

The following are minutes of the Bettendorf Planning and Zoning Commission and are a synopsis of the discussion that took place at this meeting and as such may not include the entirety of each statement made. The minutes of each meeting do not become official until approved at the next meeting.

**MINUTES
PLANNING AND ZONING COMMISSION
DECEMBER 16, 2009
5:30 P.M.**

The Planning and Zoning Commission meeting of December 16, 2009 was called to order by Chairman Gallagher at 5:30 p.m. at the City Hall Council Chambers, 1609 State Street.

1. Roll Call

MEMBERS PRESENT: Bennett, Gallagher, Kappeler, Laas, Stoltenberg, Wennlund

MEMBERS ABSENT: Rafferty

STAFF PRESENT: Greg Beck, City Planner; Bill Connors, Community Development Director; John Soenksen, City Planner; Greg Jager, City Attorney; Lisa Fuhrman, Community Development Secretary

2. Review of Commission procedures.

3. Approval of minutes of the meeting of November 18, 2009.

On motion by Kappeler, seconded by Stoltenberg, that the minutes of the meeting of November 18, 2009 be approved as submitted.

ALL AYES

Motion carried.

Land Use Amendment/Rezoning

4. Case 09-086; 826 – 15th Street, Commercial to Traditional Residential, submitted by Edward and Alice Ruffin.
5. Case 09-086; 826 – 15th Street, C-3, General Business District to R-2, Single-family Residence District, submitted by Edward and Alice Ruffin.

Beck reviewed the staff reports.

Gallagher asked how the I-74 bridge project would affect the property. Beck explained that all of the properties south of Calvert Drive would be taken out and the traffic rerouted.

Wennlund asked what the objective of the applicants is with regard to the rezoning. Beck explained that the applicants hope to sell the existing home while giving a future owner the potential to build another. He stated that this would require the property to be platted with an access easement. He indicated that the applicants believe that the proposed changes will make the property more saleable.

Wennlund asked if there is a parking lot located adjacent to the property in question and whether it is a part of The Abbey property. Beck explained that there is a parking lot owned by The Abbey but that he is unaware of whether it is used in conjunction with the rehabilitation center.

Wennlund asked if the intent of the applicants is to facilitate the construction of another single-family home. Beck confirmed this.

Wennlund asked if staff anticipates any issues with having single-family homes located between two commercial districts. Beck stated that there is a great deal of residential property already in the area, adding that the applicants' home was originally used by clergy when The Abbey property was a monastery.

Kappeler asked if access to any new single-family home would be from 15th Street. Beck confirmed this, adding that the access issue would be addressed at the platting stage. He indicated that it is conceivable that a new owner might wish to build a garage or some other type of storage structure on the property.

Phil Schubbe, 1309 Pinnacle Pines Court, stated that there is a severe grade change between the property in question and the one directly to the south. He asked who would be responsible for replacing or repairing the existing retaining wall that is in such poor condition. Gallagher explained that whomever owns the property would have that responsibility. Ed Ruffin, co-applicant, explained that the retaining wall belongs to the owners of The Abbey.

Joe Lemon, Sr., 1401 Central Avenue, confirmed that the retaining wall in question belongs to The Abbey. He indicated that while the Ruffins have been excellent neighbors, he is concerned about the possibility that rezoning would create a situation which may cause problems in the future. He stated that when he and his family purchased the property to the south, it was used as overflow parking for their former banquet facility. He indicated that subsequently the use of The Abbey property changed and the parking lot will likely be used for a different commercial use in the future. He stated that any additional single-family home would be sandwiched between commercial uses.

Lemon stated that he feels that more detail with regard to the final goal for the property should be available. He indicated that not only is that information not available, it is unclear who will be involved. He explained that he feels that the Commission is being asked to make a decision without having knowledge of the possible consequences.

Lemon indicated that he had relied upon the current zoning designation when he purchased the property to the south of the Ruffins. He stated that he believes that his interest in maintaining the commercial nature of the area should be taken into consideration, especially because such a decision could affect his ability to develop the property in the future. He added that when the southerly lot is developed in the future, the retaining wall will be replaced.

Joe Lemon, Jr., on-site manager for The Abbey facility, expressed concern that a future residential property owner may feel that the proximity of the rehabilitation center is detrimental.

Ed Ruffin, co-applicant, stated that there is currently no access to the rear of his property from 14th Street, adding that if it remains residential it will affect no one. He indicated that he and his wife wish to sell the property, adding that he believes the proposed changes will make it more useable for a new owner.

Laas asked what the maximum height for a structure is in the R-2 district. Jager explained that it is 2 ½ stories or 35 feet in height.

Stoltenberg asked if the current zoning is the same as when the property was purchased by the Ruffins. Beck confirmed this, adding that it has been the same since the early 1970s.

Laas asked if access to the westernmost parcel could be from 15th Street if a business was located on the lot. Beck explained that it would depend on the nature of the business, adding that the topography in the area isolates the property. He indicated that there is not enough space for a commercial access through the residential lot which would be required by the fire department.

Kappeler asked if the applicants would be allowed to build a garage on the empty lot without rezoning the property. Connors explained that the ordinance does not allow accessory structures to be the principal structure on a lot. He added that if the lots had the same zoning classification, an agreement not to sever could be established and it could be allowed. Kappeler asked why the applicants are not pursuing that option in addition to the rezoning. Connors explained that in staff's opinion, the only practical way for vehicular traffic to access the westernmost lot is from 15th Street. He added that it would not be a good planning practice to install a commercial access through a residential lot.

Wennlund asked why the westernmost lot cannot be accessed from 14th Street. Connors explained that the topography of the lot would make that almost impossible.

Wennlund commented that he is resistant to spot zoning and possibly restricting a future purchaser from using a property as he or she wishes.

Bennett commented that the grade change between the lots in question and the property to the south would preclude them from being used in conjunction with one another as it would be almost impossible to move between them.

Wennlund stated that a decision would be easier if the applicants could be more clear about their plans for the property.

Stoltenberg asked if there would be sufficient room on the easternmost lot for an access easement. Beck stated that such an access would need to be platted as the properties are not lots of record.

Wennlund commented that from a practical standpoint, it is unlikely that a 26-foot wide access easement would ever be built through the residential lot to serve a commercial use on the westernmost lot. Beck concurred.

Wennlund asked if there would be enough space for another principal structure on the level portion of the lot adjacent to 14th Street. He added that he is not necessarily supportive of allowing a residential structure between two commercial uses. Beck stated that it is unlikely that The Abbey facility will ever be used for a retail type use, adding that its current use is similar in nature to the residential uses to the south and north.

Wennlund asked if there would be any additional constraints placed on the development of the parking lot if a single-family home is placed on the subject lot. Beck explained that additional landscaping and a buffer yard would be required of the owner of the parking lot. He indicated that the additional requirements might serve as an encumbrance to the developer of the parking lot.

Gallagher commented that the main issue is the question of whether or not a future owner would merely build an accessory structure or an additional single-family home on the lot. He indicated that the main impact on the Lemons' would be if a house is built which would completely change the character of the

lot. Stoltenberg commented that there may be a potential problem in the future if a house is built and the parking lot were developed subsequently. He added that the Commission has been consistent with regard to requests for land use amendments when the property involved is not adjacent to a similar designation. Bennett stated that she feels that the westernmost lot lends itself to a more residential use, perhaps multi-family.

Wennlund commented that he would be more inclined to support the request in the future if a specific use were defined for the property such as for an accessory structure.

On motion by Wennlund, seconded by Stoltenberg, that the land use amendment for 826 – 15th Street, Commercial to Traditional Residential, be recommended for denial.

ROLL CALL ON MOTION

AYE: Gallagher, Stoltenberg, Wennlund
NAY: Bennett, Kappeler, Laas

Jager commented that it appears that the Commission is not averse to allowing the use of the property for accessory structures appurtenant to the existing single-family house. He explained that the Commission could proceed by denying the request based on the change of one Commissioner's vote, approving a conditional zoning, or deferring the case until the applicant has had time to consult staff with regard to these options and their development plans.

Laas suggested that the case be deferred. Kappeler concurred. Wennlund commented that the second option addresses his concerns with regard to the request, but agreed that the applicant should have the opportunity to make an informed decision regarding the property in light of the Commission's concerns.

On motion by Kappeler, seconded by Bennett, that the land use amendment for 826 – 15th Street, Commercial to Traditional Residential, be deferred.

ALL AYES

Motion carried.

On motion by Kappeler, seconded by Bennett, that the rezoning of 826 – 15th Street, C-3 to R-2, be deferred.

ALL AYES

Motion carried.

Final Plat

6. Case 09-088; Palmer Terrace Addition, submitted by Marty and Romonia Palmer.

Beck reviewed the staff report.

Jager stated that the final plat shows Lot 1, Lot 2, and Outlot AA. He asked if the Lot 2 designation is intended to show a previous configuration. Beck confirmed this. Jager suggested that this should be made more clear on the final plat.

Jager stated that the arrow indicating the drainage sewer and utility easement extends outside of the lot boundaries of the plat. He asked if this is typical. Beck explained that he has seen this before on plats when the easement adjoins another parcel. Jager stated that it might be acceptable if the lots in question were under common ownership. He indicated that this is not the case and feels that the arrow should be shortened such that it ends at the lot line.

Gallagher stated that effectively there will be one buildable lot and one outlot which is not. Beck confirmed this. Jager explained that the owner will not be

required to play flood insurance premiums because the entirety of Lot 1 is out of the flood plain. Gallagher commented that the buildable area of the lot remains unchanged.

On motion by Laas, seconded by Kappeler, that the final plat of Palmer Terrace Addition be recommended for approval subject to staff recommendations.

ALL AYES

Motion carried.

Other

6. Commission Update.

Connors stated that the following took place at the December 1 City Council meeting:

1304 State Street, public hearing and first reading of ordinance, rezoning (C-2 to C-3)

SE corner of Forest Grove Drive and Devils Glen Road, public hearing and first reading of ordinance, rezoning (A-1 to R-3)

There being no further business, the meeting adjourned at approximately 6:45 p.m.

These minutes approved _____

Gregory W. Beck, City Planner