CITY OF BAYPORT
PLANNING COMMISSION MEETING MINUTES
CITY COUNCIL CHAMBERS
JUNE 10, 2013
6:00 P.M.

CALL TO ORDER

Pursuant to due call and notice thereof, Acting City Administrator/Planner Taylor called the regular Bayport Planning Commission meeting of June 10, 2013 to order at 6:00 p.m.

ROLL CALL

Commissioners Present: Todd Gilles, Brad Hallett, Jason Obler, Jeff Richtman and Joe Ritzer

Commissioners Absent: None

City Staff Present: Acting City Administrator/Planner Sara Taylor, Planning Consultant Dan Licht, and City Attorney Andy Pratt

APPROVAL OF MINUTES

It was moved by Commissioner Gilles and seconded by Commissioner Richtman to approve the June 10, 2013 meeting minutes as presented. Motion carried.

PUBLIC HEARINGS

Consider a Planned Unit Development (PUD) General Development Plan and a Preliminary Plat for Inspiration Phase III-B: Planning Consultant Dan Licht stated that builder DR Horton, Inc., working with Bayport Mainstreet Holding, LLC, has submitted an application for preliminary plat approval and a revised Planned Unit Development (PUD) general development plan for Outlot C in the northwest corner of Inspiration, known as Phase III-B. They are proposing the development of 110 traditional single family lots and 163 acres of open space in this outlot. He noted 116 lots were approved in the original master plan approved in 2004. The process for approval and changes from the 2004 PUD general development plan and preliminary plat to the subdivision design were reviewed in detail. Architecture guidelines, lot requirements, setbacks, open space, landscaping, access off Stagecoach Trail, streets, trails/sidewalks, grading plan, utility and street lighting plans, easements, and park dedication fees were reviewed. He noted that the plans have been revised to provide more active open space in Outlot F, after the applicant received comments from current Inspiration residents. Based on comments from Washington County, a three-quarter intersection only will be installed at Inspiration Parkway North and Stagecoach Trail, with no left turn allowed to southbound Stagecoach Trail. The trail segment along the south side of Inspiration Parkway North will also be modified to direct pedestrian traffic to the south entrance that will have a delineated pedestrian crossing. The developer plans to build out Phase III-B in three sub-phases, with the first phase of 45 single family lots and completion of Inspiration Parkway to Stagecoach Trail. The second phase provides for the connection of Primrose Path and Periwinkle Place and includes 33 single family lots. The final phase involves construction of Primrose Place and development of 32 lots. The developer will be required to enter into a separate developer's agreement and PUD permit for Phase III-B as a condition of approval for final plat approval. He noted that administration of architectural review was originally deferred to the HOA and has not changed since 2004, and this component is not under the city's purview. Separate from the application being considered tonight, Planner Licht noted the protected burial mounds are not affected by the Phase III-B development, and the city and developer will need to decide on

conveyance of the nature center and acquisition of Outlot M in the future. He stated the proposed project meets the requirements and intent to provide a single-family neighborhood surrounded by open space and amenities, within the context of the city's original approvals in 2004/2005. The project also meets the technical requirements of the city's subdivision ordinance. As such, city staff recommended approval of the project, subject to the 16 conditions listed in the staff report dated June 5, 2013.

Ron Mullenbach, representing applicant DR Horton, introduced Mike Suel and Rob Crosstue, DR Horton; Corey Meyer and Fran Hagen, Westwood Professional Services; and Kendra Lindahl with Landform (asset manager), representing the co-applicant Bayport Mainstreet Holding (BMH). He noted the developer's desire to complete the traditional single-family development within the constraints of today's marketplace. One of the changes is the elimination of planned alleyways, which are maintained by the homeowner's association, and provide access via the extension of Periwinkle Place. To reduce city maintenance costs, a roundabout has been replaced by a traditional four-way intersection. He added the intent of application is to reduce the amount of impervious surface and increase or hold the amount of open space.

Commissioner Obler requested background information on DR Horton's involvement with the Inspiration development. Mr. Mullenbach stated his company was pleased with their efforts as a builder in Phase I of Inspiration during the past few years, and recently entered into a purchase agreement with BMH to serve as the developer for the final phase to install streets and utilities and serve as the builder for the remaining 132 single family home sites. He added they want to honor the original intent of the development as a conservation, open space neighborhood, and said DR Horton would be taking over maintenance of the conservation easement area.

Commissioner Hallett requested information on the original architectural standards, and Mr. Mullenbach stated as a builder they follow the original standards as regulated by the homeowner organization association (HOA) documents. He noted that BMH serves as the board of directors for the HOA at this time, and building plans are submitted to the architectural review committee (ARC) of that entity for review.

Commissioner Ritzer asked how the current marketplace affects the proposed application versus the original 2004 plan. Mr. Mullenbach stated the original builder, Rottlund Homes, constructed the initial homes in a manner similar to the proposed application, marketing a certain number of floor plan styles with an umbrella policy to avoid repeating styles in a certain area. Commissioner Obler mentioned a concern about two adjacent similar style homes and believes the Planning Commission needs to be responsive to this type of concern to ensure an adequate umbrella policy is maintained. Planner Licht stated the city is aware of the issue with the two homes built by DR Horton and is reviewing information; however, Landform, the HOA representative, reported the two homes meet the guidelines of the HOA requirements. He added that approval of the final plat and PUD is separate from the architectural controls that are imposed as part of the private HOA documents and are outside the scope of the city's jurisdiction. Commissioner Obler is concerned the Inspiration residents have not received any assurances that the applicable restrictions, standards, and covenants of the original developer's agreement will be maintained, especially with DR Horton serving as the HOA board. He expressed concerns that the DR Horton proposal would not fit with the development's original plan and not support the small town feeling promoted by the original developers.

Corey Meyer, landscape architect with Westwood Professional Services, explained the open space changes in Outlot F, in response to concerns voiced at an Inspiration homeowner's meeting last week.

Commissioner Obler opened the public hearing and the following were heard:

Patrick McNeil, 921 Inspiration Parkway, expressed concerns with the owner/builder/developer, DR Horton, having total control of the property and architectural review, with no recourse available to the residents. He also had concerns with replacing village greens with landscaped passive open spaces, management of the open spaces and weed control, and removing passive open space on the south side of Inspiration Parkway with lots that back up to Stagecoach Trail. He questioned whether the plans include the availability of running water to the planned fire pit. He noted it was a long process to grant the original approval for the development and encouraged the city to take the necessary time to review this application.

Russ Morlando, 1202 Pioneer Trail, expressed concern with traffic in the development and recommended the developer complete a traffic study to gauge congestion levels and traffic patterns, as the volume and speed of vehicles has increased. He believes the new three-quarter intersection will restrict access to Stagecoach Trail for many residents and questioned whether the original approval called for a three-quarter intersection. Planner Licht indicated the original plan called for a full intersection at the second entrance at Inspiration Parkway North, but Washington County has updated their traffic management plan for this county road and is requiring a restricted intersection. Mr. Morlando is also concerned with DR Horton complying with HOA regulations, if they serve as the HOA board, and requested open and honest conversation between all parties.

John Nelson, 301 Periwinkle Place, stated the proposed thoroughfare will develop two open spaces on the original plan and bring additional traffic past his home, and he reinforced the need for sidewalks and boulevard trees. He suggested the city could offer a counterproposal on the architectural review at this time and believes the city's vision needs to be long-term with regards to the marketability of the village lots.

Nate DeJarnet, 1014 Pioneer Trail, expressed concern that the proposed changes are being made in response to current market conditions to produce a typical single family development instead of a unique community oriented, nature based neighborhood.

Ben Lee, 908 Inspiration Parkway, who bought a home from DR Horton in October 2012, expressed concerns with their building practices, workmanship, subcontractors, limited number of models available, and their general lack of knowledge of the development. He also noted the importance of having a variety of home styles and colors because he believes his home style and color is the same as a neighboring property.

Sasha Graybill, 1026 Pioneer Trail, questioned the approval process and believes the homeowners' concerns are not being acknowledged, noting the neighborhood was not based on the proposed passive open space. She believes DR Horton is taking advantage of the current housing market because they were able to purchase the bankruptcy lots at a cheap price and build "big box" homes, without a true understanding or respect for the original planning and approval that promoted a small town feel. She encouraged the city to require compliance with the original intent and vision for the neighborhood and questioned why the city had changed their minds on developing a "big box" neighborhood. She requested that the application be denied and recommended the original plan be implemented.

Randall Ahola, 4727 Stagecoach Trail, stated his property is on the north end of the development and questioned who owns a 54-foot gap on the south side of his property, running between

Stagecoach Trail and Barker's Alps Park, and if there are any future plans for the area. It was noted that staff will research ownership of the area.

Greg Friedman, 325 Periwinkle Place, echoed the concerns expressed by Sasha Graybill and challenged DR Horton's elimination of the village single family homes because they are not marketable. He wants Inspiration to be known and remembered as a uniquely special neighborhood.

Christopher Grecian, 966 Inspiration Parkway North, said his family specifically chose Inspiration for their home because of the unique development and noted the importance of the emotional connection residents have with their neighborhoods.

Dustin Vincent, 526 Prairie Way South, said his family chose their DR Horton home because of the community feel and requested delaying approval of the application until 2015, when the HOA architectural review responsibility would be turned over to the residents.

Jeff Todd, 467 Prairie Way South, questioned the reasoning for the proposed changes from the original plan due to market conditions, noting that DR Horton has built and sold multiple homes in the development since last winter, following the original development plan. He stated there are many new homes in nearby Baytown Township developments that remain consistent with the original architectural standards and will ultimately add to their value. He had concerns with DR Horton controlling the HOA board until 2015, and being able to change the architectural values to meet their marketing needs. He believes this could impact home values in the entire development, as well as Bayport's tax base, and requested that the city have input on the residents' concerns in regards to the private agreements between the developer and residents.

Sandy Conroy, 720 Minnesota Street South, questioned whether other developments, such as Liberty in Stillwater, have similar problems that need to be reconciled between the homeowners association and the developer and encouraged conversation to resolve the issues.

Lee Stoerzinger, 300 Periwinkle Place, asked the developer to respond to the many resident concerns addressed at the meeting.

Ron Mullenbach indicated no changes were proposed to the administration of the HOA board but recognizes it is an important issue to the residents and DR Horton would be open to working with residents to establish representation on the HOA. He noted Alliance Bank owns the Phase II area, approved for the development of condominiums, and DR Horton has no control over maintenance of this area. Regarding a concern with lots backing up to Stagecoach Trail, he stated the plans shift the westerly intersection of Primrose Path and Inspiration Parkway to the east so that the lots on Primrose Path are more than a football field from the road. Adding water service to the fire pit area will be easy to accomplish. He noted the proposal actually reduces the number of homes, which would decrease traffic volumes, and indicated Washington County is requiring the restricted second access off Stagecoach Trail. He stated that installation of the infrastructure needed for alleyways to support the originally proposed village lots is too costly to support what today's market will pay for this type of home and acknowledged the market may change in the future. He later clarified that based on the cost to bring certain homes to the market, his company would not be able to offer them at a price that would be accepted by the market. He stated his company stands behind their product, they are constantly updating the available floor plans to provide diversity in the neighborhood and open to conversation with residents on this issue. Based on his experience with other developments, he believes the proposed plan meets residential design standards for traffic and will work with the city engineer on this issue as needed.

Fran Hagen, Westwood Professional Services, stated he worked on the current PUD application and was the original engineer when Inspiration was approved in 2004. He reviewed the original village green plans and the proposed changes, noting ponding has always been a significant part of the development plan. He added that no tot lots were proposed in the original approval for any of the open spaces that are being revised with this application.

Commissioner Ritzer inquired whether DR Horton had provided a comparison of current HOA costs with estimated costs after this project is built out, so residents will know how it will affect them financially. Mr. Mullenbach stated this has not been calculated but will provide the information as part of future discussion. Mike Suel added that currently the City of Bayport plows the alleyways, but this cost will become the responsibility of the homeowner's association at some point, since the governing documents state alley maintenance is a HOA responsibility. Kendra Lindahl, Landform, added that since the city is currently plowing/sanding the private alleyways, the HOA is not assessing these homeowners with an extra fee for alley maintenance. Over the past year, her company has been working to address homeowner concerns with the prairie restoration plan and internal landscaping. She believes the current HOA budget is sufficient to meet the development's maintenance needs and reviewed the action plan in response to concerns raised at last week's HOA meeting.

It was moved by Commissioner Obler and seconded by Commissioner Hallett to close the public hearing. Motion carried.

Attorney Pratt stated the city has 60 days from the time of submittal to either approve or deny the application that was submitted in mid May; however, the city can extend the application review process an additional 60 days if further information is deemed required.

Commissioner Richtman requested further information on landscaping revisions and maintenance plans for the open space in Outlot F. Commissioner Gilles expressed concern regarding the residents' issues with the HOA master board but acknowledged this is not in the city's scope of approval. Commissioner Obler expressed concern with meeting the 60 day application review deadline.

It was moved by Commissioner Obler to deny a Planned United Development (PUD) General Development Plan and a Preliminary Plat for Inspiration III-B, subject to the findings and conditions listed in the staff report. He would like to see a compromise between the public and owner, whereby each party would be able to protect its interests. The motion was seconded by Commissioner Ritzer. Motion carried.

In lieu of denial, Planner Licht recommended continuing the application to allow city staff time to work with the developer on the HOA and site design issues, e.g., alleyways, additional financial information requests, and plans for Outlot F. He added staff could review the conditions of approval in light of the concerns raised at the public hearing. Acting Administrator Taylor added that continuing the application to the July Planning Commission meeting would allow for discussion on the concerns brought forth tonight, prior to the application being considered by the City Council.

It was moved by Commissioner Obler and seconded by Commissioner Richtman to retract the previous motion. Motion carried.

It was moved by Commissioner Obler and seconded by Commissioner Gilles to continue the application for a Planned Unit Development (PUD) General Development Plan and a Preliminary Plat for Inspiration III-B, subject to the findings and conditions listed in the staff report, to the July meeting. Motion carried.

Acting Administrator Taylor stated the July Planning Commission date has not been finalized, but notice of the meeting will be posted, as required.

Consider variances to construct a detached garage in front of the principal dwelling and within the required front yard setback at 424 5th Street South: Planner Licht reviewed a variance application submitted by J. P. Bush Homes, on behalf of the property owner David Klinger, to build a detached garage with attic space on the northeast corner of the property. The applicant is seeking the variances due to the steep slope and width of the existing driveway that make access to the existing attached garage difficult during the winter. The application would require two variances from the city. The proposed garage would not be set back the required 20 feet from the public right-of-way, and it would be built forward of the principal building on the lot. Planner Licht reviewed staff's analysis of the variance requests based on the applicant having practical difficulties with reasonable use of the property and the intent of the zoning ordinance. He noted the home was built in 1988 and the property has enjoyed reasonable use for 25 years. He added that placing the garage at the right-of-way line compromises the intent of the zoning ordinance and blocks visibility for the public street. He reviewed alternatives to address the homeowner's difficulties with use of his property and added the homeowner planned to continue using the existing attached garage, upon construction of the new garage. Based on the suggested findings of fact listed in Section C of the June 3, 2013 staff report, city staff recommended denial of the variance application.

Commissioner Obler opened the public hearing and the following were heard:

Co-applicant Joe Bush, J. P. Homes, 330 Myrtle Street, Stillwater, Minnesota, stated the variance application for a garage meets the practical difficulties criteria for this unique property. He indicated staff had discussed a seven foot setback for a side-loaded garage. They are requesting a 0 foot setback and indicated the building would still be 30 feet from the asphalt and would not affect public use of the street. However, the applicant would consider a seven foot setback if the variance to allow the garage to be in front of the principal structure is approved. He noted there appears to be other structures in the area that are encroaching into the public right-of-way, and he added the Public Works supervisor indicated there is adequate space for city maintenance and utilities if the variance is granted.

David Klinger, 424 5th Street South, said he was aware of potential driveway issues when he purchased the home two years ago and has discovered it is even difficult to traverse when raining. He commented that the alternative to construct a pad in the space would not be appealing and his vehicles would be unprotected. He stated the investment of upgrading and/or heating the driveway could not be financially recovered.

Commissioner Ritzer noted some structures in the city were built prior to adoption of the zoning ordinance and are grandfathered in, but it is the city's responsibility to regulate the current zoning standards. He added there are multiple wide offsets of right-of-way throughout the city, but that does not justify the granting of a variance for the proposed garage.

It was moved by Commissioner Richtman and seconded by Commissioner Hallet to close the public hearing. Motion carried.

Planner Licht reported that both he and the city engineer are opposed to applying an alley standard to this situation because it a city street, not an alley, and would set precedent for other offset properties in the city. Acting Administrator Taylor stated initial discussions with the applicants, prior to inspecting the site, included the concept of the seven foot setback as a compromise. However, based on the site visit and existing site conditions, this would be difficult to justify.

Commissioner Richtman asked what kind of ground disturbance and retaining wall would be needed, noting the necessary ground disturbance/retaining wall could be an eyesore. The applicant indicated a topographical survey would be completed as part of the permitting process that would determine what is needed, but he estimates a 4-6 foot high retaining wall, 15-feet long, and stated it would match the architectural detail of the structure. He stated a door from the attic level of the proposed garage would facilitate access from the new structure to the house. Commissioner Ritzer also noted the garage could negatively affect the property values of surrounding values and would affect future efforts to improve the city street.

It was moved by Commissioner Richtman and seconded by Commissioner Ritzer to deny the request for variances to construct a detached garage in front of the principal dwelling and within the required front yard setback at 424 5th Street South, subject to the findings and conditions listed in the staff report. Motion carried.

The application will be considered by the City Council at the July 1, 2013 meeting.

OLD BUSINESS – None

NEW BUSINESS – None

GENERAL INFORMATION – None

OPEN FORUM – None

ADJOURN
It was moved by Commissioner Hallett and seconded by Commissioner Ritzer to adjourn the meeting at 8:50 p.m. Motion carried.