

**Call to Order and Flag Pledge.**

Chair Johnson called the meeting to order.

**Roll Call.**

Chair Vince Johnson, Commissioners Randy Dalheimer, Kevin Faulds, Steve Fowler, Bob O'Brien, Mayor Doug Anderson, Council member's Scott Hoke, Phil Forseth, Tim McNeil and Kevin Anderson were present as was City Administrator Samantha Orduno, Assistant to the City Administrator Erin Stwora, Assistant City Planner Mike Elhard, Planning Consultant Tina Goodroad, and City Attorney George Hoff.

**Approval of the Agenda.**

Motion to approve the agenda as amended by O'Brien, seconded by Faulds, 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 4, 2010 Planning Commission Meeting Minutes.

Motion to approve minutes by O'Brien, seconded by Fowler, Johnson abstains, All ayes.

**1. Repeal Section 1001.18 of the Dayton Zoning Code regarding screening and landscaping requirements – Public Hearing**

Goodroad presented an overview.

Johnson opened the public hearing.

*No one came forward.*

Johnson closed the public hearing.

Motion to approve by O'Brien, seconded by Faulds, All ayes.

**CITY COUNCIL/PLANNING COMMISSION WORK SESSION**

**1. Purchase Agreement for 18551 Robinson Street**

Orduno presented an overview of the property available for sale and the procedure to purchase the home if the City Council decides to pursue the property.

K. Anderson stated his preference is to acquire land near parcels currently owned by the City. McNeil stated parcels along Robinson Street should be desirable for

the City to acquire. McNeil stated desirable redevelopment will occur if the City owns more parcels on Robinson Street.

Forseth stated the village will see a lack of parking in the future and the lot could be used for parking.

Hoke questioned the lot dimensions and status of any special assessments on the property. Orduno stated the lot size is 80 x 150, the home was built in 1910, and there are no special assessments.

Forseth questioned the cost of demolition of the home. Stwora and Orduno stated the cost could be between \$8500-\$15000 depending on environmental factors.

Hoff stated a purchase agreement could be drafted and a closed meeting could be held to consider the purchase.

K. Anderson questioned the effect the City's ownership of the property to the neighboring properties would be. Orduno stated the exterior of the home appears acceptable but the effect of a vacant lot is not known at this time. Hoke, Forseth, and McNeil suggested proceeding. D. Anderson suggested an inspection with Metro West.

The City Council has directed staff to inspect the home and prepare a purchase agreement for the City Council to review.

## **Discussion**

### **1. Zoning Districts/Map**

Stwora presented an overview of the B-P, Business Park zoning district and the request by property owner Mike Gove and neighboring property owners to changes they have proposed to the B-P, Business Park zoning district.

Stwora stated Gove has suggested adding language which permits existing agricultural uses at the time the ordinance is adopted. Stwora stated this use is implied in the ordinance.

Stwora stated Gove has suggested adding banks and financial institutions without drive-through access as a permitted use. Stwora stated staff would have input on limiting drive-through's in the district. Forseth questioned why a drive-through is in question. D. Anderson stated the property owner is in favor of allowing drive-through access for banks and financial institutions.

Stwora stated Gove has suggested removing convenience/gas station. Stwora stated staff is supportive of this change due to nearby parcels permitting convenience/gas stations.

Stwora stated Gove has suggested changing hospital and healthcare facilities as a permitted use. Staff is supportive.

Stwora stated Gove has suggested removing office building. Staff is not supportive of the suggested change. Forseth suggested the property owner provide rationale for the proposed change. Gove stated his desire was for conformity with the definition of a Business Park. Gove stated he supports office building construction.

Gove presented a handout to the City Council and Planning Commission. Stwora questioned the language in Gove's handout indicating staff had not addressed office warehouse within the B-P zoning district. Goodroad stated office warehouse was a conditional use. Stwora questioned if Gove would like to see office warehouse as a permitted use. Gove stated he would support office warehouse as a permitted use. Stwora stated staff is supportive of the change.

Stwora stated Gove has suggested removing printing and publishing. Staff is not supportive of removing printing and publishing. Gove's handout states he is supportive of allowing printing and publishing.

Stwora stated Gove has suggested removing Class III and IV restaurants as a permitted use but allowing the use as a conditional use. Staff is not supportive of this change. McNeil questioned the handout by Gove. Stwora stated Gove did not provide staff with adequate time to review his handout. Goodroad stated Gove suggested public parking facility and radio/television studios be listed as a permitted use. Goodroad stated a public parking facility should be a conditional use due to the design elements that may be incorporated. McNeil stated the proposed changes could fit within a district if appropriate. Forseth stated radio/television studios do not often have antennas. Stwora and Goodroad stated the studios would be listed as offices. Gove stated his desire was for conformity with the definition of a Class III and IV restaurant. Gove stated he supports restaurant construction. Goodroad stated the definitions have not been updated. Hoff stated the definition will support sit-down restaurants but not drive through restaurants.

Stwora stated Gove has suggested adding schools, academies, colleges, universities, and libraries as permitted uses. Staff stated the ordinance allows technical, vocational and business schools. Stwora stated Gove's language could be added to the ordinance.

Stwora stated Gove has suggested adding warehouse and distribution center as a permitted use instead of a conditional use. Staff is supportive due to the design standard guidelines provided outdoor storage is not permitted. McNeil stated he prefers the use remain a conditional use. D. Anderson stated the outdoor storage and design standards will guide the development. McNeil stated commercial warehouses do not consider trucks in line to pick up loads as outdoor storage. Stwora and Goodroad stated the design standards and screening requirements should provide for

the highest quality product. McNeil stated his preference is a CUP. D. Anderson asked for a show of hands. Stwora stated warehouse and distribution center will remain a CUP based on the show of hands. Gove questioned if outdoor storage will be allowed as a conditional use. Stwora stated the outdoor storage would be reviewed as part of the entire package. Gove stated his concern is marketing the property and advertising outdoor storage. McNeil stated his concern is a future property owner not being permitted to build what they desire on the property.

Stwora stated Gove has suggested removing automobile and detailing shops and major repair. Staff is supportive of the change.

Stwora stated staff will need time to review the handout by the property owner. Goodroad stated the automobile and detailing shops and major repair are not permitted in the B-P zoning district but was permitted under the previous I-1 zoning district. Goodroad stated all uses in the prior code are accommodated for in future zoning districts. Goodroad stated the property owners are suggesting uses that were previously allowed in the G-B zoning district be moved into the B-P zoning district. Goodroad and Stwora stated the letter submitted by the property owner is confusing to staff, appointed and elected officials.

The property owner suggested automobile and detailing shops and major repair as a conditional use. Staff is not supportive of the proposed change. McNeil, K. Anderson, and O'Brien stated they do not support the proposed change. The property owner stated the design standards and screening requirements would protect the City and minor repair, such as oil changes, would be done inside buildings. Stwora stated staff does not support automobile repair shops as a use within the B-P zoning district. The property owners suggested similar automobile oriented uses in Maple Grove and Rogers. Stwora stated an automobile dealership is not considered a retail use. McNeil questioned the zoning district automobile dealerships are located within. Stwora stated staff would need time to review all handouts to ensure the proper information is given. Elhard stated B-3 and B-4 zoning districts accommodate automobile dealerships. McNeil stated he supported the current accommodations for automobile dealerships. The property owners stated several car dealerships are fully enclosed. Orduno stated automobile repair and detailing and major repair shops will not be permitted in the B-P zoning district.

Stwora stated Gove agrees transit stations shall be permitted in the B-P district.

Stwora stated Gove has suggested removing contractor operations from the proposing B-P district. Goodroad stated contractor operations are not permitted in the B-P district. Stwora questioned why Gove included contractor operations in his handout. Gove stated contractor operations are permitted in I-1. Stwora stated Gove has presented the City's ordinance in his handout while adding permitted uses in other districts. McNeil stated contractor operations will not be allowed.

Stwora stated Gove has suggested retail sales shall be a conditional use. Stwora stated the ordinance permits retail sales as an accessory use up to 30% of the floor space of the principal building. Staff feels the ordinance permits retail sales and land in the area permits retail uses. Staff stated retail is not an intended use in B-P district.

McNeil questioned the use of healthcare facilities in the B-P district. Goodroad stated healthcare facilities are not permitted in the B-P district but are permitted in the B-1, B-2, B-3, and B-4 districts. Goodroad stated the use is similar to an office building and healthcare facility will be added to the B-P district.

Goodroad stated daycare is identified as a conditional use and the property owners are suggesting daycare as an accessory use. Staff is supportive of the addition.

Goodroad stated Gove has suggested equipment rental considered as a conditional use. Stwora stated outdoor storage is a primary concern. McNeil questioned if equipment rental is currently allowed. Stwora and Goodroad stated equipment rental is not currently allowed and staff is not supportive of allowing equipment rental in the B-P district. Gove stated Cemstone will have a rental equipment store. Stwora stated Cemstone is located in an industrial zone.

Stwora stated Gove has suggested lumber yard, machine shop, outdoor sports facility and entertainment, and mini-storage. Goodroad stated outdoor sports facility and entertainment are interim uses in other districts. McNeil stated he does not support lumber yard, machine shop or mini-storage. Goodroad suggested an outdoor sports facility and entertainment as an interim use in the B-P district. The property owner stated a lumber yard would be properly screened. McNeil stated the intent of freeway frontage is not to screen all the property. K. Anderson questioned the impact of the interchange. Goodroad stated the intent of the B-P district is with the interchange in place. Orduno stated the Comprehensive Plan supports the B-P district based on the vision of the community in twenty years. Johnson stated he prefers the uses to not be screened in. D. Anderson stated machine shops currently in the community are housed in attractive buildings. Goodroad stated machine shops are covered by manufacturing which is permitted in the B-P district. Gove stated the I-1 district states machine shop while the B-P district does not. Stwora stated machine shop can be added. Goodroad stated mini-storage is permitted in business districts requiring eight feet of screening. Hoff stated mini-storage as an interim use could be permitted with language that allows the use until an interchange is constructed. The property owner stated the proposed code identifies mini-storage as a special requirement within districts. Goodroad stated the intent was not to permit mini-storage in the B-P district and the propose code will be reworded. K. Anderson suggested not allowing min-storage. Johnson agreed.

Stwora stated 30% of the floor space is currently permitted as a retail use. Stwora stated the property owner is suggesting retail as a conditional use with no floor space restriction. Stwora stated staff is not supportive. Goodroad stated staff is proposing

retail as an accessory use. D. Anderson stated a retail use built in the B-P district would not be constructed with the façade facing the freeway but rather the loading docks would face the freeway. D. Anderson stated his concern is the gateway and appearance from the freeway. McNeil stated existing manufacturing uses in the area could do the same. D. Anderson stated ordinances do not permit docks to be constructed on the freeway side of the properties. McNeil stated he supports not permitting stand alone retail in the B-P district. Goodroad stated the ordinance may be changed in the future. Stwora stated a property owner can apply for a rezoning. The property owner stated a potential buyer for his property will not come to the City with a rezoning if the use is not permitted.

Goodroad stated indoor recycling was included on the property owner list but is not permitted in the B-P district.

Goodroad stated the property owner requested an increase in impervious surface coverage. Goodroad stated the intent of the original ordinance was to encourage property owners to build up rather than out. Goodroad stated the property owner is requesting 85/50 while staff supports 65/40. Stwora stated the property owner is proposing more impervious surface than allowed in any other district. Goodroad suggested a graduated scale to encourage building taller. Stwora stated more green space would be created by building up than out. Stwora stated staff is suggesting the industrial standards. Stwora suggested a graduated scale could be created as well.

Hoff suggested amending the ordinance with a public hearing at a future Planning Commission meeting.

## **2. Non-Conforming Uses**

Goodroad and Stwora presented an overview.

McNeil questioned if a nonconforming building could expand up to 30% if they are in compliance with the materials. Hoff stated the changes made to the ordinance are in compliance with the statutes. Hoff stated the ordinance was written to allow expansion of nonconforming uses if certain benchmarks were reached. Hoff stated a building can be enlarged or extended up to 20% but any additional expansion would require a permit from the City issued similarly as a Conditional Use Permit. Goodroad stated the City Council would have full discretion.

Goodroad stated the Planning Commission reviewed the ordinance and attained a balance for expansion between new construction and existing buildings. Forseth questioned if a prohibition would be placed on multiple expansions. Hoff stated the City could have more control if desired. McNeil stated his opposition for not allowing an existing business to expand. Hoff stated he needs the input from the group to draft the language to meet the City's needs.

McNeil stated a business should be permitted to expand provided the nature of the business is not changing. Goodroad stated the percentages could be reduced allowing certain expansions but once a threshold is reached the ordinance is triggered. O'Brien questioned if an additional expansion is needed what options the property owner would have. Hoff stated the property owner could ask for a rezoning. Hoke questioned if a change in use would require a public hearing. Goodroad and Hoff stated a public hearing would be needed. Hoff stated a nonconforming expansion permit could be created under the ordinance.

Hoke questioned if nonconforming junk yard language is included in the updated zoning code. Hoff stated the section was deleted from the ordinance but state statute would cover nonconforming junk yards.

Hoff questioned the intent of the ordinance. Hoff stated using 20%, a property owner could expand meeting all performance standards and anything above 20% would be a mandated change. Forseth questioned the need for a public hearing or notification. Hoff stated the City Council could determine if a public hearing or notification is required. Hoff stated an applicant would present data to indicate they are conforming to the City's ordinance which would allow the work to be done. Hoff stated if the work does not meet the City's ordinance the applicant would have to change their plans.

Hoke questioned the threshold to notify neighbors. Stwora suggesting notifying neighbors for all expansions. Johnson suggested notifying neighbors if the expansion is greater than 21%. Hoff suggested adding language to distinguish the difference between building size/value and materials. Hoff suggested 20% regarding the use and the materials would be 30%.

Stwora questioned the group on notification. Johnson stated an expansion less than 20% should not require notification.

Stwora and Hoff stated the ordinance would be reviewed by the Planning Commission with a public hearing at a future date.

### **3. Residential Districts – R-1A**

Goodroad and Stwora presented an overview.

D. Anderson stated a consensus needs to be reached to move forward with the proposed ordinance or to deny the ordinance. Hoke suggested focusing on specific issues.

D. Anderson stated the concern is with the R-1A district. Stwora stated the R-T residential district is based on similar characteristics as the R-1A. Hoke stated the issue with R-1A is the 12,500 sq. ft. lot. McNeil stated his concerns with the R-1A district are;

- Smaller lots that do not fit in with the community which measure as small as 8,750 sq. ft.
- The average density of the community will increase if R-1A developments are approved above the density the Met Council approved for the Comprehensive Plan
- The benefits that permit higher density are ambiguous.

Forseth questioned who determines if the benefits in the development match the benefits in the ordinance permitting higher density. Forseth noted the City Council should make the decisions as they are elected officials.

Hoff responded, stating the City Council would have final approval on a proposed R-1A development as the ordinance currently reads. Orduno and Stwora stated staff never approves plans for development. Stwora stated the City Council approves the development as well as a rezoning request. Stwora stated staff is not able to approve developments. Goodroad stated the Planning Commission has reviewed standards for approvals and has approved a tightened R-1A zoning district. Hoff stated the City Council would approve plans if all guidelines are followed as stated in the R-1A zoning district.

Forseth questioned the difference between R-1A and a PUD. Hoke stated a development proposed with R-1A will need to fulfill standards outlined in an ordinance as opposed to a PUD. Fowler stated the R-1A requirements do not have numbers tied to them. Stwora and Goodroad stated staff will need input to determine percentages. McNeil questioned the intent of the R-1A district. Goodroad stated the intent was to provide a tool to allow different types of developments with varying lot sizes. Stwora stated the developments approved in the City were PUD's but did not warrant a PUD. Goodroad stated the intent was to make the development process easier to understand for developers, staff, the Planning Commission and City Council. Goodroad stated this intent was carried into all districts. McNeil stated he agrees with staff but would like to maintain an average of 15,000 sq. ft. per lot. McNeil stated he proposes benefits that a developer must reach which removes some ambiguity. Goodroad stated staff has requested quantifiers to remove the ambiguity in the proposed R-1A district. Goodroad stated quantifying building excellence is difficult. McNeil presented an overview of his proposal using a 100 acre parcel as an example. Stwora stated a goal was to achieve life-cycle housing and smaller lots based on developments approved in Dayton in the past.

D. Anderson questioned if the group would like to move forward with the R-1A district discussion. Fowler stated he would like to move forward, O'Brien stated his preference is not for smaller lots and a clearer ordinance, Dahlheimer stated he would like the proposal to move forward, Forseth stated his preference is for lots to not be less than 15,000 sq. ft., clearer language, and density decreased if it will be increased in other areas, McNeil agrees with Forseth, Johnson stated his preference is to move

forward and if the R-1A does not work the proposal could become a PUD, Forseth stated he does not want to be a test community for the R-1A district, Orduno stated the ordinance may be premature for Dayton, Johnson stated he shares the same concern as Fowler regarding something missed in the ordinance, Faulds stated the City will hold the trump card due to the fact that nothing has been rezoned R-1A, McNeil stated his concern is a finding a reason to deny a request which could result in an applicant suing the City, Hoff stated the City is given the most discretion in comprehensive plan's and rezoning, Hoff stated the City Council would review the site plan and nature of the R-1A zone which would be upheld, Hoff stated the ordinance is new but the district is defensible, Hoff stated the issue is a policy decision the City Council needs to determine, Faulds stated he supports the ordinance and does not want to quantify benefits, Forseth questioned why no other city is utilizing the R-1A concept if it is a good idea, Faulds and Hoke stated Dayton is in a unique situation, McNeil stated other community's are in the same situation as Dayton, Hoke stated he supports the ordinance without quantifying the benefits, McNeil stated his preference is to quantify the benefits including additional parkland for increased density, Hoke stated his preference is a minimum 15,000 sq. ft. lots in the R-1 district but is concerned with Met Council density calculations, Hoke stated builders he has spoken to would prefer to build on smaller lots, Hoke stated he supports the R-1A district, K. Anderson stated he supports an ordinance which proposes a variety of housing options with differing lots in the same neighborhood. D. Anderson stated the group's interest is to utilize some ideas found in the R-1A district. D. Anderson questioned if approvals can move on for other residential districts without approving the R-1A. Goodroad stated the R-T district is similar to the R-1A. McNeil stated the lot sizes for R-T are appropriate for the use proposed. Stwora questioned if the group supported the R-T district. The consensus was to support the R-T district.

Stwora stated the average lot size for R-1A shall be 15,000 sq. ft. which meets the density standards. Stwora questioned the group regarding the minimum lot size. Stwora stated the acceptable minimum lot size, based on the discussion, is ¼ acre. Stwora stated staff will need to define benefits.

D. Anderson and Stwora stated the district would be created based on the minimum lot size of ¼ acre with an average of 15,000 sq. ft. with the benefits proposed in the R-1A district moving to the PUD ordinance. The group consensus was reached on the proposal.

#### **4. Zoning Map Revisions**

Stwora stated the zoning map needs to be revised to rezone a large agricultural property north of Diamond Lake to be agriculture and not residential.

Stwora stated large lots included in the NE Dayton project should be rezoned R-1. Hoke questioned the size of the lots in the critical river area. Stwora stated the minimum lot size is 20,000 sq. ft. Stwora stated the lots would need a new zoning

district or could be placed in the R-1 district. Stwora stated the property owners would be notified of the change.

Stwora stated Fauld's lot would also be rezoned to R-1.

**Notices and Announcements**

- a) Future and Continued Planning Commission Agenda Items.
- b) Commissioner Updates
- c) Staff Notices and Announcements.
- d) The next Planning Commission meeting will be held on June 3, 2010.

**Adjourn**

**Motion** to adjourn was made by Faulds, seconded by Hoke, no additional discussion.

**Ayes:** All.