

PLAN COMMISSION MINUTES

Wednesday, May 13, 2015

Present: Cindy Wermuth (Chairman), Bill Fitzsimmons (Vice Chairman), Mike Crotty, Brandy Howe, John Wetzell, Butch Trevor

Absent: Matt Puck, Jeff Nelson, Dennis Kelly, Pete McDermott, Dan McConaghy,

Staff: Shawn Christ, Jeff Anderson, Alan Sabat, Anamaria Vera

Others: Vickie Sanders, DeWayne Lamp, R. Earl Teague, Mark Runge

Prior to the meeting, Brandy Howe was sworn in as a new Commissioner by Tracy Koranda, City Clerk. Chairman Wermuth called the meeting to order at 4:00 pm in the Moline City Council Chamber. Shawn Christ introduced Brandy Howe to the Commission, stating the new Commissioner is a Moline resident and a City Planner for the City of Rock Island. The Commissioners present introduced themselves and welcomed Commissioner Howe to the Moline Plan Commission.

1. Swearing in of persons to give testimony.

Mr. Christ swore in the persons who wished to provide testimony.

2. Identification of Qualified Interested Party for PC 15-04

Mr. Christ identified the Qualified Interested Party for PC 15-04 as DeWayne Lamp.

3. Open Public Hearing

Chairman Wermuth opened the Public Hearing for PC 15-04.

4. PC 15-04: Public hearing to consider a request from Vickie Sanders to establish an animal shelter/animal boarding service in an I-1 light industrial district at 4722 44th Street (Shawn Christ, Land Development Manager)

Shawn Christ began the public hearing by noting that PC 15-04 is a Special Use application to establish an animal shelter service at 4722 44th Street. Mr. Christ stated the public notice for PC 15-04 was published in the Dispatch on April 23, 2015 and requested the Secretary enter the Memo with all attachments into the record. Mr. Christ further noted that the almost two-acre lot is zoned I-1 Light Industrial. Mr. Christ displayed a map that outlined the lot in question and noted the proximity of the location previously approved for a Special Use by the same applicant. Mr. Christ informed the Commissioners that "for whatever reason" the soil borings at the prior location came back unfavorable and the applicant, Vickie Sanders, chose a new location within the same area.

Mr. Christ stated that the current location of the animal shelter is on 4th Avenue in Moline and houses mostly cats. The previously approved location was 4,000 sq. ft., whereas the new location is 6,000 sq. ft. with an outdoor area and a 6ft privacy fence, a free run outdoor exercise area, 41 parking spaces, and landscaping. Mr. Christ noted that the sidewalks must also be completed if the lot is developed, the applicant would also need to comply with the residential buffer, dumpsters, and additional requirements would be sought before a permit is approved. The business would be open Monday and Wednesday from 1-5pm and Tuesday and Thursday from 11-3pm. Saturday would be by appointment

only. Mr. Christ pointed out the homes to the east, stating the possible downsides to those residents would be odor and noise. Mr. Christ stated he believed that if the dogs are kept inside the fence it could minimize noise and odor. Mr. Christ also noted that the application fits into the plans and goals for the City.

Staff recommends approval with four conditions:

1. Outdoor area must be surrounded by a minimum 6ft fence;
2. Animals are not allowed within 50ft of residential properties;
3. Any dumpsters adjacent to the building must be 10ft away from residential properties; and
4. Each animal must be housed in a separate containment unit.

Chairman Wermuth asked Mr. Christ if there were any complaints with regard to the past application. Mr. Christ did not believe so. Commissioner Wetzel asked if any special events would also be subject to being 50ft away from the residential properties. Mr. Christ stated that there have not been any requests for special events under the new ordinance but noted that if the applicant intended to have any special events, they would need to note or state that.

Commissioner Howe asked for procedural clarification as to the application process, asking if the application is returned before the Commission again or if it goes to staff. Mr. Christ clarified that the present meeting is the only time the Plan Commission will see the application to vote on it.

Commissioner Fitzsimmons stated he believed that the intent of the ordinance was to ensure all buffers were in place before the Commission voted so that the Commission had confidence they would be complied with, noting he believed the standard are in place for the current application. Commissioner Wetzel asked Mr. Christ to clarify whether the back buffer requirement was a Type C Barrier and asked if Mr. Christ could explain what a Type C Barrier is. Mr. Christ stated that the Zoning Code has four different types of barrier requirements depending on the zoning. A Type C Barrier is defined as three large trees, two small trees, three evergreens, and shrubs, further stating the applicant can decide to go 60% or 90% if they go with a left wide buffer. Commissioner Wetzel asked if that meant in addition to a solid fence. Mr. Christ stated he interpreted the Code to mean a privacy fence. Commissioner Wetzel asked what enforcement the City has on requirements of the buffer. Mr. Christ stated that the requirement is now easier to enforce since the requirements are codified and enforceable as an ordinance violation.

Commissioner Crotty stated he was confused as to why if there is a site already approved for the same use, by the same applicant, why the applicant is now “hop-scotching” around to a different location, further stating “what’s to say it won’t happen again.” Commissioner Crotty also pointed out that the current application also has opposition against it from nearby residents. Commissioner Crotty asked whether the applicant is tax exempt or whether they will pay tax. Mr. Christ informed Commissioner Crotty his inquiry could be directed to the applicant when she speaks to the Commission in regard to her application. Commissioner Wetzel noted that that the proximity of the locations are 200ft from one another, noting the soil at the current location may also be unfavorable given the close proximity to the previously approved location. Mr. Christ stated that it was his understanding that the soil at the prior site was fill.

Applicant Vickie Sanders requested to speak to the Commission and Mr. Christ swore her in. Ms. Sanders introduced herself as the President of the Animal Aid Humane Society since 2003. She stated that soil borings have been done at the site in question and are acceptable for development. Ms. Sanders stated that the site was chosen because it was bigger and better all around for the shelter. She

stated that the past application was done in a hurry and the site turned out to be too small. Commissioner Crotty noted that Ms. Sanders should have taken her time to apply, stating that the Commissioners "time is valuable." Commissioner Crotty directed his prior question to Ms. Sanders asking whether or not the Animal Humane Society is tax exempt. Ms. Sanders confirmed the entity is in fact tax exempt. Commissioner Crotty reiterated Ms. Sander's confirmation by noting no property taxes would be collected on the site. Ms. Sanders stated the facility houses mostly cats and currently has only three dogs. She stated there have not been any complaints she is aware of at their current location. Ms. Sanders further stated they did not intend to use the back yard to walk the dogs and noted there is a bike path nearby they intend to use to walk the dogs. She also stated they plan to use evergreens to make an evergreen fence, further noting their intention is to make the facility sound proof. Chairman Wermuth asked if there were any other persons who wished to testify on Ms. Sander's behalf. There were not.

Chairman Wermuth invited Mr. Lamp, the Qualified Interested Party to address the Commission.

Mr. Lamp, 4815 47th Street, identified himself as a neighboring resident, stating that over the last forty years he has seen the area transition from corn fields to development. He stated he recalled when Ruhl & Ruhl developed near the property in question and their application included buffers and "all these promises," but the property was sold to a Tri-City Electric before completion and an addition was built and the new owner failed to install the landscaping and buffers promised by Ruhl & Ruhl. Mr. Lamp stated he recalled a meeting was held after Tri-City Electric acquired the property allowing them to "get out of" the requirements set upon Ruhl & Ruhl from their initial development plans. Mr. Lamp noted that if there had been any enforceability on Ruhl & Ruhl, they could have be forced to install the landscaping and buffers prior to selling the property, stating his fear is that the same scenario will occur with the current application, and the proposed buffers will not be installed. Mr. Lamp stated that his experiences have led him to believe that even if there are covenants that impose certain requirements, there is no enforceability in place to ensure those requirements are met. Mr. Lamp stated he believed that unless there were fines imposed for failure to follow through, he did not believe an applicant could be forced to install the buffers. Mr. Lamp further stated that he also did not believe the animal shelter was a good fit for the area.

Commissioner Crotty asked whether Mr. Lamp would still object if staff followed through on enforcement of the required buffers. Mr. Lamp stated he would still object because it is not the intended use of the area. Commissioner Crotty asked Mr. Lamp if he would rather see poles and wires in that area. Mr. Lamp confirmed, stating "poles don't move, they're non-intrusive and they can't run away." Mr. Lamp continued to state he did not believe the enforceability was in place. Commissioner Crotty stated that he believed the proper enforceability was now in place. Mr. Lamp responded by stating he continued to believe there was still a way for the applicant to "get out of it" noting he has attended meetings in the past to complain with other neighbors and the applicant has "gotten out of it." Mr. Lamp concluded by stated he believed someone else should develop in that area.

Earl Teague, 4807 47th Street, identified himself as a resident of the area in question for over twenty years, stating "it is my back yard." Mr. Teague stated that Ms. Sanders' desire is to move the animal shelter away from its current residential neighborhood and bring the facility closer to the residents of the proposed area. Mr. Teague stated he is concerned with sleep at night and commented he would not "mention the 20-30 poles in [his] back yard that just adds to why [they] are here." Mr. Teague concluded by stating he hoped the Plan Commission would take the residents' concerns into consideration.

Mark Runge, 4803 47th Street, stated he was not as concerned with the poles as his neighbors, stating “I guess if that’s progress.” Mr. Runge stated he was concerned with the noise and smell from the animal shelter, further stating that if the buffers were in place to contain the noise and the smell, “I guess that’s progress,” he reiterated. Commissioner Wetzel asked Mr. Runge for his address. Mr. Runge stated he resides at 4803 47th Street.

Chairman Wermuth invited Ms. Sanders to return to the podium to re-address the Commission. Ms. Sanders noted that the windows of the shelter are always closed because the cats would otherwise get out, stating she plans to install trees and a fence and also plans to sound proof the building. Mr. Sanders concluded by stating the shelter does not “plan to bother anyone; [they] just want to have a wonderful shelter.”

5. Close Public Hearing

There being no further comment, the public hearing was closed.

6. Call to Order

Chairman Wermuth called the meeting to order in the Moline City Council Chamber.

7. Approval of Minutes – April 8, 2015

Motion made by Commissioner Fitzsimmons; seconded by Commissioner Wetzel, to approve the minutes for April 8, 2015. Motion carried unanimously.

8. Consideration

PC15-04

Motion made by Commissioner Howe, seconded by Commissioner Fitzsimmons to establish an animal shelter/animal boarding service in an I-1 light industrial district at 4722 44th Street based on Staff’s recommendations.

Commissioner Fitzsimmons stated that Mr. Lamp mentioned covenants, noting “it is not the City that does enforcements, it is the residents,” however; Commissioner Fitzsimmons further noted that the City has since changed some of the private covenants to make them enforceable with fines and sanctions by law. Commissioner Fitzsimmons noted that if the application were to be approved, it would be on that basis. Mr. Lamp commented that he was only familiar with the past events that had taken place. Commissioner Fitzsimmons assured Mr. Lamp the procedures had changed and stated he appreciated Mr. Lamp’s explanations as they provided clarity of past procedures and that “it paints a picture of what was.” Commissioner Wetzel further noted that the current Land Development Code is the product of two years of work which is now enforceable for maintenance, trees, and “even how you paint your house”, whereas in the past, it was not. Mr. Lamp mentioned he further recalled another instance where Tri-City Electric was supposed to install a blacktop, but instead installed gravel and rocks in the neighborhood. Commissioner Fitzsimmons noted that the area in question was developed prior to rezoning and that the industrial area comes up to Mr. Lamp’s property line, noting that is a problem. Commissioner Fitzsimmons informed Mr. Lamp that if the properties nearby were vacant, under the current Code, they would be forced to comply with the requirements of development.

Commissioner Wetzel asked whether the Special Use is granted upon the business, or the land, further inquiring what would happen if the animal shelter sells the property. Mr. Christ confirmed the Special Use “runs with the land” but noted that the approval would be granted based on the plans presented and Staff’s recommendations. Mr. Runge asked the Commissioners whether the approval could be changed to not allow the Special Use to run with the land. Chairman Wermuth reminded the audience that the Public Hearing was now closed. Mr. Christ followed up the question by stating the Plan Commission is at liberty to place any conditions on the Special Use as they see fit, but also reminded the Commission that if the property’s use changes the Special Use will expire. Commissioner Fitzsimmons asked if in the event Ms. Sanders were to retire if the new owner would be bound by the same conditions. Mr. Christ confirmed. Commissioner Wetzel further noted that if the building goes on the market, anyone is eligible to purchase the property. Commissioner Fitzsimmons clarified that if the property is on the market for twelve months, the Special Use expires after that time. Commissioner Wetzel further noted that within that timeframe the building could still be marketed as a shelter.

Commissioner Wetzel asked whether the previously approved property brought by the applicant was now valid as a Special Use. Mr. Christ noted that although the applicant never established the property, the Special Use is still within the twelve month period that would allow a new person to develop the lot if they are able to meet the plans. Mr. Christ also mentioned that the Plan Commission could limit the Special Use to the applicant but stated he was not sure that he was in support of that scenario. Commissioner Fitzsimmons stated he did not believe that would be a wise decision, noting that a new owner should not be penalized. Commissioner Wetzel asked whether any conditions imposed on the Special Use would be upon the business or the applicant. Mr. Christ reiterated he was not suggesting such a condition be imposed. Commissioner Fitzsimmons questioned the legality of such an imposition. Mr. Christ stated that although he was unsure, he did not believe such a condition was legal and may prove to be problematic.

Motion carried 3-2 with Commissioner Crotty and Commissioner Wetzel voting nay.

9. Presentation on land use planning and zoning of area between Southpark West Business Park and 7th Street, south of John Deere Road (Shawn Christ, Land Development Manager)

Mr. Christ stated he reviewed the area with Alan Sabat, Community Development Assistant, and displayed an overview map of the area for the Commissioner’s reference which included some County properties. Mr. Christ noted the right and far left areas on the map were City properties, with the center being the area known as Fruitland. Mr. Christ noted that the area is mostly residential with some B-2, B-1 and B-4 containing storage spaces. Mr. Christ highlighted the comparison to the City and County properties, noting the zoning overview of the area. Mr. Christ stated that he focused on four areas, stating the first area had no real industrial uses, some mini storage, and some commercial. Mr. Christ noted the O-1 lot was donated to the City in 2002 and is much lower than street level. Mr. Christ stated that he inquired about the lot to Erica Williams, Environmental Manager, and she stated it could retain storm water but advised the lot should not be developed.

Mr. Christ continued to the residential area near the bridge noting that he did not believe that area would change to anything other than residential. Brief discussion ensued with regard to vandalism and repairs to the bridge. Mr. Christ noted that the adjacent area was mostly homes in the 50’s and highlighted the amount of fill that would be required by today’s flood protection standards to develop the area.

Mr. Christ continued to South Park Village and stated he believed there could continue to be a split from commercial to industrial, noting he believed the “mix is right.” Mr. Christ noted he believed the

residential area the commercial/industrial area extends to would continue to stay residential, stating that an alternate development scenario would be to take out a part of the commercial area.

Commissioner Wetzel noted there is a natural barrier by the ball fields donated by the Blondell family, stating he believed that area will grow, noting traffic has increased on John Deere Road and people are now using the roads behind Target and Kohls as an exit. Commissioner Fitzsimmons stated his concern is to have an isolated residential area and asked whether the area had previously flooded. Mr. Christ stated the area did not have any recorded floods from the Rock River.

Mr. Christ stated he would support some B-4 for now on the current block of Town News, which was previously approved, as well as rezoning the O-1 lot to C-2. Commissioner Fitzsimmons agreed C-2 was a better fit for the O-1 lot. Commissioner Wetzel noted that the bike lane that ends at the senior living facility within the area should also be taken into consideration as there is currently no connectivity. Commissioner Howe stated that as a cyclist, she believed there is a missed opportunity for access to the shopping area surrounding the residential area. Commissioner Fitzsimmons noted that several connectivity issues have been studied but not much has been studied with regard to the connectivity issues within that area. Commissioner Wetzel stated he believed that the O-1 area was a good place to get people talking about green space.

There being no further discussion, Mr. Christ invited the Commissioners to revisit the topic at a later date.

10. Other Business

Commissioner Wetzel inquired as to the status of the Animal Vet Hospital previously approved. Mr. Christ stated that the applicant was working on issues with the sprinkler system that is required.

11. Review upcoming meetings

Mr. Christ noted there is no planned business for the first meeting in June and expected that meeting to be cancelled.

There being no further business, the meeting adjourned at 5:47 p.m.

Respectfully submitted,

Anamaria M. Vera, Administrative Secretary