

On March 20, 1995 the Special Meeting of the Common Council concerning Ordinance 95-21, Zoning Ordinance was reconvened at 7:00 P.M. by Council President Kiesling.

MARCH 20, 1995

Roll Call: Sherman, Service, Pizzo, Kiesling, Cole, Hopkins, White, Bonnell. Swain arrived late.

Bonnell said he had a few parliamentary questions: he asked about being locked into the printed agenda, even if an item had been omitted by error. He specifically asked about an extension of Amendment #12, which had already been approved by Council. He said this should be the first item of business when Chapter 7 is taken up. He asked pursuant to 20.04.290 (a) and (e) of the Council rules, that a fiscal impact statement be given before the final vote. Kiesling said they would take it under advisement and allow the staff to respond as to their ability to produce such a statement.

Kiesling stated that the repeal of the old zoning ordinance would also repeal the historic designation provision, which would have to be replaced with a new title, Title 8. This will be part of the regular session agenda on Wednesday night.

Council Attorney Sherman said that Patricia Cole intended to sponsor Amendment #52 which was listed as unsponsored. He also said there was an amendment not listed, Amendment #53, which will be heard next week.

Bonnell said the first three amendments offered tonight are redundant and duplicate action was taken at the last meeting: his Amendments #46-1 and #46-2 are hereby withdrawn. Amendment #33 which failed 4-5 at the last meeting, addressed the same issues. Kiesling said she would withdraw Amendment #32 as well.

AMENDMENT # 4 1
AMENDMENT # 4 2
AMENDMENT # 3
(ALL WITHDRAWN)

It was moved and seconded that Amendment #37 be considered: Sherman said this was to clarify the PUD approval procedure, where the proposal is modified by the Plan Commission. Sherman explained the amendment and Mueller explained the current procedure. Discussion between them followed on which procedure would be most efficient and clear. Sherman said he could improve on this amendment and wanted it moved to the agenda on March 29.

AMENDMENT # 37
TABLED UNTIL
MARCH 29, 1995

It was moved and seconded that Amendment #37 be tabled until March 29.

The motion received a roll call vote of Ayes:8, Nays:0.

It was moved and seconded that Amendment #20(a) be considered: Sherman said this was to take advantage of staff expertise in the reviewing of PUD final development plans. It also provides a review by Plan Commission under certain circumstances. The amendment was amended under section 2 (c) to strike the words "elects to" after "unless Plan Commission" and add an "s" on the word review. Mueller said that staff shares the goal of having the staff review these plans.

AMENDMENT #20(a)
PUD FINAL REVIEW

Amendment #20 (a) received a roll call vote of Ayes:8, Nays:0.

It was moved and seconded that Amendment #11 (a) be considered: Bonnell said this eliminates the requirement to submit landscape and exterior lighting plans from the application for a home occupation permit. It is intended to streamline the process. Planning staff indicated they had no problem with this amendment.

AMENDMENT #11(a)
ELIMINATES
LANDSCAPE PLANS
FOR HOME OCCUPAT
ION PERMIT

Gene Fritz asked if parking was required for home occupations and would landscaping then be required. Mueller said that there was a general provision enabling the Plan Commission to require more information as necessary.

Amendment #11 (a) received a roll call vote of Ayes:8, Nays:0.

It was moved and seconded that Amendment #29 - alternative 2 be considered: Bonnell read the synopsis which explained that this was changing the procedure for obtaining permission for sewer extension. He spoke about the master plan and zoning process, development plan approval and Utility Service Board decisions. Mueller said that this was an issue for the county, and could apply to them as well. He went on to show overheads of planned and anticipated city growth, and showed where growth was to be encouraged and discouraged. He noted the benefits of containing growth where services can be efficiently provided. The use of utility availability is often used as a growth management tool to implement the patterns agreed on in the Plan. He cited a subdivision petition which offered to run a long sewer line out into the Fringe, and was accepted by the Utilities Service Board, because they had no such policy as conforming with Plan provision. He went on to say that sewers had the effect of allowing more lots and houses, and promoting development in the adjacent area. This stimulates growth in the area.

AMENDMENT #29-2
SEWER/SEPTIC
EXTENSION

Bonnell asked Mueller about development in the lakes watershed area; would the Plan Commission accept proposals counter to the watershed policy, without this provision. Discussion followed between them about the impacts of development on watersheds. Hopkins asked if sewers were not better for development. Mueller answered that there were many policies, not just one, discouraging development in the watershed. What is expected is relatively few developments in the watershed and many in the infill area. Sherman asked about a hypothetical example in the watershed area and Mueller explained how the procedure would work.

Steve Smith asked where this provision would be required; Mueller said that is noted in the USB rules, and showed the map which is part of those rules.

Bonnell contended that the map had no force of law, as it had not been adopted. Smith favored the amendment, saying the Plan Commission should decide where sewers went, as part of the Zoning Ordinance.

Mike Carmin approved of the amendment, saying this certificate requirement did not lend certainty and predictability to the development process, and this was a backdoor manner of controlling development.

Bill Sturbaum disapproved of the amendment and commented that the Plan called for compact urban form and that meant developing close to the city first where infrastructure was most available.

Norm Deckard, speaking for the amendment, said the City does not build most of the sewers; developers do.

Susan Fernandes, speaking against the amendment, cited the state planning law saying the Plan must be considered for provision of utilities. She said regarding septic versus sewers, that locally the watershed septic regulations were the strictest in the state. She also noted that developers had told her that it was not economically feasible to develop one acre lots with sewers. She said controlling growth with sewer extension was a well established and powerful tool and the taxpayers deserved the coordination of growth with public service extension.

Pam Lohman, USB member, was against the amendment, saying sometimes having everyone on sewers was not the best situation; the USB can get caught in a bind trying to balance practical sewer questions with planning issues. They wanted to avoid making de-facto planning decisions; she agreed that it should be up to the Plan Commission and Council to decide where development will go. However, provision of sewer does have an effect on where development occurs. Consensus arrived at after years of discussion should not be undone lightly, and this amendment could be viewed as a backdoor measure.

Gene Fritz said this (the certificate of appropriateness) was a reasonable method of development control, and asked who is going to pay to expand the sewer plants etc.

Bonnell pointed out that the USB can deny a sewer extension if they did not have plant capacity.

Marie Webster, a USB member, said the USB wanted planning done by the proper planning authority, not by them as they are not planners. It is important to have a method to make sure the Plan policies are being followed and how would the USB know the Plan if the Plan Commission does not advise them. This amendment should be discouraged.

Jim Bohrer said this amendment is necessary, because denying sewers is a backdoor downzone. This is also a delay in the development process.

Mike Davis spoke on behalf of the Mayor, saying this amendment did not serve the principles of the Growth Policies Plan as it would foster inefficient use of tax resources, both City and County; promote sprawl and be more costly of tax dollars. There are many examples of sprawl ruining urban areas. Many cases of fostering growth from within is much better use of public resources. This is managed growth vs uncoordinated sprawl.

Kiesling asked Mueller what indication of area would there be for the USB. Mueller replied that it was intended that the USB adopt the map as part of their rules. Kiesling asked why the Plan Commission has not adopted this map; Mueller said this was an interim measure until the Zoning Ordinance is finished. Mueller said that the map should be cited in the Zoning Ordinance and show clearly where sewers would be encouraged/discouraged.

Sherman said this amendment is an important one, and a fundamental change in the Growth Policies Plan. It is about a by-right provision of sewers in certain areas where development should be discouraged. There would not be significantly as much development on septic, so the question is not about sewers Vs septic with the same development pattern. Service said this was an attempt to scuttle a major Plan provision under the guise of being a minor amendment relating to USB policies.

White said he was formerly an ex-officio member of the USB, and he assumed that the maps would be consistent with the zoning. This area might as well be downzoned to make the zoning consistent with the Plan.

Bonnell said that it should be honest: zone it how it should be developed. He said the amendment met the requirements of the state code.

Amendment ##29-2 received a roll call vote of Ayes:2 (White, Bonnell) Nays:6. The amendment failed.

Kiesling called for public comments on Chapter 5 in general. There were none.

Chapter 6, "Development Standards of General Applicability". Mueller said this was a chapter containing standards which were not specific to a given zone, such as landscaping requirements, signage requirements, etc. The provisions which are different from the current ordinance include changes in the sign size provisions, off-street parking, beefed up landscaping requirements, and provisions for increasing tree canopy coverage.

It was moved and seconded that Amendment #45 be considered: Sherman said it was a simple amendment making clear that parking "on a lawn" was prohibited.

AMENDMENT #45
PARKING ON LAWN

Cole asked about the penalty for violation of this. Sherman said he understood that there was nothing that the police can do; Mueller said it was a zoning violation and could be enforced by Code Enforcement.

Bonnell asked about the fine; City Attorney Bernens said the maximum fine was \$2500 but she doubted if that would be imposed.

Mueller explained that the first goal in enforcement was not to go for a fine, but to secure compliance with the law.

Pizzo said that he knew of a single family house turned into a rental for which the whole front yard was blacktopped. He asked if there was any provision against that; Mueller said that the new code does not allow that.

Clerk Williams commented that in some neighborhoods it was difficult to say where the street right-of-way was, because each street could have a different width. People have created parking spaces in front of their homes and in some cases it is in their yards and in others it is in the street right-of-way. It may be necessary to measure each parking space on a case by case basis.

Mueller said the language of this needs refining to define what is meant by setback. Bonnell said that this could cause driveways to be doubled in size.

Sherman said they tried to be sensitive to the limitations of the older lots; what they were trying to prevent was 3-4 cars parking on grassy lawns and creating mudholes. A friendly amendment was accepted to add after setback "between building and street".

Margaret Carter, a resident of Green Acres, said she sees tenant's friends park in front to go to class and she has seen seven cars in the backyards, and it's nothing but mud. She was in favor of this amendment.

Marie Webster of Green Acres also spoke in favor.

Rich Katz asked how this applied to back yards and storing boats. He asked who would enforce it.

Gene Fritz spoke in favor.

Susan Fernandes said she thought the term "street setback" needed to be clarified; otherwise she was in favor.

Tim Mayer asked them to support the amendment. Rich Katz asked about enforcement and who would be accountable. Mueller said that it would be on a complaint basis and probably be enforced most for worst cases.

White said he was in favor of this, but it was complicated. Mueller said this did not cover parking in side yards and back yards.

Bonnell said he supported this, but this does nothing to deal with the issue of side and rear parking; also the word lawn was not defined. He thought it needed reworking.

Sherman said the intent was only to add the word lawn and does not change anything fundamental.

Amendment #45 received a roll call vote of Ayes:8, Nays:0.

It was moved and seconded that Amendment #48 be considered: Bonnell said that this amendment needs to be discussed with amendments 49 and 50, which will come up later. All of which are intended to re-create a Bloomington-type streetscape with trees and tree plots on the street. This amendment gives incentive to that by placing the parking setback farther back than the building setback.

AMENDMENT #48
SETBACKS/YARD
AND PARKING

Mueller said that this may meet the goal of providing parking in the rear, but expressed concern about line of sight issues for drivers.

Hopkins offered and Bonnell accepted an amendment inserting the words "setbacks" in the place of "facilities" after the word "parking" in the first line; also inserted the words "at least" before the words "ten feet" and deleted the word "or" all on the same line. Mueller noted that the words "minimum required" should probably be inserted before the word "structure" on the second line;

Bonnell accepted that suggestion to change the amendment. Discussion about the exact wording and its application followed. Bonnell said he had a different draft, with the first sentence reading, "The minimum required sideyard and rearyard for any parking facility, except as provided in 20.06.02.05 A, shall be as shown in Table 7-3." And, "All parking setbacks shall be at least ten feet greater than the minimum required setback for structure as specified in Table 7-3."

Council Attorney Sherman read the whole amendment.

Bonnell moved and it was seconded to table this until the language was correct.

Amendment #48 was tabled by a roll call vote of Ayes:7, Nays:1 (Cole).

It was moved and seconded that Amendment #34 be considered: Bonnell said that this amendment would change the requirement for provision of bicycle parking spaces.

AMENDMENT #34
BICYCLE PARKING

Sherman recommended deleting the comma after the word duplexes on the fourth line; Bonnell accepted the suggestion. Sherman asked why the specific mention excepting single family and duplex residences; he was told because of the provision to round up fractions, it may be interpreted to apply to single family, which was not the intent.

Susan Elkins asked what a bicycle parking facility was comprised of. She also expressed doubt that people would use it.

Patty Werner from the Environmental Commission said the commission supported this and cited the Growth Policies Plan's support of bicycle transportation.

John Burnham, apartment complex owner, surveyed his tenants as to their use of racks and 80% said no, they would not use them. They preferred to bring their bikes inside.

Steve Howard from the Chamber of Commerce supported bike transportation but thought this provision was not useful.

Tom Micuda representing the Environmental Commission clarified the ratio of bike racks to parking spaces, saying that originally it did not work for many uses.

Greg Raisman said most students in small apartments don't want bikes inside and would probably use bike racks if provided.

Jim Bohrer said this militates against affordable housing and also that certain types of facilities should be excepted, such as retirement facilities.

Marc Cornett said consider having this replace a car parking space.

Service said this provision was needed, and it could be a matter of very little outlay on the developer's part. There are bikes chained everywhere in her district, such as on the stairways which causes safety problems. She questioned the assertion that this would prevent affordable housing.

Cole said she was in favor also, but said standards were needed to define a bike parking facility.

White said that tenants needing bike racks could talk to the landlord or simply not rent in a place that did not provide them.

Bonnell said it was a good idea to let the bike and pedestrian commission define the term bike facility, and also favored the idea of substituting a number of bike parking spaces for car parking.

Kiesling asked if this could be phased in.

Amendment #34 received a roll call vote of Ayes:7, Nays:1 (White).

Bonnell invoked the rule that stated legislation would not be considered after 10:30 without a two thirds vote of approval. He moved and it was seconded that the meeting would be continued until March 21. Discussion followed about adjournment.

The motion to continue this discussion until the next evening received a roll call vote of Ayes:4, Nays:0. The date and time were announced. (Recessed @ 10:45 pm)