

The meeting was called to order at 7:00 p.m. by Chairman Knapp.

Present at roll call were: Chairman Knapp and members Alderman Sir, Kiefer, Holloway, Kee, Siebenman, Austermann and Scheer. Member Smith was absent.

Also in attendance was City Administrator Craig Sabo and City Attorney Kathy Butler.

On motion by Alderman Sir, seconded by Mr. Scheer and unanimously approved, the Public Hearing and Regular Meeting for Item A would be discussed and voted on before moving on to the proposed Code amendment.

A. A petition from Daniel Wagner, representing W. Real Estate, LLC, for an amended Special Use Permit for an additional self-storage mini-warehouse with an apartment to be located at 1699 W. Fifth Street.

Notice of the Public Hearing was published in The Countian on Tuesday, July 26, 2016 and was posted on the City's website.

Mr. Wagner stated they would like to replace the existing building with a two (2) story elevated building which would house one hundred forty (140) units, an office and an apartment. He stated that for the record, he had submitted letters of support from representatives of surrounding businesses.

Alderman Sir inquired as to if the entrance would remain on West Fifth Street as there was an exit on Howerton depicted on the plan.

Mr. Wagner stated that the entrance would remain on West Fifth Street.

Mr. Scheer inquired as to who would be residing in the apartment.

Mr. Wagner stated that it would be the general manager of both storage facilities they currently own in Eureka, Mary Elizabeth Brown.

Ms. Brown stated that as sixty (60) percent of storage renters are female, having someone on-site twenty-four (24) hours was an extra layer of security for renters.

No one spoke in support of or in opposition to the petition.

There being no further matters for discussion, the public hearing was adjourned at 7:05 p.m.

The meeting was called to order at 7:05 p.m. by Chairman Knapp.

A. Consideration of a petition from Daniel Wagner, representing W. Real Estate, LLC, for an amended Special Use Permit for an additional self-storage mini-warehouse with an apartment to be located at 1699 W. Fifth Street.

Alderman Sir stated that the proposed addition was an improvement to the property and he was glad that the entrance to the facility remained on West Fifth Street.

Chairman Knapp went over the six (6) points of factual determination as required in Municipal Code Section 23-182(d).

The consensus was unanimously favorable on all points.

On motion by Alderman Sir, seconded by Mr. Kee and unanimously passed by those members in attendance, approval was recommended for a petition from Daniel Wagner, representing W. Real Estate, LLC, for an amended Special Use Permit for an additional self-storage mini-warehouse with an apartment to be located at 1699 W. Fifth Street.

The Regular Meeting was closed at 7:07 p.m.

The Public Hearing was reopened at 7:07 p.m.

B. A petition from Sean Flower amending the Municipal Code relating to Planned Residential Zoning District Regulations.

Notice of the Public Hearing was published in The Countian on Monday, July 25, 2016 and was posted on the City's website.

Mr. Flower stated that he was involved with a group who would like to propose a development project in The Legends. He stated that currently there was not a zoning classification that would make the proposed project work so he was seeking to amend the Code, relative to a Planned Residential Development located on property designated as a Community Unit Plan. He stated that more communities are looking to amend regulations to allow for such zoning as areas of land are available to redevelop. He stated that with the proposed zoning change, the City would still have control of the development such as final approval of the site plan. He stated he was not proposing any development at this meeting, but he was seeking approval of the Code amendment which would lay the groundwork to allow him to receive consideration for the project. He said that the project would be an eighteen (18) unit villa development in a Planned Residential District. He stated that the project would be on a portion of the golf course and would eliminate one (1) stroke of the twenty-seven (27) hole course. He added that they would be fifty (50) foot lots with detached villas.

City Attorney Kathy Butler inquired as to if the Code amendment would change the one hundred (100) acre minimum size requirement to no minimum requirement within a Community Unit Plan. Mr. Flower stated that was correct and that initially the Planned Residential Development requirement was a three hundred (300) acre minimum size requirement and was previously reduced to one hundred (100) acres.

City Attorney Butler inquired as to if he was eliminating the current requirement not to exceed 2 to 2 1/2 dwellings per acre within a Community Unit Plan.

Mr. Flower stated that was correct.

Alderman Sir inquired as to how the requirements Mr. Flower was asking to be removed would affect the minimum lot sizes for the detached or attached dwellings.

City Attorney Butler stated the minimum lot sizes would still exist under the Code, but you would not have the limitation of the density and they could propose whatever would fit as opposed to the current Code, where even if they had fifty (50) feet, they could only put so many dwellings per acre.

Alderman Sir inquired as to if it would be the acreage required by a Community Unit Plan.

City Attorney Butler stated that it would not because you would have a Planned Residential District in an existing Community Unit Plan under the proposed application.

City Attorney Butler stated that the Commission members should review Section 23-66(9) of the Municipal Code which states the lot requirement is a frontage of forty (40) feet and the depth of forty (40) feet, so that is the size lots they could propose.

Mr. Scheer inquired as to how the Code amendment would benefit the City.

Mr. Flower stated that it would make it easier for the City to be more flexible with projects. He said it would be another tool to allow the City to consider a mixed use in a smaller setting. He stated that there were becoming less and less tracts of land available to develop, but there was a demand for this type of housing. He added that if the City wanted to develop properties, this would help them do so.

Speaking in support of the petition was Mr. Matt Iovaldi of 530 Inverrary Court who said he was a managing partner of the Legends Country Club. He stated that he and seventeen (17) other investors/homeowners would like to sell the property to Mr. Flower for him to develop. He said that he has been a resident of the Legends for thirteen (13) years and believed in the Legends Community. He stated that they entered into the venture with Mr. Flower because they needed an upgrade in their capital improvements. He stated that the development was small in scope, but it was to be placed where there is currently a dilapidated cart barn. He said this type of housing was in high demand, and the proceeds would allow them to construct a larger cart barn and make improvements to the golf course and clubhouse. He stated that they were in need of the capital and it was vital to the Legends community. He stated that they had approached the Homeowners Association in March of 2015 and had it put to a vote of the property owners in The Legends and the measure was approved by a vote of 386 to 190, which was the required two-thirds majority needed for approval.

Speaking in support of the petition was Mr. Gary Koeneker of 416 Thorntree Lake Court. Mr. Koeneker stated that he was the President of the The Legends Homeowners Master Association. He stated that the vote was held on June 7, 2016 and as Mr. Iovaldi had previously stated, it met the threshold of approval by receiving a two-thirds majority in support of the project.

Speaking in support of the petition was Ms. Jen Huber of 407 Meramec View Drive. She stated that if the City had recently approved Section 8 housing for seniors, they should have no problem supporting a project that would construct half million dollar homes. She inquired as to if there was a Section 8 project recently approved.

Alderman Sir stated that a project was approved, but it was not Section 8 housing.

City Attorney Butler stated that approval was granted for senior living apartments.

Ms. Huber stated that regardless of what was recently approved, she did not think the City should have a problem with someone wanting to construct half million dollar homes and attracting the demographic which would purchase them.

Chairman Knapp inquired as to if he could see a show of hands as to how many in attendance were in agreement with those who spoke in approval of the petition. After a head count, Chairman Knapp stated that there were fifty-four (54) in attendance who showed their hands in support of the petition.

Speaking in opposition to the petition was Mr. Joseph Blanner, an attorney representing several residents in The Legends who oppose the development. Mr. Blanner stated that he had prepared a booklet for the Commission members that he would like to enter for the record. He stated that the property owners he represented had several issues with the proposed development. He said that as property owners in The Legends they had an expectation that the golf course would remain such in perpetuity and not be utilized for any other purpose than a golf course. He stated that the Homeowners Association wanted to amend the Declaration of the Covenants and Restrictions of The Legends which would change the definition of the golf course. He said the property owners were also challenging the procedure for the approval of the proposed development. He added that the homeowners were never supplied with any written form of the amendment before there was a special meeting that was scheduled to vote on the amendment, so, homeowners were being asked to vote on the amendment sight unseen. He said homeowners were asked to sign proxies in support of the amendment also sight unseen. He stated that a letter was sent to all applicable parties demanding that the vote be cancelled as the amendment language was never properly provided. He said that the vote was continued to June 11, 2016 and the second notice sent to property owners stated that a no vote or a failure to cast a vote on the second amendment was to be considered a vote against the development. He stated that there was existing case law which supports his clients' assertion that you cannot change a use of a property without unanimous consent of all lot owners. He said to change a golf course or common ground to something else, you must have everyone's consent. He stated that residents were told the property in question would always be a golf course and any attempt to change the use of the property would be a violation of their rights as property owners. He said by approving the amendment it would allow consideration of a change of the 6.6 acres on the golf course and there is a serious concern that it could change the remaining portion of the golf course, as well. He said this attempt to change the Code is an attempt to allow this to happen, which is a clear violation of the residents' rights.

City Attorney Butler inquired as to if Mr. Blanner agreed or disagreed with Mr. Flower's assertion that the Code amendment would allow the City more flexibility in Planned Residential Developments.

Mr. Blanner stated that the amendment would allow for no minimum lot size requirement and the lots per acre restriction would also be removed. He stated that he absolutely disagrees with Mr. Flower as it would create problems, not increase flexibility and it is not a good idea to change the Code requirements to allow for this one (1) small development.

Chairman Knapp inquired as to if he could see a show of hands as to how many in attendance were in agreement with what Mr. Blanner had stated in opposition to the petition. Chairman Knapp stated that there were thirty-four (34) in attendance who showed their hands in opposition to the petition.

Speaking in opposition to the petition was Ms. Elaine Herbst who resides at 550 Fairway Oaks Drive. She stated that she purchased her home fully expecting the golf course near her home to remain a golf course. She stated that she is very disappointed that the use of the golf course would be changed to a housing development.

Speaking in opposition to the petition was Mr. Patrick Dudley of 418 Eagle Pointe Landing. He stated that he had resided in The Legends for twenty (20) years. He stated that he and others were in disagreement with the Homeowner's Association computation of the votes. He stated that when The Legends was developed more than twenty-five (25) years ago there was a percentage of greenspace and the fairways that were to be designated in conjunction with the number of housing units. He stated that there were other solutions available within the development without destroying greenspace such as building the very same project inside the footprint of the clubhouse area. He said there is no demonstrable hardship that the investors have shown and that it appeared it was a matter of people receiving unjust rewards for selling property that was part of the original deal and he felt they, as homeowners, were being "taken to the cleaners" for a project that can be done in another fashion.

Speaking in opposition to the petition was Ms. Donna Singer of 566 Fairway Oaks Drive. She stated that several years ago she had attended a similar meeting where the former owner of the country club and golf course, Mr. Carmen Nattoli, had proposed another development on the golf course. She stated that they were assured at that meeting that the golf course would always remain greenspace. She stated that the new development would be right in her back yard and she never would have purchased her property if she knew there would be houses instead of a golf course.

Speaking in opposition to the petition was Ms. Regina Potter of 525 Fairway Oaks Drive. She stated that when she purchased her home three and a half years ago, she was assured the greenspace would always remain as such.

Speaking in opposition to the petition was Mr. Larry Kruse of 565 Fairway Oaks Drive. Mr. Kruse stated that he would like to read a paragraph in the City of Eureka's Comprehensive Plan that was applicable to the situation in regards to Land Use "Greenspace". (Mr. Kruse read the paragraph.) He asked Commission members to review the verbiage and think about how it relates to the petition.

Speaking in opposition to the petition was Mr. John Wells of 729 Southern Hills Drive. He stated that he was a long time Eureka resident. He stated that covenants were in place for a reason and that there needed to be a very good reason for amending them such as improving the community.

The public hearing was closed at 7:38 p.m.
The regular meeting was reopened at 7:38 p.m.

On motion by Mr. Scheer, seconded by Mr. Kiefer and unanimously passed, the Minutes of July 27, 2016 were approved.

ELECTION OF OFFICERS:

Election of officers per Section 2-79. The Chairperson and Secretary shall be elected from the citizen members.

On motion by Alderman Sir, seconded by Mr. Kiefer and unanimously passed by those members in the attendance, the election of officers was tabled until all members were in attendance.

GUESTS:

There were no guests present who wished to address the Commission.

OLD BUSINESS:

There was no old business to be discussed.

NEW BUSINESS:

B. Consideration of a petition from Sean Flower amending the Municipal Code relating to Planned Residential Zoning District Regulations.

Chairman Knapp stated that this is an issue the Commission should really look at. He stated that he agreed with Mr. Scheer's question as to how this would benefit the City. He stated that it appeared the amendment may help future development in the City.

Mr. Scheer stated that the amendment would affect the entire City, not just Mr. Flower's proposed development. He stated that it would allow for this type of development City-wide and if this proposal was site specific he may not have a problem with it. He said City Codes have worked well to this point.

Alderman Sir stated that he resided in an area that is governed by a Community Unit Plan which has a lot of common ground and he was concerned that if the amendment would be approved someone may propose to construct villas on common ground in his subdivision. He stated that if the amendment was site specific he may feel differently about it, but the Code addresses everything City-wide. He said that maybe some changes could be made to the Planned Residential District regulations, but is not sure he is ready to just erase those requirements, as proposed.

Mr. Siebenman stated that he agrees with Mr. Flower that the amendment would provide flexibility when considering development. He stated just because you have greenspace does not mean someone can come in and build on it. He stated that they would still have to go through the site specific approval process, but the flexibility should be there to be able to propose it. He said he does not think approving the Code amendment would necessarily mean all common ground would be developed.

Mr. Kee stated that he sees the amendment as opening a can of worms and it may be problematic for existing subdivisions.

Chairman Knapp stated that this may not be the right thing to do at this time.

On motion by Mr. Siebenman and seconded by Mr. Austermann, approval was recommended for a petition from Sean Flower amending the Municipal Code relating to Planned Residential Zoning District Regulations.

The roll call vote was as follows: Sir - NO; Kiefer - NO; Austermann - NO; Holloway - NO; Kee - NO; Siebenman - YES; Scheer - NO; Knapp - NO
With seven (7) "NO" votes and one (1) "YES" vote (cast by Mr. Siebenman) the motion received a negative recommendation.

ADDITIONAL BUSINESS:

There was no additional business to be discussed.

There being no further matters for discussion, on motion by Mr. Scheer, seconded by Mr. Kee and unanimously passed, the meeting was adjourned at 7:45 p.m.

UPCOMING MEETINGS:

- August 24, 2016
- September 14, 2016

Respectfully submitted,

(Original with signature on file)

Barb Griffin, Acting Secretary