the meeting. He commented that ordinances are in place for a reason.

Ali Parrish with Habitat for Humanity commented that she submitted a letter of opposition and was there to answer any questions.

Thornsberry questioned how this come to staff's attention, and Miller indicated that the applicant came to the city for a permit for a deck and that is when staff noticed that the property did not meet ordinance requirements for a 3-unit dwelling.

Tackett commented that she is in support of denying this request, but feels for the applicants. Andrade questioned what would happen if the request is denied, and Schroeder commented that the property would have to be converted into a single family dwelling, or possibly a two-family dwelling if all ordinance requirements are met.

Morrison commented that if this was going to harm the neighborhood, it has been doing it for at least 14 years, and noted that they tried to do the right thing by getting the necessary building permits. Thornsberry agreed with Morrison's comments.

Hall commented that the city will be seeing more of these requests in the future, and is concerned with setting a precedence.

Schroeder commented that homes have been sold many times so owners will not know that it was illegally converted. He commented that there are neighborhoods that have deteriorated because of these illegal conversions.

Andrade commented that they have taken out building permits in the past, such as roofing, and have never been questioned before. Schroeder indicated that not all building permits require planning department signoff, such as a roofing permit, and the building department doesn't know the zoning code.

Morrison questioned if the request is denied if they would get their filing fee back, and Schroeder answered no. There was a discussion about tabling the request in order for the applicant to amend their request to ask for a special permit to allow it to be converted into a two-family dwelling instead of a three-family dwelling.

***It was moved by Morrison, seconded by Tackett, to table the special permit request. Motion carried unanimously.***

C. Plats

1. Request by Robin Hood Enterprises, LLC for the 11-lot preliminary plat of Nottingham Third Addition, zoned "R-1" One and Two Family Residence District.

Mike Young indicated that he would be abstaining from the request due to a conflict of interest, due to the applicant being his client. Young then left his seat and entered the audience to sit with his client, who is the applicant. The commission no longer had a quorum of its members present for the transaction of business. The remaining members of the commission, acting as an ad hoc committee of the commission, then heard the request.

Miller gave the staff report explaining the request, and indicated that staff is recommending approval of both the preliminary and final plat requests.

Rick Young, 3849 Trent Lane, reviewed and responded to the comments that were made at last month's meeting. He indicated that the detention/retention pond is required per code, and that the maintenance of the pond would be done by the homeowners association, who would include all lot owners. He indicated that the detention pond would drain to Prescott's Creek to the west, but may have some water in it at times because of the low water table. He commented that fill would be brought in for the lots, and that none of them would be located within the floodplain. Young showed a copy of the floodplain cross-section map that his engineer completed, and explained what it was showing.

Gary Luterek, 4828 W 4<sup>th</sup> Street, commented that we have ordinances for good reasons, and that the commission is there to promote the health, safety and welfare of the citizens, and that they should abide by those ordinances. Luterek submitted a petition of opposition signed by 27 property owners. He commented that he thinks that this request shouldn't move forward until FEMA first approves it. Schroeder commented that even if the floodplain map is not amended, the homes would not be in the floodplain.

Wendell Lupkes, 4862 W 4<sup>th</sup> Street, commented that it would be short sided of the city to end the street with a cul-de-sac and not think about expanding it to the north in the future for future development. He commented that the Naylor's, who own the land to the north, requests that the right-of-way line go to the south end of their property so the road can eventually be extended to Ranchero Road to the north. Lupkes indicated that the Subdivision Ordinance states that the streets should be extended to the property line. He commented that Tract B should be revised to say only a single family home can be constructed on it. He

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indicated that Tract B cannot be served by sanitary sewer at this time because of the waterway that goes through there. He made some comments about the floodplain cross-section map that the applicant provided. He indicated that the pond will have maintenance issues if it is constructed as shown on the plat, and he requested that a more detailed pond maintenance agreement be provided and that should be added as a condition so that the homeowners of the lots know what they are getting into.

Bill Claassen with Claassen Engineering commented that they attempted to contact the homeowners to set up a meeting to discuss the concerns but that they didn't want to meet. He commented that the pond is a detention and retention pond. He also indicated that the ground there is 6-7' higher than the bottom of Prescott's Creek.

Pam Wolf, 4810 W 4<sup>th</sup> Street, questioned how Lot 11 can be legally split, as wording in her deed of dedication indicates that it cannot. Mike Young commented that the deed states that the lots cannot be split to add more lots to the subdivision.

George Stigler, 4616 William Drive, indicated that he disagrees with staff's recommendation of approval of the request. He pointed out an error in the staff report, and questioned if that meant that staff had a lack of care or concern for the residents. He commented about protecting the welfare and safety of the citizens. He indicated that the pond is not a detention pond, but rather a borrow pit used to elevate the land in order to make the subdivision work. He indicated concerns on the pond, noting that it would attract children and geese, and also commented that the subdivision would have water issues. He also commented that the applicant would need to get DNR and Board of Adjustment approval to create the borrow pit within the floodway. Stigler indicated 2 reasons that it should be denied: 1. it lacks merit, and 2. they don't have all of the necessary permits. Schroeder commented that this request is for platting only, and no Board of Adjustment or DNR approval is needed.

Thornsberry questioned if all 27 signatures on the petition of opposition are owners within the subdivision, and Luterek answered yes. Morrison questioned if a second access would be needed since they are proposing a cul-de-sac, just like was required for Summerland Farms, and Schroeder indicated no, as you would need 30 units before a second access would be required. Morrison made comment that one engineer says the area will flood, and another engineer says it won't, but she is moved more by looking at a picture provided which shows water on the land.

The following vote was taken without legal effect due to the commission no longer having a quorum of its members present for the transaction of business.

***It was moved by Thornsberry, seconded by Hall, to approve the preliminary and final plat of Nottingham Third Addition, and to approve the request to rename existing Crusade Drive as Shelley Court. Motion failed 1-3, with Tackett, Morrison and Thornsberry voting against, Hall voting for, and Young abstaining.***

2. Request by Robin Hood Enterprises, LLC for the 11-lot final plat of Nottingham Third Addition, zoned "R-1" One and Two Family Residence District.

Discussed and acted on with item C-1 above.

3. Request by JDE Engineering for the 11-lot preliminary plat of South Port Third Addition, zoned "M-1" Light Industrial District.

Anderson explained the request, indicating that staff is recommending approval of the preliminary and final plats.

***It was moved by Thornsberry, seconded by Buckles, to approve the preliminary and final plat of South Port Third Addition. Motion carried unanimously.***

4. Request by JDE Engineering for the 11-lot final plat of South Port Third Addition, zoned “M-1” Light Industrial District.

Discussed and acted on with Item C-3 above.

5. Request by GMJ2 Industries to revise the existing deed of dedication for the final plat of Williston Field Addition, generally located along W 7th Street, between Pleasant Street and Williston Avenue.

Discussed and acted on with Item A-2 above.

6. Request by Midwest Development for the 14-lot final plat of Audubon Heights 4th Addition, zoned “R-1” One and Two Family Residence District.

Miller gave the staff report explaining the request, and indicated that staff is recommending approval of the final plat request.

Young questioned if Audubon Drive and Partridge Lane would be connected in the future, and Schroeder commented yes.

***It was moved by Tackett, seconded by Hall, to approve the final plat of Audubon Heights 4<sup>th</sup> Addition. Motion carried unanimously.***

D. Vacates

1. Request by David and Beth Delagardelle to vacate the 30’ platted building line located along the south end of the property located at 472 Progress Avenue.

Andera gave the staff report explaining the request, and indicated that staff is recommending approval of the vacate request.

***It was moved by Hall, seconded by Buckles, to approve the building line vacate request. Motion carried unanimously.***

2. Request by Marcus Pratt to vacate a portion of Marigold Drive, located south of Afton Drive.

Andera gave the staff report explaining the request, indicating that staff is recommending approval of the vacate request, subject to the following conditions: 1) that before reconstruction of the road begins, the applicant submits in writing the details, materials and contractors involved in the reconstruction of the roadway, and obtain all necessary permits, 2) that the applicant reconfigures the intersection of Marigold Drive and Afton Drive by properly curving the two streets into one another, and 3) that each adjoining property owner provides an access easement for the benefit of the other adjoining property over the portion that is conveyed to them.

Young commented if this request is tied to the cemetery request earlier on the agenda, and Schroeder commented that the cemetery will use this area for its access.

Kirk Eschliman, KESS & Associates, questioned if the easement needs to be retained over the entire 60’ or only 40’. Schroeder indicated that staff would look into how much area is needed for the easement.

***It was moved by Buckles, seconded by Thornsberry, to approve the vacate request subject to the following conditions: 1) that before reconstruction of the road begins, the applicant submits in writing the details, materials and contractors involved in the reconstruction of the roadway, and obtain all necessary permits, 2) that the applicant reconfigures the intersection of Marigold Drive and Afton***

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***Drive by properly curving the two streets into one another, and 3) that each adjoining property owner provides an access easement for the benefit of the other adjoining property over the portion that is conveyed to them. Motion carried unanimously.***

E. Street Namings

1. Request by the City of Waterloo to name a new private street as Rapids Square.

Anderson explained the request, and indicated that staff is recommending approval of the street naming.

***It was moved by Hall, seconded by Tackett, to approve the street naming request. Motion carried unanimously.***

2. Request by Robin Hood Enterprises, LLC to rename existing Crusade Drive as Shelley Court.

Discussed and acted on with Item C-1 above.

F. Appeals

1. Request by Surface Solutions, Inc. for an appeal to the City Code requirement prohibiting vehicles from parking on the city-owned right-of-way located between the street and property line, located at 323 La Porte Road.

Miller gave the staff report explaining the request, and indicated that staff is recommending approval of the request, subject to the condition that the City will have the right to utilize the right-of-way for widening the roadway or installing traffic control devices. The property owner will have no right to claim damages or prevent the City from removing the parking and utilizing the right-of-way for public purposes.

Morrison commented that she has gotten several calls about this, and questioned if code enforcement has been in contact with staff about this issue, and Schroeder commented yes they have been in contact with our office.

***It was moved by Thornsberry, seconded by Buckles, to approve the appeal to the City Code requirement prohibiting vehicles from parking on the city-owned right-of-way located between the street and property line, located at 323 La Porte Road, subject to the condition that that the City will have the right to utilize the right-of-way for widening the roadway or installing traffic control devices. The property owner will have no right to claim damages or prevent the City from removing the parking and utilizing the right-of-way for public purposes. Motion carried unanimously.***

V. Discussion Items

There were no discussion items.

VI. Adjournment

***With no further business to discuss, it was moved by Hall and seconded by Thornsberry to adjourn the meeting. Motion carried unanimously and the meeting adjourned at 7:38 p.m.***

Respectfully submitted,



Shane M. Graham,  
Planner II