

Community Development Department

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MINUTES
PLAN COMMISSION
MARCH 9, 2020 at 6:30 p.m.
City Council Chambers

Members Present: Dan Toland, Lisa Moody, Patricia LaRue, Hal Watson, Craig Hinzman
Members Absent: Bill Stuessel, Michael Woolsey (both excused)
Staff Present: Amy Peterson, Crystal Raleigh, Brandy Howe, Sam Wessel, Keri Schreiner, Sarah Karlsson
Others Present: Sean Lenz (Ehlers), Ben Fochs, Matt Hieb (Auth Consulting), Mark Sylla (E.W. Homes), Gary Moelter, Scott Morrissette (Councilman)

CALL TO ORDER

Meeting convened at 6:30 p.m.

APPROVAL OF MINUTES

LaRue made a motion to amend the minutes to add a sentence related to the community benefits of having sidewalk on both sides of the street.

M/La Rue, S/Watson – motion carried 5-0

Watson moved to approve the minutes.

M/Watson, S/Moody – motion carried 5-0

PUBLIC COMMENTS

Scott Morrissette, 2137 Rushmore Drive, spoke regarding agenda item #3, the consideration of a subdivision review waiver in the extraterritorial subdivision jurisdiction in the Town of Troy. He noted he wanted to speak about this item at this meeting because there is no public hearing per the process outlined in the municipal code. He reminded the Plan Commission that they represent the City of River Falls, not the Town of Troy. With that in mind, he questioned the advantage or benefit of approving this waiver. He noted there is a notion of goodwill between the City and the Town; he respectfully disagreed that any goodwill could be built with the Town of Troy. Furthermore, there is no financial compensation to the City to cover staff time. There are fees for other things, special use permits and so forth, however, a fee has never been contemplated for a waiver, so it is not on the fee schedule. He noted that the staff report indicates that based on the geographic location of the parcel, it would possibly not be included in a potential boundary agreement between the City and the Town if there ever was one. The fact is, this parcel *is* in the subdivision review boundary. The City was very deliberate when they established the boundary. He added that he was on the Plan Commission at the time the boundary was drawn, and he recalls studying the parcels considered to be within boundary by driving around to each. To allow this request would further demotivate the Town from having discussions with the City about a boundary agreement. To waive this authority

puts the City further from that goal, not closer to it. The report also mentioned the possibility of litigation if the City denies the request. He noted that litigation is always possible as the City has been party to two lawsuits by the Town of Troy. Acting under duress of legal action is a terrible way to govern; he urged the Plan Commission to take that under consideration. Ultimately, the residents of the Town of Troy need to approach their elected representatives and urge them to come to the table for boundary agreement discussions. If a new boundary were agreed to, these types of requests (subdivision review waiver) would no longer be an issue. He then thanked the Plan Commission for the consideration of his comments.

Ben Fochs, 2529 Powell Avenue, also spoke in regard to the subdivision waiver. He described a fatal traffic accident that occurred on Radio Road in November 2008 prior to its reconstruction into an interchange. He noted that there have been conflicts with pedestrians and cars near the Glover Road and Highway 35 interchange. He requested that the Town of Troy have a study of how that intersection might be impacted by a new development in the vicinity. If the WISDOT closes off that intersection, the traffic would route down to Powell Avenue or head north. He then thanked the Plan Commission.

PUBLIC HEARING

Public hearing regarding the proposed project plan, boundaries, and creation of Tax Incremental District No. 15

TID No. 15 is proposed to be created at 1300 S. Main Street, which is also funded partially by WHEDA, to construct a 50-unit multifamily redevelopment project. Sean Lenz from Ehlers gave a presentation on tax incremental financing as a tool for redevelopment, and then walked PC members through the timeline for the creation of TID No. 15. Watson asked for clarification on a point in the presentation where Lenz indicated that the property could become tax exempt in 2040—what is the trigger for this to happen? Lenz responded that there would have to be an ownership change. In the developer's agreement, the Gerrard Corporation will sell the property to a nonprofit. From that point forward it would no longer have a taxable value, but the development agreement includes a PILOT agreement (Payment in Lieu of Taxes) that will extend in perpetuity.

No public comments were made for this item.

CURRENT ITEMS

Consideration of a "Resolution Designating Proposed Boundaries and Approving a Project Plan for Tax Incremental District No. 15, City of River Falls, Wisconsin"

M/Watson, S/Moody – motion carried 5-0.

Consideration of a request for a waiver of subdivision approval jurisdiction in the Town of Troy

Peterson presented the staff report. The Municipal Code offers an option for City Council to waive its review authority in the extraterritorial jurisdiction (ETJ) if more than half of the proposed subdivision lies outside of the ETJ. Approximately 80% of the proposed subdivision lies outside of the ETJ, 20% lies within the ETJ. The process includes an application, Plan Commission review, and City Council decision. There is no public hearing or notification requirement built into the Municipal Code nor is there an application fee in the fee schedule.

Peterson provided some history on the ETJ boundary. In 2006, River Falls became a Third-Class city at which time the ETJ was extended to 3 miles beyond its corporate boundaries per statutory authorization. Later that year, the city formed an Extraterritorial Subdivision Control Advisory Committee (ESCAC) to

analyze the 3-mile boundary. The ESCAC studied section lines, environment, transportation, infrastructure, commerce, and existing plans and regulations. Based on the ESCAC's recommendations, the City Council approved an ordinance in January 2007 to amend the Official Map to reduce the ETJ. The approved ETJ extends anywhere from 1 mile to over 2.5 miles from the municipal border and covers approximately 36 square miles (down from 72 square miles).

Peterson described the proposed subdivision, which is located at the northernmost edge of the City's ETJ. The project would develop 119 acres, north of Glover Road and west of Hwy 35. The subdivision could create 63 new single-family lots ranging in size from 1-2 acres. Five outlots are included, one of which is 37 acres of wetlands and open space and one of which is 5-acres identified for future development. The "future development" outlot is located within the ETJ boundary. The project is designed as a cluster subdivision where smaller lots are clustered leaving a bulk of open space. Peterson noted that in a black and white world this subdivision would likely receive a simple denial based on the City's ETJ. However, the drafters of our ordinance, even back then had the forethought to draft in a waiver option.

Peterson noted that it is arguable whether this area would likely be included within a boundary agreement with the Town of Troy. If the City Council approves the requested waiver, no litigation is likely to result based on that decision. Approval of a waiver may send a signal to developers that the City is amenable to larger lot rural subdivisions near its eventual border. Allowing this development to move forward outside of a binding agreement may reduce the motivation for the Town of Troy to work toward a cooperative boundary agreement in the future. As stated above, the City promotes denser more compact development with water/sewer, which is arguably more sustainable than larger lots on well and septic. Litigation is always an option with a denial. Staff has provided draft resolutions for either approval or denial.

The Mayor asked for questions or comments. Watson stated that his initial reaction is that he honestly doesn't like it. The City should not be allowing this type of development on the edge of the ETJ boundary. The whole point of the boundary is to provide options for the City in the future. It would send a signal to developers and the City would likely see more requests like this all over the ETJ. He added that the City does have a goal to have a boundary agreement with the Town of Troy.

Hinzman added that the City should be careful with setting precedents. He questioned if the developer would need to come back to the City for another waiver to subdivide outlot 5, which is shown as future development on the concept layout of the subdivision. Peterson responded that it was her assumption that future development within this area would be covered by this waiver.

Moody commented that if the City hadn't reduced its ETJ boundary from 3 miles down to the current boundary, then this subdivision would clearly be within the ETJ and a waiver would not be an option. Moody asked if there is any benefit to the City if the waiver is approved. Peterson responded that there are pros and cons either way, the biggest benefit is that it might keep the City out of litigation. Watson asked if the City would gain any tax benefit with this development. Peterson answered, no.

The Mayor indicated the he agrees with Watson and Councilman Morrissette but is not in favor of holding a landowner and developer hostage over a situation that can be resolved by a boundary agreement. He added that for this one request, he will vote in favor, but in the future, he looks to the Town of Troy to come to the table to discuss a boundary agreement.

Matt Hieb and Gary Moelter addressed the Plan Commission. Hieb noted that it is a compact development and that he took the City's subdivision and stormwater ordinances into account when laying out the concept. Moelter provided some history on the property. The land is very sandy and is not

practical for farming except as pastureland, which he has used it for, but it has become impractical to continue to do so. He added that he feels like he is in the middle of a tug of war between Troy and the City. He added that it is his belief that the waiver option was included in the City's subdivision ordinance for situations such as this one. He thanked the Plan Commission for their consideration.

The Mayor called for a motion to recommend approval a resolution to waive the City's subdivision review authority in the extraterritorial subdivision area in the Town of Troy for the proposed Moelter subdivision.

No motion received.

The Mayor then called for a motion to recommend approval of a resolution to deny a waiver of the City's subdivision review authority in the extraterritorial subdivision area in the Town of Troy for the proposed Moelter subdivision.

M/Watson, S/Moody – motion carried 4-1.

Consideration of a resolution to vacate a portion of River Street right-of-way

Howe presented the staff report. This item dates to October 2015 when the City Council purchased land at 110 W. Division Street. As part of that purchase agreement and approval process, Council also requested that staff initiate a "paper" clean-up of the block to prepare it for future redevelopment. One of the clean-up items was the rezoning of the block between Cedar and W. Division Street and Clark Street and the Kinnickinnic River. The rezoning was initiated last fall and finalized in January. The second clean-up item is to vacate ROW within that same block. The ROW was originally platted in 1856, but staff has not found evidence that it was ever paved as a street. Further, the City does not intend to establish a road in this location due to the presence of wetlands and indicator soils, neither of which are appropriate for developing impervious surfaces such as roads or buildings. The ROW vacation concludes the city's obligations based on the 2015 purchase agreement.

The Mayor then called for a motion.

M/Moody, S/Watson– motion carried 5-0.

REPORTS/DIALOGUE

Director's Report

Peterson noted that the next Plan Commission meeting is April 7th and staff is anticipating a workshop on shoreland zoning after the meeting. Staff started work on a comprehensive outdoor recreation plan and drafted an RFQ to hire a consultant to assist with the plan. Mann Valley preliminary design is underway. The Hoffman Park jug handle connection will be under construction this fall. Finally, the Community Development Department has promoted Keri Schreiner to Economic Development Manager.

ADJOURNMENT

Watson made a motion to adjourn at 7:31 p.m.

M/Watson, S/Moody; motion carried 5-0

Respectfully submitted,

A handwritten signature in blue ink that reads "Brandy Howe". The signature is written in a cursive style with a long horizontal flourish at the end.

Brandy Howe, AICP, Sr. Planner