

Call to Order and Flag Pledge.

Commission Chair Vince Johnson called the meeting to order.

Roll Call.

Chair Vince Johnson and Commissioners Randy Dalheimer, Bob O'Brien, Kevin Faulds, Steve Fowler were present as was City Council Liaison Scott Hoke, Assistant to the City Administrator Erin Stwora, Assistant City Planner Mike Elhard, and Planning Consultant Tina Goodroad of Bonestroo.

Approval of the Agenda.

Motion to approve the agenda by Johnson, seconded by Fowler, no additional discussion, All ayes.

Open Forum.

Johnson opened the open forum.

No one came forward.

Johnson closed the open forum.

City Council Update.

Hoke provided the update.

Consent Agenda.

- A. Approval of the March 5, 2009 Planning Commission Meeting Minutes.

Motion to approve minutes by Fowler, seconded by Johnson, no additional discussion, All ayes.

1. PUBLIC HEARING – JOHN AMPE VARIANCE

Stwora presented an overview of the variance request to construct a single family home on a legal nonconforming lot on Zanzibar Lane north of South Diamond Lake Road.

Faulds questioned how many lots in Dayton have similar circumstances. Stwora stated there are numerous lots in Dayton with similar circumstances.

Fowler questioned if the circumstances presented were a hardship. Fowler stated the purchase of the property began 15 years ago and the intent was to build a home.

Stwora stated the previous planner with the City sent an undated letter to the applicants stating the property owners had a building entitlement .

Johnson questioned the guiding of the area. Stwora stated the area is guided Urban Reserve. Stwora stated much of the Urban Reserve area would become low density residential.

Fowler questioned if the applicants were made aware of the City's intent to construct a wastewater treatment plant near their property. Stwora stated the property owners are aware of the City's intent.

Faulds questioned when the ordinance was changed. Stwora and Hoke stated the ordinance was changed in 2004 to permit 1 home per 40 acres.

Fowler questioned if the applicants had spoken with Mr. Bob Engstrom, property owner to the south and west. Stwora stated an attempt to speak was made and Mr. Engstrom sent an email to staff regarding his concerns. Fowler stated he agreed with Mr. Engstrom's email. Stwora stated building codes do not regulate the style and design of homes.

Fowler and O'Brien stated they were supportive of the variance request.

Chair Johnson opened the public hearing.

No one came forward.

Chair Johnson closed the public hearing.

Faulds questioned who the neighbors are. Stwora stated Mr. Engstrom owns the property to the south and west. Faulds questioned if single family homes were constructed on the neighboring parcels. Stwora stated there are no homes on Mr. Engstrom's parcels.

Faulds questioned the potential for similar requests. Stwora stated there may be other parcels that would have similar circumstances. Stwora stated the difference will be many properties will require a subdivision and building entitlement while this property had a building entitlement in recent times.

Stwora stated the Ampe's will have a caretaker present on their property while they are away from the home for extended periods of time.

Johnson questioned if the home should be positioned to accommodate future development. Stwora stated the area is guided for development after 2030 and ghost platting would not be necessary unless the area would be developed sooner.

Fowler questioned if open space was designated near the parcel. Stwora stated the open space was designated near the lake.

Motion to approve by O'Brien, seconded by Fowler, no additional discussion, All ayes.

2. CITY COUNCIL/PLANNING COMMISSION WORK SESSION REGARDING THE PUBLIC FACILITIES MASTER PLAN WITH THE BKV GROUP.

The work session reviewed notes from the previous work session, reviewed municipal services phasing matrix, and presented a draft of the final document.

3. DISCUSSION REGARDING SUGGESTED REVISIONS TO THE PUBLIC PEACE AND SAFETY ORDINANCE.

Stwora presented an overview of the suggested revisions.

Stwora stated the Public Peace and Safety Ordinance has a list of actions prohibited within the City. Stwora stated enforcement is not written into the ordinance. Stwora stated staff sends letters. Stwora stated staff is seeking direction creating an enforcement policy that may be a “3 strikes” policy.

Elhard presented a slideshow of properties that have been cited or viewed by staff with increasing accumulation of items in the yard.

Stwora stated the properties violate the ordinance; the owners have been sent letters from staff, the attorney, called and notified of Clean Up Day. Forseth questioned if the individual cannot afford to clean up the items or cannot physically clean up the property. Stwora stated staff had informed the property owner the City would work with him to clean up the property and stated the owner is bringing the items to his property which assumes he is able to remove the items. Forseth suggest a boy scout troop could help the property owner clean up.

Stwora questioned the Planning Commission and City Council regarding the enforcement proposed.

McNeil questioned if the property presented had been complained about. Stwora stated it is a property staff drives by numerous times a day but no formal complaint has been received. Elhard stated the property to the north recently moved to Dayton and constructed a fence to block the view of the items in the yard. Forseth stated the ordinance is complaint driven. Stwora stated staff was directed by City Administrator Orduno to send a letter. Forseth stated he disagrees with enforcing violations if it is not complaint based. Hoke stated most other communities are complaint based.

McNeil stated he opposed the ordinance because it creates problems within neighborhoods between neighbors. Forseth stated he agreed with McNeil but does not agree that staff should arbitrarily send violation letters. Stwora stated staff does not arbitrarily send letters. Stwora stated many staff members pass the property daily and notice the additional accumulation and is attempting to catch a problem before it becomes worse. Forseth stated staff does not live in Dayton and is not affected by the properties. Hoke stated staff may not live in the community but has a responsibility. Forseth stated if staff is sending letters the property owner may feel the neighbor has made a complaint. Stwora stated the

property on Fernbrook Lane is the only property presented which did not receive a formal complaint.

Hoke requested to see additional pictures. Stwora and Elhard stated the pictures are from the Donahue Dells and Vinewood neighborhoods.

Stwora questioned if the group is supportive of an enforcement policy. Fowler stated the ordinance requires an enforcement policy. Forseth stated he supports enforcement provided it is not applied arbitrarily. Stwora stated enforcement would not be applied arbitrarily.

Stwora stated many communities do not permit vehicles to park on unimproved surfaces. Stwora stated many calls are received regarding vehicles parked in yards on grass. Forseth questioned the public purpose in regulating the location vehicles can park. O'Brien stated deterioration of neighborhood. Goodroad stated chemicals pollute the land. Hoke stated a couple of vehicles (two vehicles presented in a picture shown) is okay but a couple more would be a problem. Stwora questioned whether recreation vehicles or unlicensed motor vehicles in side yards as opposed to the picture shown which is two vehicles parked in front of the garage on grass. McNeil stated he does not have a concern with temporary parking but does have a concern with storage. Stwora questioned how to differentiate between storage and temporary parking. O'Brien suggested seasonal parking for recreation vehicles. Hoke stated long term storage may be present. Dahlheimer stated the complaints would determine the difference between storage, long term storage and temporary parking. Stwora questioned the amount of time permitted for temporary storage/parking. McNeil suggested a couple of days. Stwora questioned the enforcement of a vehicle stored on an unimproved surface near a property line.

Fowler stated all new developments have covenants and enforcement of the policy creates covenants for all residents of Dayton. Forseth stated the policy creates after-the-fact covenants and residents were not made aware of the policy at the time of purchase. Johnson agreed. Stwora agreed and questioned what direction this would lead the city in the future. O'Brien stated accumulation of cars in many communities outside of Dayton have affected property values. Stwora stated at the present there may not be a need for immediate concern but it may get worse before enforcement can begin.

Forseth stated he parks a recreation vehicle, boat, and a couple of cars. Hoke stated he moved to Dayton eighteen years ago next to family of four with two vehicles and now lives next door to a family of two with seven vehicles, eight trailers, and three boats. Forseth stated a middle ground needs to be met. Stwora questioned what the middle ground is. Stwora stated an enforcement policy should state whether an action is permitted or not permitted. Forseth questioned if a driveway were large enough would he be permitted to park twenty vehicles. Stwora stated the City has regulations for driveways which would effect the number of vehicles permitted. Forseth questioned if regulating parking to driveways would diminish the impact to the neighborhood as previously stated parking on unimproved surfaces does. Stwora stated it would impact the neighborhood but

the regulations regarding driveway width would help. Forseth questioned properties with long driveways. Stwora stated the rules are applied different to agricultural zoned properties. Forseth stated properties along Pineview Lane have long driveways and are not zoned agricultural.

Hoke stated a further discussion point should be car ports for vehicle storage. McNeil questioned if car ports would improve the parking situation. Stwora stated complaints are received regarding car ports. Forseth stated car ports present a public safety concern. Goodroad stated Dayton will face the issue for a period of time as it continues to grow and develop. Goodroad stated standards are being set high for new development in Dayton and should be applied to all areas, including existing neighborhoods but excluding agricultural areas. Forseth stated an ordinance is being passed for a problem that does not exist. Hoke stated when complaints are reported staff needs an answer to those making the complaints. Stwora stated individuals making complaints call staff many times after the initial complaint is made to ensure follow up is completed. Forseth stated the City becomes the middle individual for neighbors disliking each other. Stwora stated the calls received have not been unreasonable concerns. Stwora stated the complaints are not made over neighbor issues; rather they are made for valid complaints about nuisances. Forseth stated conflicts between neighbors become City problems when a nuisance ordinance exist. Stwora agreed and stated a nuisance ordinance is easier to enforce at a population of 5,000 than trying to begin enforcement when the population is 20,000.

McNeil stated he agreed with O'Brien and stated something needs to prevent property values from declining if values are declining due to nuisances. McNeil stated he does not want ordinances that restrict property owners. Johnson stated property owners no longer own their property.

Stwora questioned if the group was supportive of car ports. Forseth stated car ports are a public safety problem. McNeil questioned how a car port is a public safety problem. Stwora stated car ports are not fixed to the ground and could present a problem in a storm and no building standards exist for car ports. Hoke stated car ports may be temporary structures but become permanent structures which is required to meet building code regulations. McNeil stated a car port would allow an individual to store a boat or unlicensed vehicle. Forseth stated a requirement for anchors could be made. McNeil agreed. Forseth stated a permit would be required. Stwora stated the square footage would count against their permitted square footage. Dahlheimer questioned how existing car ports would be affected. Stwora stated if a complaint was made the car port would be in violation. Forseth suggest complaints be made in writing. Stwora stated some individuals will not provide a written complaint. Forseth stated the nuisances is not as big an issue if complaints are not made in writing. Goodroad stated the ordinance can be written stating limits to many of the issues presented including limiting the number of vehicles located in the front yard.

Hoke stated regulations must be applied throughout the community. Hoke stated Dayton cannot be Edina and East Bethel. Hoke stated developers will not want perspective buyers

to pass by violating properties. McNeil agreed and stated regulations could be applied to different zones. Stwora stated applying regulations to different zones would be discrimination.

Hoke stated many residents do not want to make complaints. McNeil stated neighbors do not want to get into arguments with each other.

Stwora questioned if car ports would be permitted. Faulds stated car ports should be treated as accessory buildings. Goodroad stated building pads could be required. Stwora stated building standards require exterior building materials comparable to the primary structure. Stwora stated a fabric building would not meet the requirements. Fowler questioned if a car port would be permitted in a new development. Dahleimer stated a car port should not be permitted in a new development. McNeil stated a difference should be made between front yard and back yard. Hoke stated car ports should be treated as garages only in terms of square footage and must be located in the rear. Dahlheimer questioned the need for a foundation. Forseth stated out-buildings do not require a cement pad. Stwora stated a permit would be required to regulate car ports. Hoke stated if car ports are permitted it should be temporary. Hoke stated a car port could be used for a boat over the winter season but not as a substitute for a garage. Johnson questioned how regulation would work. Stwora stated staff would send letters giving violating property owners thirty days to remove the car port and continue to send letters throughout an entire season and the cycle would continue. Stwora stated staff would put together standards for car ports.

Stwora questioned if the group was supportive of vehicles parked on unimproved surfaces. The group was split after a vote. McNeil stated he favored temporary parking. Hoke stated he would permit a certain number of vehicles. Forseth stated if the vehicles are being used they should be permitted. Stwora stated the vote would be done at the City Council. K. Anderson stated enforcing a time limit would be difficult for staff to do. Stwora agreed. Forseth questioned if the City would hire a code enforcement officer. Stwora stated staff completes drive-by inspections and sends letters after complaints have been made to several properties. Forseth stated if the complaint is not written the complaint does not exist.

Stwora questioned if the group was supportive of construction equipment in residential neighborhoods. Forseth questioned if the home occupation permit covers construction equipment. Stwora stated property owners may own construction equipment. Johnson stated he owns construction equipment to clear snow in the winter. Stwora questioned the group about construction materials. Hoke stated if the equipment is there and a home occupation permit exists it should not be an issue. Dahlheimer questioned the group regarding heavy construction equipment, mentioning a ten ton truck as an example. Stwora stated a semi truck would be another example. Hoke stated commercial vehicles will need to be considered a nuisance at some point. Stwora stated Mayor Anderson has a neighbor that parks construction equipment, bobcats and large trucks, on their yard during nights and weekends when not at work. Dahlheimer stated one vehicle could be permitted.

O'Brien stated commercial vehicles should not be permitted in residential neighborhoods. Hoke stated White Bear Lake regulates commercial vehicles in residential neighborhoods based on size and weight of the vehicle. Goodroad stated many communities use the same standards as White Bear Lake. O'Brien and Stwora stated communities regulate trailer parking. Forseth stated people move to Dayton to have their trailers and vehicles on their property. O'Brien stated diesel trucks in residential neighborhoods should not be permitted. Stwora stated staff would research White Bear Lake's ordinances.

Stwora questioned the group regarding grass height requirements on different lots in residential neighborhoods. Stwora stated McNeil suggested 8 inches in R-1 lots and a reasonable area on larger R-2 lots. Stwora stated most complaints made have been on smaller lots. Forseth questioned if prairie grass would be permitted. Stwora stated the Landscape Ordinance permits prairie grass on all lots. Stwora stated long grass is prohibited in the Landscape Ordinance and is proposing to move it to the Public Peace and Safety Ordinance. Stwora stated Public Works would be sent to cut long grass after three notices have been sent to the property owner. Stwora stated the bill would be sent to the property owner, if the bill is not paid, the bill would be assessed to the property taxes. Dahlheimer suggested using an outside private service to cut grass. Stwora stated if Public Works is mowing public property staff will coordinate the dates and locations of property that requires mowing with them.

Fowler questioned the procedure for foreclosed homes. Stwora stated the same process is followed.

Stwora questioned the group regarding vehicles for sale. Dahlheimer stated a vehicle should be placed on private property with the permission of the property owner. O'Brien suggested listing a phone number and name on each car for sale. Johnson stated enforcement may become an issue. K. Anderson stated vehicles placed on private property should remain clear of corners and other obstructions. Stwora questioned the group regarding small lots with vehicles for sale. Forseth questioned if it is a big problem. Stwora stated more complaints were made when the City offered a vehicle for sale. McNeil stated vehicles for sale should be permitted.

Stwora stated a public hearing will be scheduled for a future City Council meeting regarding the changes.

4. PLANNING COMMISSION WORK SESSION REGARDING THE FOLLOWING ORDINANCES IN THE ZONING ORDINANCE UPDATE:

A.) INDUSTRIAL DISTRICT REQUIREMENTS

Goodroad presented an overview of the Industrial District requirements.

B.) INDUSTRIAL/BUSINESS DISTRICT EXTERIOR REQUIREMENTS

Goodroad presented an overview of the Industrial/Business District Exterior Requirements.

Hoke questioned if the current standards are much different than the proposed ordinance. Stwora stated the proposed ordinance would have eliminated the six or seven meetings with Wicht regarding standards. Goodroad stated the current ordinance is not as comprehensive as the proposed ordinance.

C.) PLANNED UNIT DEVELOPMENT ORDINANCE

Goodroad presented an overview of the PUD ordinance.

Dahlheimer stated the intent of the RPUD was to permit 1 unit per 10 acres. Stwora stated current policy requires sewer and water to permit development. Stwora stated the RPUD does not meet current policy requirements. Fowler questioned if cluster developments would use an RPUD. Stwora stated a PUD would be used.

Fowler questioned if a PUD is definitive enough to have amendments. Goodroad stated a PUD is definitive enough to have amendments. Fowler questioned if amendments were required during the “give and take” process. Stwora stated a PUD may be changed after the preliminary plat has been approved and building plans may change. Stwora stated the amendment would be a change to the approved plan, not the “give and take” process.

Forseth questioned if Maple Grove has had problems regarding their point system for residential developments. Stwora and Goodroad stated Maple Grove has had problems with residential developments requiring a PUD in Maple Grove.

McNeil stated he was in favor of the points system in the growth ordinance. McNeil stated he wants to limit the number of houses built per year and prioritize which projects move forward. Goodroad stated a growth management policy tied to the staging plan in the comprehensive plan update will be completed. McNeil stated he prefers a points system that permits the best projects to be approved each year. Hoke questioned how to prioritize unless the applications are simultaneous. Hoke stated after a project is approved you cannot revoke a project because a better project comes in later. Stwora and Goodroad stated large growing communities have not had more than three or four projects going at the same time. Fowler questioned if the point system would be tied to the growth ordinance. Dahlheimer stated it was proposed but was not approved. Stwora stated the points system in place is tied to infrastructure. Stwora and Goodroad stated the points process can be subjective. Goodroad stated strong design standards do not warrant a points system. McNeil stated he does not agree that a project that meets the thresholds can be approved if a better project is proposed later. Stwora stated high standards will be in place. Goodroad questioned if there would be a problem if a developer proposes a project meeting all of Dayton’s standards without a PUD. McNeil stated building standards cannot be higher than required. McNeil stated a project may fulfill all units in a whole year. McNeil stated a project may be proposed with LEED standards and a better design months later. Stwora stated the Growth Management Ordinance only permits a developer fifty final platted lots in a year. Stwora stated the growth ordinance can be amended. Stwora questioned the outcome of a developer which does not meet deadlines despite all

the extras provided in the plans. McNeil stated he wants a system to allow the best projects to rise to the top. Hoke stated the Growth Management Ordinance could be amended. Stwora stated a large development will not occur in Dayton until the Growth Management Ordinance is amended. Forseth stated it was anticipated the ordinance would change. McNeil questioned if Dayton can ensure the best units are approved. Goodroad questioned McNeil to define what he determines the best units to be. Elhard stated the city cannot discriminate between builders. Stwora stated timelines need to be meet by state statute. Goodroad stated a growth ordinance would need to be tied to a policy related to the Comprehensive Plan. Dahlheimer questioned if the standards are too high if anyone would build in Dayton. Dahlheimer stated infrastructure payments will need to be made which may result in a lesser quality product in Dayton if no builder can meet the high standards. Hoke stated Otsego allowed too many units which created ghost towns. Goodroad stated the policy for the Comprehensive Plan has not been written. Goodroad stated Lino Lakes permits a small number of units but offers incentives to many types of development. Goodroad stated a points system delays development and puts an extra onus on staff, Planning Commission and City Council.

Notices and Annoucements

- a) Future and Continued Planning Commission Agenda Items.
- b) Commissioner Updates
- c) Staff Notices and Announcements.
 - The next Planning Commission meeting will be held on May 7, 2009.

Adjourn

Motion to adjourn was made by O'Brien, seconded by Faulds, no additional discussion.

Ayes: All.