

MINUTES

ROLL CALL

PRESENT: Ryan Cahill, Chairperson Roger Gibbs, Vice-Chairperson Tim Nefzger, Joe Petsche, Mike Schlichte, Matt Tauke

ABSENT: Bec Willenborg

AGENDA ITEMS

1. Approve Minutes of the December 12, 2022 Meeting.

After no questions or comments. Motion to Approve Minutes of the December 12, 2022 meeting made by Ryan Cahill, seconded by Tim Nefzger.

Voting Yea: Ryan Cahill, Roger Gibbs, Tim Nefzger, Joe Petsche, Mike Schlichte, Matt Tauke

Voting Nay:

Motion carried.

2. Approve Minutes of the February 13, 2023 Meeting

Chairman Gibbs confirmed that this meeting did not happen because lack of board attendance. Recording Secretary confirmed and stated these minutes were just for record keeping.

After no further questions or comments. Motion to Approve Minutes of the February 13, 2023 meeting made by Joe Petsche, seconded by Mike Schlichte.

Voting Yea: Ryan Cahill, Roger Gibbs, Tim Nefzger, Joe Petsche, Mike Schlichte, Matt Tauke

Voting Nay:

Motion carried.

3. Approve Plat of Survey of Mercy Park No. 2 in the City of Dyersville, Iowa. Plat submitted by Mercy Health Services.

Chad Darter, with Mercy One and representing Mercy One and the Ellen Kennedy Living Center was present. He stated this land had been gifted over to the Ellen Kennedy Living Center. Mercy One would now like the land back for possible future development. Darter stated Lot 1 would go to Mercy One and Lot 2 would remain with the living center since the sidewalks were on that lot.

City Administrator Mick Michel stated that he wanted the record to show that he is an adjoining property owner and owns Lot 6. He has no issues with the plat. It is a simple plat that is transferring Lot 1 back to Mercy One.

Motion to approve Plat of Survey of Mercy Park No. 2 made by Tim Nefzger, seconded by Matt Tauke.

Voting Yea: Ryan Cahill, Roger Gibbs, Tim Nefzger, Joe Petsche, Mike Schlichte, Matt Tauke

Voting Nay:

Motion carried.

4. Approve Final Plat of Bell 3rd Addition in the City of Dyersville, Dubuque County, Iowa. Plat submitted by Dave Bell.

No one was present regarding the plat. City Administrator, Mick Michel stated Dave Bell is carving the existing Lot 3 into two lots. The plat is keeping the 50' access and utility easement and extending it through Lot 1. Since the easements are in place, the city has what it needs and has no issues. Michel stated Bell can either sell the 2 lots separately or sell them together as one. If someone would buy both lots and want to build one building on both lots, they would need to come to the city to remove the easement.

Motion to Approve Final Plat of Bell 3rd Addition made by Mike Schlichte, seconded by Ryan Cahill.
Voting Yea: Ryan Cahill, Roger Gibbs, Tim Nefzger, Joe Petsche, Mike Schlichte, Matt Tauke
Voting Nay:
Motion carried.

5. Recommendation on Zoning Application to change property at 214 1st Street SW from A1 to C1. Request submitted by John Rankins.

Amanda Rankins, 407 13th Avenue SE Dyersville, was present. She stated they would like to change the zoning of their property from A1 to C1. Chairperson Gibbs asked what has changed since the last request in December 2022. Rankins stated nothing has changed, they are still requesting C-1 retail use of the building. She stated they had some concerns and questions regarding the restricted use for office space only that was recommended in December. Rankins feels this is spot zoning since the building next door is an auto body shop and the building next to that is residential and asked if they could have either of those uses. Rankins stated they are looking at options other than office use. She was wondering if there were documents that show the property is only for vet purposes. Rankins stated that in talking to an attorney, they were told that even if a vet clinic would go in there, they would still need to go through the Planning and Zoning commission because it is zoned A1 restricted. She stated they are confused on what it is zoned and what it can be used for.

Chairman Gibbs stated that (if he remembers correctly) the last time the commission was unsure and wanted the city council to make the decision. City Administrator Mick Michel stated the city was clear on what the purpose of the property should be based on the Comp Plan. Michel stated that regarding the use of the other two properties, the expectation of those properties is the same. The difference is the current use was grandfathered in. Those businesses/uses were there prior to the zoning creation in 1963 and therefore grandfathered in. The vet clinic lost its grandfathered status when it closed, but a vet clinic is still allowed under current A1 zoning and would not need further approval or need to be rezoned.

Michel stated that going to residential zoning, would be spot zoning; residential is not the best use. Michel stated the highest and best use is for green space based on the Comprehensive Plan. Michel stated that in the December 2022 minutes it states the land use for this property based on the Comprehensive Plan. Since this is a duplication of that request, there is no need to argue it again. The city's stand on this is that the best use for this property is C1 office with no drive-through service based on the Comprehensive plan. If Rankins would like the plan changed; they would need to petition the city to revise the plan. The December minutes explained this and the city's position has not changed.

Rankins stated she does not feel the property should be restricted in a discriminative manner especially when it is taking away the value of the property and prohibiting the owner from getting full use of the property. She stated the city is thinking of using this for green space and has future plans but is not sure what the plan is or if the city can provide that. Michel stated that information is in the comp plan and can be found on the city website. Rankins stated they know they can not change or add to the building since it is in the flood plain but wanted to know if the city was planning on building anything there? Michel restated that any city plans are found in the comp plan. That was determined through a 3rd party consultant after getting public opinion. It was then approved by the city council after public hearings. The comp plan determined the highest and best use of the property was green space. Michel

stated that at this time the city is not considering purchasing the property nor has there been any discussion. However, the plans determine the best use to be green space since it is not reasonable to have retail space in the flood plain. Michel stated the previous use was more of an office setting and there is not adequate parking for retail and there are ADA compliance issues. Retail sales would be highly unlikely, and the comp plan does not provide for commercial or residential use at this property. Michel stated again that highest and best use would be for office space with no drive through. Any legal arguments Rankins is stating should be discussed through the lawyers.

Rankins stated she is trying to clarify some of the things the lawyer had discussed. Rankins confirmed there has been no actual discussion about purchasing the property but what if the property is not able to be turned into green space. Michel stated they can operate under Agricultural or Commercial with no drive through which is the best use. Rankins stated that if one of the main concerns about retail is off street parking, wouldn't public parking be able to be used like other businesses downtown. Michel stated those businesses are in the Downtown Business District, this property is adjacent to the Downtown Business District. The downtown businesses are zoned C3, and this is a request for C1. Rankins asked if they request C3 would they have other options. Michel stated the response would be same because of what the Comp Plan determines the best use of the property to be.

Rankins said another concern was flooding and understands that if retail, they would be responsible for damaged merchandise but there has never been water in the building. She asked if a vet clinic would be of more concern with the building holding animals and medicine. Michel stated that a human life would be much more important than an animal life. In a vet setting, other than the staff, people drop off their animals and then leave. In a retail setting, you have many people there throughout the day. To have the property as an office setting has less density than a retail shop would. So C1 office use would be the best option.

Commission member Nefzger asked if warehouse space would fall under C1. Michel stated it would not because C1 use does not allow for storage. Michel said he is not in favor of warehouse/storage use. The city code will lay out what activity is available in an A1 use. Rankins made reference to Michel using "city use" and wondered why just the city use mattered and not about a business that might be able to help the city. Michel stated that as a business owner they can petition to have the comp plan revised. Michel stated that based on how the Comp Plan is written today, C1 is not the best use of the property. As stated in the December 2022 minutes, C1 office space with no drive through will allow for Rankins to utilize that use or have it remain as A1. Rankins stated they removed their previous request because they wanted to speak to their attorney to get a better background. Rankins feels that the value of the property and intent for office use is not the best use since there are many empty office locations already. Michel stated he is basing the city position on the land use policies and not an economical one; this meeting is to determine best land use.

Rankins stated that how the surrounding green space area is being used now could prohibit her use. If they have an office open only on Saturdays, and the city closes the street, that is affecting her business by blocking access and parking. Michel stated all street closures go through the city council and she can come and make an argument against the closure and let the city council make that decision. Today, however the argument is regarding land use based on the Downtown and Comprehensive Plans. The job of the commission is to provide a positive or negative report back to the city council and then a public hearing will be held at the council level. This process is based on the steps listed in the City Code. Michel stated their request is for C1 unconditional and still feels that based on city policies, the best use is C1 office without drive through. Rankins asked if she could have a C1 office business that sells items online. Michel was not sure and needed to check on that but still feels office use with no drive through is still the best use or remain an A1 use. Rankins asked if it would be OK to have animals/livestock on the property. Michel stated that whatever is outlined in the existing zoning code for A1 would be permissible and that could be found in the city code. Regarding the C1 request, the recommendation is the same as back in December, C1 conditional office use.

Rankins asked if there was no spot zoning in the area why the property at the end of the block (Reicher) is residential and could they have residential at their property. Michel stated that property is also zoned A1. Rankins asked if they could have residential. Michel stated Reicher always had living quarters in there. John Rankins, property owner, stated that there was never living quarters in that building before. He stated that just because someone drew plans over his property, or if they would do it to any other property, doesn't make the plan happen. He stated he has been paying commercial taxes on the property. John Rankins stated the veterinarian that was renting the space moved out after hearing about the green space plans and about the property being sold. John Rankins apologized for getting upset and thinks the commission should use some common sense. If the city wants greenspace, they should buy it. He stated the city just filled in ground and built a high rise downtown and that was OK. He stated it was time to help those that are not asking for financial assistance every time they do something. None of the board would like to be told what they could or couldn't do with the property they are paying for. John Rankins apologized again and said he and his wife got what they wanted and would step back and let the board do what they needed to do.

Chairman Gibbs directed this issue to the committee. He stated that in December a motion was made and seconded to approve the Zoning Application request from A1 to C1 with the conditional use for office space or keep the zoned A1. Gibbs stated the motion passed. Michel corrected Gibbs by saying it did not pass and no conference report was given. Gibbs asked if any board member wanted to change anything based on what was stated at the December meeting. Michel stated they needed to issue a positive or negative report and tabling the matter is a no report and within 30 days it would need to go to the City Council.

Commission member Nefzger asked if the board could make a motion to C1 restricted. Michel said they could make a motion to approve, to restrict, or deny. Nefzger stated it does not fit in the comprehensive plan that they worked on the past few years. If they want C1 unrestricted, they would need to ask for the comp plan to be amended. Based on today's plan, the best use is C1 office with no drive through. Current zoning is A1, and to have it remain, they would need to deny this request and send it back to council. Chairman Gibbs stated in the past they denied a request because it didn't fit within the comp plan.

Chairperson Gibbs made a motion to deny the request and have the property remain A1 because C1 does not fit into the Comprehensive/Downtown plans. Michel clarified that this motion would be a negative report and the council could overturn the decision. Nefzger stated, then the only business that could be there would be a vet clinic or something within A1. Amanda Rankins requested a document listing those approved uses and was told that could be found on the city website. Gibbs stated that anyone that gets a title opinion is also made aware of what the uses are. Commission member Petsche asked if this would go back to the council no matter what. Michel said it would and council could override the decision with a super majority vote. Nefzger clarified that the best use would be C1 office. If the petitioner wanted to pursue it further, they could through the city council. Chairperson Gibbs asked if there was a second. After a lack of a second, the motion died.

Tim Nefzger made a motion to approve the Zoning Application from A1 to C1 restricted to office space only, seconded by Ryan Cahill.

Voting Yea: Ryan Cahill, Tim Nefzger, Joe Petsche, Mike Schlichte and Matt Tauke

Voting Nay: Roger Gibbs.

Motion carried.

ADJOURNMENT

Meeting adjourned at 7:15 pm on a motion by Tim Nefzer. Seconded by Matt Tauke.

A handwritten signature in cursive script that reads "Lori A. Panton".

Lori A. Panton, Recording Secretary

Dated 03.13.23