

**Cedar Falls Planning and Zoning Commission  
Regular Meeting  
July 11, 2018  
City Hall Council Chambers  
220 Clay Street, Cedar Falls, Iowa**

**MINUTES**

The Cedar Falls Planning and Zoning Commission met in regular session on Wednesday, July 11, 2018 at 5:30 p.m. in the City Hall Council Chambers, 220 Clay Street, Cedar Falls, Iowa. The following Commission members were present: Adkins, Arntson, Giarusso, Hartley, Holst, Leeper, Oberle, and Saul. Wingert was absent. Karen Howard, Planning and Community Services Manager and Shane Graham, Planner II, were also present.

- 1.) Chair Oberle noted the Minutes from the June 27, 2018 regular meeting are presented. Arntson made a motion to approve the Minutes as presented. Leeper seconded the motion. The motion was approved unanimously with 8 ayes (Adkins, Arntson, Giarusso, Hartley, Holst, Leeper, Oberle and Saul), and 0 nays.
- 2.) The first item of business was a public hearing regarding the rezoning of the southwest corner of Highway 58 and West Ridgeway Avenue. Chair Oberle introduced the item and Mr. Graham provided background information. He explained that this is a continuation of the public hearing from the June 27, 2018 Planning and Zoning meeting. It is proposed to rezone the property from A-1 to HWY-1 to allow for a 185,000 sq. ft. retail business with a 72,000 sq. ft. storage yard, as well as three additional retail storefronts totaling 55,000 sq. ft. and a fuel center. There would be two accesses from West Ridgeway Avenue and none from Highway 58 or Highway 20. Wetland area would be minimally disturbed and right-of-way would be provided. The rezoning would be in conformance with the future land use map. The applicant is in the process of completing a traffic impact study and staff would like to review the study to ensure that street and intersection improvements will be provided to support the requested upzoning from Agriculture (A-1) to Hwy-1 Commercial. Staff recommends continuing the public hearing to the next meeting. The Commission agreed to continue the discussion at the July 25 meeting.
- 3.) The next item for consideration by the Commission was a public hearing regarding a rezoning and land use map amendment for 1015-1021 West 22<sup>nd</sup> Street. Chair Oberle introduced the item and Ms. Howard provided background information. She explained that the property is located in the College Hill Overlay District and gave a brief explanation of the proposal, noting that it addresses the desire for additional parking to serve a proposed mixed-use building on College Street and will improve the streetscape on 22<sup>nd</sup> Street with a deeper setback and usable greenspace. Staff finds that the proposed amendment to the land use map will create a reasonable balance and advancement of comprehensive plan goals, as well as spur a walkable mixed-use development in the future by reserving space at the front of the lot to help meet future market demand. The proposed rezoning is consistent with the current Comprehensive Plan, as well as the College Hill Neighborhood Plan. Staff recommends approval of an amendment to the future land use map as well as a rezoning of the properties.

Dan Drendle, Slingshot Architecture, spoke on behalf of the applicant, noting his appreciation to staff for their help with the project.

Chris Wernimont, 415 ½ Washington Street, asked staff what the difference is in this proposal compared to a previous, similar proposal he made and was denied. He felt this was a kind of spot zoning.

Dave Diebler, 1616 Campus Street, stated he is in favor of the project and would like to see it move forward. He doesn't feel there is a parking problem.

Eashaan Vajpeyi, 3831 Convair Lane, asked if staff was going to speak to the effect of the protests to the rezoning. Ms. Howard stated that the City has received a couple of protest petitions from nearby property owners, which would trigger a super majority vote from City Council if the project moves forward.

Cara Bigelow Baker, 1826 Quail Run Lane, (works at the Razor's Edge) stated concerns with spot zoning. She has no issues with promoting growth in the area, but feels that loopholes are being created that will cause issues down the road.

Matt Hardin, 801 Grand Avenue, Des Moines, attorney for the developer, stated that it is not their position that the rezoning is tied to the approval of the site plan. Their position is that if the rezoning is not approved, the extra parking to be provided would not be necessary for the approval of the site plan for the proposed mixed-use building on College Street.

Ms. Howard stated that rezoning the properties would not be considered an illegal spot zone as it would be just an extension of the C-3 District, which directly abuts these properties. If the property is rezoned to C-3, Commercial, it would allow the properties to develop according to the C-3 District within the College Hill District. She clarified that if the site plan were to fail, but the rezoning is approved, the properties would be zoned C-3, and could be developed according the standards and requirements of that zone. However, if the rezoning were to fail, the site plan as currently proposed could not be approved, since it specifically proposes tying this additional parking area to the other site, whether or not the parking is determined to be required or merely being provided. However, that would not foreclose the applicant from coming forward in the future and proposing a different mixed-use project on the College Street site that was not tied to the properties under consideration for rezoning.

Ms. Oberle asked about Mr. Wernimont's question regarding not being allowed to take down housing to create a parking lot. She stated that she also was not familiar with the particular circumstances Mr. Wernimont mentioned, which may have been in a residential zone. Ms. Howard noted that this project would be different due to the commercial zoning proposed and the proposal to setback the parking area to allow for usable green space and pedestrian amenities and also potential for a future mixed-use building at the front of the lot. Staff would not recommend approval of a parking area that filled the entire property.

The Commission agreed that request is not spot zoning, but an extension of a zone already in place.

Mr. Leeper made a motion to approve the land use map amendment. Mr. Hartley seconded the motion. The Commission discussed how the proposal was consistent with the Comprehensive Plan to expand and support additional mixed-use development in the area. The motion was approved unanimously with 8 ayes (Adkins, Arntson, Giarusso, Hartley, Holst, Leeper, Oberle and Saul), and 0 nays.

Mr. Hartley then made a motion to approve the rezoning. Mr. Arntson seconded the motion. The motion was approved unanimously with 8 ayes (Adkins, Arntson, Giarusso, Hartley, Holst, Leeper, Oberle and Saul), and 0 nays.

- 4.) The Commission then considered a College Hill Site Plan Review for 2119 College Street and 1015-1021 West 22<sup>nd</sup> Street. Ms. Oberle introduced the item and Ms. Howard provided background information. She explained that a 5-story, mixed-use building is proposed at 2119

College Street, 925 W. 22<sup>nd</sup> Street and 1003 W. 22<sup>nd</sup> Street. It will include two retail storefront spaces, 83 residential units on upper floors, and 65 on-site parking spaces, as well as 29 off-site spaces. She discussed in some detail the principles of statutory interpretation to help explain how staff made their determination that upper floor uses are considered secondary uses in a mixed use storefront commercial building and therefore parking is not required. The alternative interpretations offered by others would render the specific standards in the College Hill Overlay District without meaning, which is counter to rules of statutory interpretation. Secondly, specific statutory language ordinarily trumps conflicting general language, so the specific provisions adopted for the College Hill Overlay are more specific to the situation than the general definitions section of the ordinance, which doesn't have a definition of secondary. Thirdly, staff looked to the legislative intent and history to provide some clarity to the language. Reviewing files of the review and approval process when the ordinance amendments were made adopting these specific standards in the College Hill Overlay in 2005, staff discovered that there was an early draft of the amendments that included parking requirements, but at a later meeting the code amendments were modified to specifically take out the requirement for parking for secondary upper floor uses. It is clear that the Planning and Zoning Commission and City Council at that time very intentionally amended the code to delete the parking requirements. It was not an oversight or merely ambiguous language so should not be trumped by general language in the zoning code.

Mr. Holst stated that he understands staff's position, but noted his discomfort and that he is struggling with the intent and feels there is ambiguity. Ms. Howard stated that past history indicates that the intent is not to require parking based on what the code says currently. Ms. Saul asked what principal means in the code. Ms. Howard explained that the Code lists the "principal permitted uses" for each zoning district in the code and that is what is being referenced here. Ms. Saul disagreed with the idea of the principal use being considered as commercial use when a larger portion of the building is for a residential use. She noted that she also feels there is ambiguity. Ms. Giarusso also struggles with the definition of the primary use and feels that the primary use would be the majority of the building.

The item was opened up to the public. Matt Hardin, attorney for the applicant, stated that the code states that the principal use is commercial and requires no parking, so the parking code is met. He feels that they have been trying to accommodate the concerns of the commission and neighbors regarding parking and believes the requirements are met. As for the intent of the code, he believes that references to mixed-use buildings are referring to commercial use on the first floor as the primary use and residential use on the upper floors as secondary. He believes the main use of the building will be by the commercial customers.

Brian Sires, 1939 College Street, stated that the argument is over the principal use of the building. He feels that the majority of the building is residential and that is how it will be viewed. He noted that a prior city attorney sent a letter to the City Council stating that the City's interpretation was wrong on the previous case brought before the Commission, which was similar to this proposal.

Eashaan Vajpeyi, 8381 Convair Lane, feels that staff's explanation is confusing and feels that it is a slippery slope. He gave a definition of principal, which was main use, which is chief in size or importance. He pointed out that no one knows what the retail uses in the building will be, therefore no one knows how much traffic or business it will create, but there is 5.75 times more residential square footage than commercial, which he feels makes the primary use residential. Mr. Vajpeyi referenced the letter from former city attorney, Gary Jones.

Lisa Sevcik, 1421 Clay Street, stated that she agrees with Mr. Sires and Mr. Vajpeyi and feels that parking is very important, not just for the tenants but others trying to access the buildings. She gave examples of other cities she has visited with parking issues that Cedar Falls could

avoid by providing adequate parking.

Dan Drendel spoke to the comments that had been made. He stated that they meet with the city first to get a clear definition of the code before they create a design. He also referred to the State Street buildings that were allowed under the code.

Wes Owen, 504 W. 22<sup>nd</sup> Street, stated that he built a duplex on Olive Street and was required to park 100% of his building and wants to know why this is different.

Cara Bigelow Baker, 1826 Quail Run Lane, stated that the prior building at 923 W. 23<sup>rd</sup> Street has tenants that are now parking in city lots overnight and the problem has not been resolved. She noted that a parking study was requested and does not believe that has been done. She also researched and found that 76% of students have UNI parking permits, which shows that they do have vehicles. She stated that there is nowhere for cars to park and a new building will create more parking problems.

Dave Diebler, feels that people just don't want to see more development and believes that more growth is needed.

Mr. Hardin believes that the issue comes down to a legal question, and the code says that parking is not required. The developer has provided 94 parking stalls anyway to help with any parking issues. Based on their research, the developer believes there is a market for this kind of development.

Mr. Leeper noted that he agrees with parts of each side of the argument, but he leans toward the Comprehensive Plan. He feels that density is a good thing and that the zoning code should be re-evaluated in future to help achieve the goals. For this case he believes the Commission needs to follow the code and he believes the project satisfies the code requirements.

Mr. Arntson also agrees with different aspects of each side of the arguments, but feels this is a good spot to start the redevelopment of the area. He doesn't believe that the requirement was ever meant to be zero parking required. He feels that the same standards need to be used for every project. He likes the project and feels that density is a good thing, but feels that there need to be clear and uniform rules that apply for everyone.

Ms. Saul noted concerns with the use of the area that was rezoned for a parking lot, as it was also stated that they may not have to put in a parking lot and could do something different with the space. Mr. Holst believes the principal use is residential and parking should be required. She agreed with Mr. Holst regarding the principal use and feels that the parking is an issue.

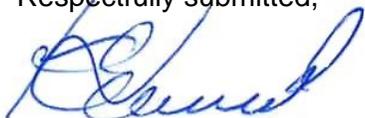
Mr. Arntson feels that this is a better plan than the last presented in that it provides more parking.

Mr. Leeper made a motion to approve. Mr. Hartley seconded the motion. The motion failed on a tie vote, with 4 ayes (Arntson, Hartley, Leeper, Oberle), and 4 nays (Adkins, Giarusso, Holst and Saul). (Please note that Ms. Oberle's vote was not registered on the voting machine but she stated that she did vote aye.)

- 5.) As there were no further comments, Mr. Hartley made a motion to adjourn. Mr. Holst seconded the motion. The motion was approved unanimously with 8 ayes (Adkins, Arntson, Giarusso, Hartley, Holst, Leeper, Oberle and Saul), and 0 nays.

The meeting adjourned at 7:30 p.m.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'K Howard', written in a cursive style.

Karen Howard  
Community Services Manager

A handwritten signature in blue ink, appearing to read 'Joanne Goodrich', written in a cursive style.

Joanne Goodrich  
Administrative Clerk