CITY PLAN COMMISSION
Minutes
July 22, 2010

MEMBERS PRESENT: Mayor Bosman, Alderman Downing, Alderman Michalski, Mike Lemens, Anita Faraone, Art Landry, Bruce McCurdy and Ron Stevens

MEMBERS EXCUSED: Alderman Ruffolo and Anderson Lattimore

STAFF PRESENT: Jeffrey B. Labahn and Brian Wilke

The meeting was called to order at 5:00 p.m. by Mayor Bosman and roll call was taken.

A motion to approve the minutes from July 8, 2010 was made by Ms. Faraone and seconded by Alderman Michalski. The motion passed unanimously. (8 ayes; 0 noes).

Mayor Bosman asked that Items #1, #2 and #3 be taken together for public hearing purposes. All items were read.

1. **Resolution to amend the Official Map for the City of Kenosha, WI, to rescind the designation of 21st Street from 27th Avenue to the existing terminus, west of 26th Avenue, pursuant to Section 62.23(6), Wisconsin Statutes, District #5. PUBLIC HEARING**

2. **City Plan Resolution to Approve an Amendment to "A Comprehensive Plan for the City of Kenosha: 2035" District #5. (21st Street designation removal) PUBLIC HEARING**

3. **Zoning Ordinance to Create Subsection 18.02 of the Zoning Ordinance to Amend the Comprehensive Plan to Remove a portion of a future right of way from the Official Map, District #5. PUBLIC HEARING**

Public hearing opened.

Rocco LaMacchia, 2114 25th Avenue, Alderman of the District supports the removal of the street designation. This road was designated when a school was proposed for the area. Alderman LaMacchia explained that the property owner can develop six (6) lots on this property with the street designation elimination. Alderman LaMacchia said Fire does not have a problem with the elimination of this proposed street.

Tom Kandathil, 5620 College Point Court, Racine, owner of the property gave an overview of the property and developments.

Public hearing closed.

Jeffrey B. Labahn, City Planner, showed a video of the site. The first three items on the agenda are related and needed for the street designation to be removed. Mr. Labahn explained the designated future street has not been dedicated as a public right-of-way. The future street impacts property for the Kenosha County Bike Trail (owned by WE

Energies) and property owned by Mr. Kandathil. The request for eliminating the future street at this location is reasonable since the proposed elementary school will not occur; the desire to keep the number of streets crossing on the bicycle trail to a minimum for safety reasons; and the costs the City would incur to construct the street.

Mr. Landry asked if this would be a street or a road. Mr. Labahn said it will be a dedicated street, the City will be responsible to clean and maintain it if the road is constructed. Mr. Kandathil would have to construct the street on his property to specifications if the property is developed. The City would be responsible for the construction of the road across the County Bike Trail.

Mr. Lemens said he has no objection with the removal of the street designation, but he would like to abstain from voting on Items #1, #2 and #3. He has met with Mr. Kandathil and discussed many issues of the property.

A motion was made by Mr. McCurdy and seconded by Alderman Michalski to allow Mr. Lemens to abstain from voting. Motion passed (7 ayes; 0 noes)

Mr. Landry said he is concerned about eliminating future options of constructing a street. The comment was made that Fire and Police are not opposed to removal of the street designation, but more people means more traffic and more parking. Mr. Landry is not in favor of the street designation removal.

Mayor Bosman said there are not a lot of objections to eliminating this street. Alderman LaMacchia and Alderman Ruffolo have spoke to some of the neighborhood residents.

Mr. Stevens asked if a contingency could be imposed that if Mr. Kandathil does not develop property within a proposed period, the street designation would be reinstated. Mr. Labahn said the City cannot remove the designation with a contingency. The City would have to remove the designation and replace the designation at a later date if it is decided that it is necessary.

Mr. McCurdy asked if the City denies the removal and extends 21st Street, would the City have to buy the property. Mr. Labahn said if the City wants to construct the street prior to development, the City would have to purchase the property. However, if the future street remains on the map and the developer decides to develop the property he would be required to dedicate the property.

A motion was made by Mr. Stevens and seconded by Alderman Downing to approve Item #1, the Resolution to Amend the Official Map. The motion passed. (6 ayes; 1 no; 1 abstain) *Landry voted no, Lemens abstained*

A motion was made by Ms. Faraone and seconded by Alderman Michalski to approve Item #2, City Plan Commission Resolution. The item passed. (7 ayes; 0 noes; 1 abstain) *Lemens abstained*

A motion was made by Ms. Faraone and seconded by Alderman Michalski to approve Item #3, the Zoning Ordinance. The item passed. (7 ayes; 0 noes; 1 abstain) *Lemens abstained*

4. **Request for an extension for the temporary classroom located at 8560 26th Avenue, District #9. (Kenosha Unified School District/Tremper High School) PUBLIC HEARING**

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Mayor Bosman asked that Items #4 #5 and #6 be taken together for public hearing purposes. All items were read.

5. **Request for an extension for the temporary classroom located at 3700 Washington Road, District #5. (Kenosha Unified School District/Bradford High School) PUBLIC HEARING**

6. **Request for an extension for the temporary classroom located at 1900 15th Street, District #1. (Kenosha Unified School District/Bose Elementary School) PUBLIC HEARING**

Public hearing opened.

Pat Finnemore, 3600 52nd Street, Director of Facilities at KUSD was available for questions, along with John Setter, Project Engineer. Mr. Finnemore said this is the last extension needed for the portables at Bradford and Tremper. The portable at Bose has been there since 1999 and the current plans are to have it there until approximately 2013. Mr. Finnemore contacted Alderman Ruffolo because of his concerns on the portables. The School District asks that if the City wants the portable removed, the School requests a one year notice, to budget for removal costs. Mr. Finnemore added that the school does not receive any complaints on the portables, but Alderman Ruffolo said that he has received complaints.

Alderman Rocco LaMacchia spoke regarding the portable at Bradford High School. Alderman LaMacchia said he has not been notified by the school, only the documents from City Development. He does not have a problem with the one year extension, but he is not in favor of additional extensions.

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Public hearing closed.

Mr. Labahn showed a video of the sites.

A motion was made by Mr. Landry and seconded by Alderman Michalski to approve Item #4, the portable at Tremper. The motion passed unanimously. (8 ayes; 0 noes)

A motion was made by Alderman Michalski and seconded by Mr. McCurdy to approve Item #5, the portable at Bradford. The motion passed unanimously. (8 ayes; 0 noes)

A motion was made by Mr. Stevens and seconded by Mr. McCurdy to approve Item #6, the portable at Bose. The motion passed. (7 ayes; 1 no) *Downing voted no*

7. **Request to extend the Conditional Use Permit for a 60-unit senior apartment complex to be located at 3508 7th Avenue, District #1. (Casa Del Mar) PUBLIC HEARING**

Public hearing opened.

Aaron Matter, Tarantino & Company, LLC, 20711 Watertown Road, Waukesha, was available for questions.

Public hearing closed.

Brian Wilke, Development Coordinator, showed a video of the site. This is the last phase of the St. Catherine Commons development.

A motion was made by Mr. Landry and seconded by Alderman Downing. The motion passed unanimously. (8 ayes; 0 noes)

8. **Zoning Ordinance to repeal and recreate subparagraphs 4.06 B.9.f., g., and h. and the Definition of Recycling Collection Center in Section 12. PUBLIC HEARING**

Public hearing opened, no comments, public hearing closed.

Mr. Labahn explained that the Zoning Ordinance change is a clarification precipitated by the language change in the Code of General Ordinances. The change includes a better definition of the recycling center as it relates to the materials and processes allowed. A license must also be obtained from the Common Council.

A motion was made by Mr. Stevens and seconded by Alderman Michalski to approve the proposed Ordinance. The motion passed unanimously. (8 ayes; 0 noes)

9. **Resolution to approve a three-lot Certified Survey Map to be located at 6435 Green Bay Road, District #17. (T Properties, LLC)**

Public hearing opened.

Eihab Atout, 4630 15th Street, Somers, explained why he would like to split this property. Mr. Atout said the bank wants the buildings to be on separate parcels. He added that Bob Carlson from Kenosha Water Utility said that each parcel should have their own lateral. Also, Mike Higgins, City Assessor/City Clerk said he is opposed to having landlocked properties.

Public hearing closed.

Mr. Wilke said that each parcel must have public street frontage per Ordinance. Mr. Atout wants to split the properties with a Certified Survey Map. This would lessen the access if something were to happen to one of the parcels. Mr. Wilke noted concerns as follows:

- The City Assessor is not in favor of splitting the parcels and eliminating the street frontage, but there is no Ordinance from the Assessor's standpoint prohibiting this.
- The Water Utility said currently the sewer is stubbed off of Green Bay Road to serve two buildings on one parcel, which is allowed. If Mr. Atout would cap off the existing lateral to Building #1 and run a new separate lateral to Building #1, this would be satisfied.
- Staff has reviewed the request for a Special Exception. Mr. Atout does not meet three of the five criteria that must all be complied with to grant the Special Exception. Staff's decision to recommend denial of the Certified Survey Map is a planning decision, not a financial decision. The recommendation is based on Chapter 17 of the Code of General Ordinances.

Mr. Labahn added that this is only the first step of the process. City Plan Commission will make a recommendation to the Common Council. This item will also be reviewed

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by the Public Works Committee prior to final approval by the Common Council.

Mr. Stevens asked if there was any recent precedence similar to this request. Mr. Wilke said that the request from Gary Heiberg was similar. In that instance the Special Exception requirements were met under different circumstances.

Mr. Stevens asked what the other alternatives would be. Mr. Wilke said another way would be to create a Condominium Plat. Each property could buy condominium ownership, but the parcel and property boundaries would stay the same. This may not be an option for Mr. Atout.

Mr. McCurdy asked about street access. Mr. Wilke said there is a right-in/right-out/left-in off of Green Bay Road and a full access off of 64th Street.

Mr. McCurdy said building #2 is under construction, what would happen to the project if Plan Commission recommends denial. Mr. Labahn said the Conditional Use Permit has been approved and that process can continue. The Certified Survey Map is the legal mechanism to divide property for the bank.

Mr. McCurdy asked about the roads within the development. Mr. Wilke said that they are all private roads.

Mr. Stevens asked if there are any options where the condominium procedure would be an option. Mr. Atout said no, the bank will not accept.

Ms. Faraone asked how Mr. Atout obtained the original financing. Mr. Atout said he had a construction loan. When he went back to refinance, the values went down and now the banks have different requirements. Ms. Faraone said this is a dilemma, but it is a planning decision, not a financial decision. We can't make special exceptions for everyone.

Mr. Lemens said the banks want to separate the properties to limit the liability exposure, the bank doesn't care how they are divided.

Mr. Stevens said between the time of construction loan and now, things have changed dramatically. What will you do with the remaining construction? Mr. Atout said the daycare will stay, but the other development will not be financed. Mr. Stevens said he agrees with Staff's recommendation. The bank is making this request, not the applicant. The Commission needs to defer to Staff under the normal circumstances. They are right on target.

Mayor Bosman asked Staff if there were other projects in the same circumstance. Mr. Labahn said not that we are aware of. The five standards that were used to determine approval of the special exception are the same ones used for relief of any requirement of the Land Division Ordinance. Mayor Bosman asked Mr. Atout if he needed an answer today or if it could be discussed for other alternatives. Mr. Atout said it cost approximately $820 per day. Mayor Bosman said he would like to defer the item to take more time for review and come back with options.

A motion was made by Mr. Stevens and seconded by Mr. Michalski to defer the Certified Survey Map for two weeks. The motion passed unanimously. (8 ayes; 0 noes)

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10. Public Comments

No public comments.

11. Commissioner Comments

No Commissioner comments.

12. Staff Comments

A motion to adjourn was made by Alderman Michalski and seconded by Alderman Downing. The motion passed unanimously (8 ayes; 0 noes). The meeting adjourned at 6:18 p.m.

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