

MINUTES OF ZONING AND PLANNING COMMISSION / ZONING BOARD OF APPEALS MEETING

August 28, 2008

7:30 P.M.

1. Roll Call/Call to Order
2. Approval of minutes of Zoning and Planning Commission / Zoning Board of Appeals Meeting held on 8/14/2008
3. Case Number 08ZBA-07/ X-Sport Fitness Sign Variations
Request for wall sign area variations for the purpose of installing three wall signs on property commonly known as 633 W. North Avenue (PIN #03-34-411-023, 024, 30, 31, 32 & 33) said property being located within the C2 Community Shopping and Service District.
Public Hearing – All properties within 500 feet have been notified.
4. Case Number 08P-10/National City Bank request for Conditional Use
Request for Conditional Use Permit for the purpose of constructing and operating a bank drive-through on property commonly known as 565 S. York Street (PIN # 06-12-300-026).
Continued Public Hearing from August 14, 2008
5. Case Number 08ZBA-06/O'Brien Variation 200 N. Caroline
Request for Front Yard Variation for the purpose of constructing an addition on property commonly known as 200 N. Caroline Ave (PIN 06-01-208-026) said property being wholly located in the R2 Single Family Residential District.
Deliberation - Public Hearing held on August 14, 2008.
6. Case Number 08P-05/Aimco Request for Map Amendment (Rezoning) Subdivision, and Variation
Request for Subdivision, Map Amendment and Variation for the purpose of constructing 28 new townhomes on property commonly known as 1 Elm Creek Drive (PIN 06-14-406-060 and 06-14-409-057) said property being located within the R4 Limited General Residence District and the C3 General Commercial District.
Deliberation - Public Hearing held on July 10 and August 14, 2008.
7. Other Business

Commission Members Present: Brinkmeier, Corrado, DeWitt, Ernst, Frolik, McCoyd, Slone, Whistler

Commissioner Members Absent: Mushow

City Staff Present: Werner

Chairman Whistler opened the meeting at 7:30 P.M. and requested a roll call. After the roll call determined that there was a quorum, Chairman Whistler requested a motion to approve the August 14, 2008 minutes of the Zoning and Planning Commission meeting. Commissioner Corrado moved to approve the August 14, 2008 Zoning & Planning Commission/Zoning Board of Appeals meeting minutes as written. Commissioner Slone seconded and, with a voice vote being all ayes, the motion passed.

Chairman Whistler then opened the Public Hearing for Case Number 08ZBA-07/X-Sport request wall sign area variations. Mr. Scott Day, attorney representing the applicant and owner, presented the case to the Commission. After all testimony was received by the applicant and audience members concerned with the application, , Chairman Whistler closed the public hearing for this case which will be deliberated on September 11, 2008.

Chairman Whistler then opened the continued public hearing for Case # 08P-10 / National City Bank request for Conditional Use permit for the purpose of constructing and operating a bank drive-through. The public hearing was continued from August 14, 2008 for the purpose of having a traffic engineer present to answer questions about the traffic study that was submitted to the Commission during the public hearing.

Mr. Tom Cronin, owner of the subject property, stated that the applicant, National City Bank has reduced the size of the building to increase the setback from York Street from 7 feet to 13 feet, as a response to concerns about visibility of persons exiting the car wash located immediately south of subject site.

Mr. Javier Milan, traffic consultant representing KLOA, Inc. presented the findings of the traffic study to the Commission. After all testimony was received by the applicant and audience members concerned with the application, Chairman Whistler closed the public hearing for this case which will be deliberated on September 11, 2008.

Chairman Whistler then opened the deliberation for Case # 08ZBA-06/ O'Brien request for Front Yard Variation on property commonly known as 200 N. Caroline Avenue. The Board reviewed the additional material requested by the Board at the public hearing; a drawing showing the distance of the house next door to subject property, and a drawing showing a two car garage rather than a three car garage. The Board asked the homeowners if they would agree to modify their request to a two car garage rather than a three car garage to which the homeowners

responded that they want to proceed with the request for a three car garage. The Board noted that the request for a three car garage resulted in a front setback of 7.5 feet. If the request was modified to a two car garage the setback would be 12.6' in a district that requires a 25' front setback. After much discussion, the Board voted 7 to 1 to deny the request for a front yard variation of 17.5', from 25' to 7.5'.

Chairman Whistler then opened the deliberation of Case # 08P-05 / Aimco request for Map Amendment (Rezoning), Subdivision, and Variation for the purpose of constructing 28 new townhomes at the Elm Creek development . The Commission discussed the subdivision request noting that the property could be subdivided administratively, however, the property would have to be rezoned from C3 commercial to R4 residential to allow dwelling units. The discussion then centered on the request for variation to the allowable density.

Mr. Werner provided the Commission with a density analysis for the Elm Creek development that noted that the development was built under the old zoning ordinance which allowed 21 dwelling units per acre. In 1992, with the adoption of the current zoning ordinance, the allowable density was reduced from 21 dwelling units per acre to 15 dwelling units per acre resulting in Elm Creek becoming legal non-conforming. The request for variation under the current zoning ordinance results in a 30% variation request; under the previous zoning ordinance the request would amount to a 2.25% variation. After discussion, the Commission voted unanimously (8-0) to recommend approval of the request.

Under Other Business the Commission discussed the density change made in 1992 lowering the density from 21 units per acre to 15 units per acre. Mr. Werner pointed out that every multi-family building in the City, rental or condominium, was made legal non-conforming in 1992. This action prevents or hinders refinancing or improvements to these multi-family buildings. After discussion, it was the consensus of the Commission to direct City Staff to initiate a request for text amendment to re-establish the density for multi-family dwellings to 21 units per acre.

Mr. Werner then briefed the Commission on the upcoming case schedule.

The meeting was adjourned at 11:20 PM.

Submitted by: Nathaniel J. Werner AICP, Planning and Zoning Administrator