

BOARD OF ZONING APPEALS
February 22, 2021
MEETING

ROLL CALL

The meeting was called to order at 7:00 p.m. and the assemblage was invited to stand and recite the Pledge of Allegiance.

Members Present:

Chairman Nick Nochevich, Vice Chairman Jeremy Taylor, John Marshall, Dick Sauerma n, Daniel Rohaley

Members Absent: None

Staff Present:

Commission Attorney Joe Irak, Fire Chief Dave Crane, Executive Secretary Anthony Schlueter, IT Director Adam Graper, Recording Secretary Jenni Pause

Board of Zoning Appeals Officer Elections took place

Dick Sauerma n nominated Daniel Rohaley as President; Daniel Rohaley nominated Nick Nochevich as President. John Marshall seconded the nomination for Nochevich. With no other nominations and no second for the Rohaley nomination the nominations were closed. A roll call vote was taken, by a vote of 5 Yeas, 0 Nays, 0 Abstentions, Nochevich was elected as the President.

John Marshall nominated Jeremy Taylor as Vice Chairman, Sauerma n seconded the nomination. With no other nominations, the nominations were closed. A roll call vote was taken, by a vote of 5 Yeas, 0 Nays, 0 Abstentions, Jeremy Taylor was elected as the Vice Chairman.

Marshall nominated Anthony Schlueter as Executive Secretary, Nochevich seconded the nomination. With no other nominations, the nominations were closed. A roll call vote was taken, by a vote of 5 Yeas, 0 Nays, 0 Abstentions, Anthony Schlueter was elected as the Executive Secretary.

APPROVAL OF MINUTES

Chairman Nick Nochevich asked if there are any corrections, deletions, or modifications to the December 28, 2020 meeting minutes. Marshall motioned to approve minutes as presented. Taylor seconded the motion. With 5 Ayes, 0 Nays, and 0 Abstentions, the minutes were approved.

OLD BUSINESS

None

NEW BUSINESS

21-01 RSC, Petitioner/Owner

Request: Variance from Development Standards

Purpose: Setback Encroachment

Location: 750 Porter Street

Ryan Marovich of DVG, 1155 Troutwine, came before the Board and provided an overview of the petition. Marovich reported on the Finding of Facts.

Executive Secretary Anthony Schlueter reported on the location, zoning, and surrounding properties. Schlueter reported that the petitioner intends to build an office/warehouse similar to the other buildings in the area. Schlueter reported that the Fire Dept. has reviewed the plan and has no issues with it. Schlueter reported Staff feels this will have no negative affect on any adjacent properties and recommended approval.

Rohaley asked the petitioner to verify the request is so that they can make the building larger. Marovich confirmed. Marovich stated it does have more to do with the shape of the building than wanting to make the building larger. opened the public portion of the meeting.

Nochevich opened the public portion of the meeting. With no public coming forward, Nochevich closed the public portion of the meeting.

Nochevich entertained a motion. Taylor motioned to approve Petition #21-01 with Staff comments and final Engineering. Marshall seconded the motion. With a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #21-01 was approved.

21-02 Edward Rose Properties, Inc, Petitioner/I-65 Beacon Hill Partners, LLC, Owner

Request: Special Use

Purpose: Multi-Family Apartment Community

Location: 10601 Delaware Parkway

Attorney Tim Kuiper of Austgen, Kuiper & Jasaitis, 130 N. Main St., came before the Board as a representative for the petitioner and provided an overview of the petition. Kuiper provided detailed renderings of how the proposed complex would be laid out along with amenities the property would include. Kuiper provided a history of the petitioner, Edward Rose, including businesses they have developed and still own. Kuiper reported on the Finding of Facts.

Schlueter reported on the location, zoning and surrounding properties. Schlueter reported on the history of Edward Rose as well as an overview of the proposed complex. Schlueter reported the Comprehensive Plan calls for this area to be Commercial/Office and/or mixed use and currently is composed of retail, medical services, restaurants, and commercial offices. Schlueter reported the proposed complex would serve as a complimentary housing that would support the services in the area.

Marshall stated he remembers years ago something similar to this proposal came before the Board and was very controversial. Marshall stated he feels there needs to be more conversation and wants to hear what the public has to say.

Sauerman stated he is not clear how many units there will be. Sauerman asked Kuiper if he has a breakdown of units and number of 1,2, & 3 bedrooms there would be. Kuiper stated there is no final number. Sauerman asked Kuiper to verify that this is just a concept. Kuiper confirmed. Kuiper stated the renderings are what the proposed buildings would look like. Sauerman asked Kuiper for the economics of apartments in Crown Point; how many units are available, how many are currently occupied, what is the vacancy rate and why is there a demand is for this in the city. Kuiper stated his client has experienced very low vacancy rates and are proposing this project because of the lack of luxury rental housing in the area. Kuiper stated there is a demand from

young professionals just getting out of college that allows them to work and live in this area. Kuiper stated his client would not build something like this if they didn't think they could fill them. Sauerman stated those are broad general statements and he is looking for actual numbers. Sauerman stated his experience with apartments is they are never worth more than they are when they are first built, decline in value and are near maintained very well bring down the property values around them. Sauerman stated this property is ore conducive to commercial offices and this does not make sense in this area.

Rohaley stated the Board certainly takes into account the public opinion but they are also governed by criteria that include the five elements necessary for them to give a favorable recommendation to the City Council and he doesn't see where this project meets any of them. Rohaley stated public safety is certainly compromised and flies in the face of the Comp Plan. Rohaley went over all the points of the Finding of Facts that this petition does not meet. Rohaley stated he has asked numerous times for the total number of proposed units in these 8 buildings and still has nothing. Rohaley stated he finds it hard to believe that Edward Rose has no proposed numbers in mind and is doing this complex on the fly. Rohaley stated he would like to hear a range at the very least. Rohaley asked about the TIF district and how the money will be distributed to the schools if any. Rohaley stated he does not buy that these units will be for up-and-coming young professionals with no children. Rohaley stated he would envision seeing offices and or medical offices in this area not apartments. Rohaley stated this petition does not mean 1 of the Finding of Facts.

Kuiper stated the total number of units would be 267. Kuiper stated the petitioner feels like they have met the Finding of Facts and reported on how and why. Rohaley stated he is sure Edward Rose has surely done a Marketing study that could be shared with the Board and/or Council to address the housing needs of the city of Crown Point. Rohaley stated he would be real interested in seeing that. Kuiper stated there is a definite need for this proposed project based on their studies.

Nochevich informed the public that this petition is before the Board for a special use and that this Board is not the final determination; they simply provide a favorable/unfavorable recommendation or neither to the City Council who makes the final decision. Irak reported that this is just an issue of if the location would or should support a multi-family request.

Nochevich opened the public portion of the meeting.

Kati Dowling, Chief Financial Officer for Crown Point Public Schools, came before the Board. Dowling asked Kuiper what the percentage or statistics of tenants with children are in Edward Rose's other developments. Dowling asked Kuiper if the turning radius of a bus has been anticipated or considered because that would be a concern for the schools. Dowling asked about how the TIF would be handled. Dowling asked if there were any statistics on the demands on public safety or calls for service at the other complexes operated by this company. Dowling stated they also use a demographics study for their planning and building needs and is curious if the demographics study that Edward Rose has done anticipates the saturation of real estate that the market is predicting in a couple years down the road due to the pandemic.

Veronica Brattstrom came before the Board and voiced her opposition to this petition. Brattstrom voiced her concern with the traffic issues in the area. Brattstrom stated some of the information from the traffic study done by Edward Rose should be shared with the residents in the area.

Ed (No last name or address given) came before the Board and asked about multi-family. Schlueter stated multi-family means there are multiple units housing multiple families not multiple families living in the same unit.

Derek Mikulski (no address) came before the Board and asked about the income requirement for the apartments to make sure they stay upscale. Derek asked if they have had issues at any other of their properties where the income level has been dropped and just about anyone can live there.

Ed Lukasic came before the Board and stated his public notice has the wrong address for the Orchard; his notice has the address for this project. Nochevich informed Lukasic that the Orchard would be heard as the third petition. Nochevich stated there is a correction for the Orchard.

Grafer stated he has questions on the Chat section of Zoom and asked Irak if he needed to read the comments verbatim or can he paraphrase. Irak stated he could paraphrase. Grafer stated there are questions and concerns regarding the TIF district and the exact occupancy number for the school district, how long a renter typically stays, will the developer seek state or federal funding for the development, will there be income requirements for these units, how will this development affect the schools, the city does not need any more apartments, specifics between 1 & 2 bedrooms, traffic, how many cars, how many units are proposed, does residential produce less traffic than office use, are certain units allocated to low income, and how does this project enhance the community.

Grafer then went to the comment section of Facebook stating most of the comments are against this project. Grafer read the questions and concerns which included public safety concerns with police and fire response, concerns about the effect on the schools, concerns with traffic & congestion, proposed units, comparison to other region apartments and what has become of them. Grafer stated there were a couple comments that the development looks great.

With no other public coming forward, Nochevich closed the public portion of the meeting.

Kuiper came back before the Board and addressed some of the questions and concerns of the public. Kuiper stated all the traffic flow and turning radiuses would be addressed at the site plan review. Kuiper stated all the residents there would be private pay residents and there is a very strict rental policy. Kuiper stated Mallard Bay and Brickshire are both private pay and there are no subsidiaries in those facilities. Kuiper stated they have a very low turnover rate and low eviction rate. Kuiper stated on average people stay for 1-3 years. Kuiper stated all the funding would be private funds by Edward Rose.

Schlueter reported he wanted to address the concerns with the TIF district and the schools. Schlueter reported that Crown Point has worked with the state legislator to allow for any excess collected in a TIF district within Crown Point, 15% would go to benefit the school district.

Marshall stated he feels the Administration and BZA has worked very hard to make this a business district and does not feel that apartments fit in. Marshall stated after listening to the public this is a very controversial subject and sees that most residents are against the apartments. Marshall stated he would not be in favor of this petition.

Rohaley stated after looking through comments he feels the one that stands out the most is why in the world would you want to put an apartment complex in the middle of a business district. Kuiper stated he feels these would work well together and this complex has a lot of the amenities that young professionals would be looking for.

Nochevich stated he feels this has been a very touchy subject for a lot of Crown Point residents and he feels their concerns are valid.

Nochevich entertained a motion. Marshall motioned to send an unfavorable recommendation to the City Council for Petition #21-02 due to the Finding of Facts not being met. Sauerman seconded the motion. With a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #21-02 received an unfavorable recommendation to the City Council.

Nochevich reminded that the petitioner that they would need to be present at the City Council meeting for this petition to receive its final determination.

Schlueter addressed the Board and corrected his stated about the contribution from TIF districts to the schools. Schlueter reported that 15% could go, not would go.

21-03 CP Prairie, LLC, Petitioner/Floyd & Brenda Mowry, LLC, Owner

Request: Variance from Development Standards

Purpose: Setback Encroachment

Location: 2411 East 109th Avenue

Ryan Fleming, 219 N. Main St., Unit C, came before the Board and provided an overview of the petition. Fleming stated they are seeking a single access for a subdivision with more than 40 homesites. Fleming stated on three sides of this property there is no access to a right of way. Fleming reported on the Finding of Facts. Fleming detailed the option they came up with to address Staff's concerns which includes a main entrance that is wider than the standard to help alleviate some of the possible issues with a single access.

Schlueter reported on the location, zoning, surrounding property and history of approvals. Schlueter reported on the proposed development that will include 53 single family lots. Schlueter reported that Crown Point Plan Commission has made it clear that there will be no new curb cuts along 109th Ave. due to safety issues and traffic concerns. Schlueter reported on the proposed entrance. Schlueter reported the plan was designed after discussions with the Planning, Fire and Engineering Departments. Schlueter recommend approval subject to Fire and Engineering review of specifications and approval of the entrance.

Rohaley stated that having 53 lots all going in and out of one entrance would definitely be a public safety issue if anything should happen on the west end of the property. Rohaley stated he is not against the size of the entrance; he is opposed to the single entrance for this size of a subdivision. Rohaley stated he feels there needs to be an emergency access near Outlot A. Rohaley stated he does not know how they could approve something that jeopardizes public safety to this degree. Rohaley asked if an emergency access would be possible. Fleming stated that option was brought up, but the Fire Dept. did not like that idea. Schlueter reported that there were several options discussed and that the option of the emergency access was completely turned down by the Fire Dept. Schlueter reported this option was what the Fire Dept. felt was the best solution. Rohaley stated he cannot support something that creates a public safety issue.

Sauerman agreed with Rohaley and feels he cannot get around the safety issue posed by one having one access. Sauerman stated he would like to hear from the Fire Dept. regarding why they did not like the emergency access. Sauerman stated he would not be in favor of this as it is designed.

Taylor stated he does see the hardship. Taylor stated the way the entrance is designed he feels it provides two entrances.

Marshall agreed with Rohaley and feels this creates a safety issue. Marshall stated he sees the hardship but cannot support this project with only one access point. Marshall stated there has to be some way to add another access point even if it is an emergency entrance only.

Fleming stated the ordinance states two points of access not two entrances for a point of clarity. Fleming stated there are other developments in the city where this has been given consideration. Fleming detailed some of the options that were discussed. Fleming stated he would be open to Rohaley's recommendation of an emergency access on 109th. Rohaley stated the example Fleming used was not accurate because the Re4gency has several points of access.

Fire Chief Dave Crane came before the Board and detailed why the Fire Dept. was not in favor of the emergency access. Crane agreed two entrances are ideal for a subdivision of more than 40 lots but there is no good way to have a second entrance for this development, so this plan is what they came up with. Crane stated the emergency exits never work and detailed all the issues they run into with them. Rohaley stated he still feels they should require an emergency access because something is better than nothing. Rohaley stated he does not want to set a precedence.

Nochevich stated he understands the Chief's point but considering Fleming is willing to put in an emergency access could it be looked at as insurance in case it is needed. Nochevich asked Fleming what his thoughts were. Fleming stated he is willing to work with the city and install an emergency access. Schlueter reported he tends to agree with Rohaley and stated maybe they need to look again into installing a safety entrance that the Fire Dept. is comfortable with. Nochevich agreed. Marshall stated he wanted to add that a better emergency entrance would be the existing driveway for the apple orchard that comes out right at the roundabout. Schlueter reported he feels this needs to be deferred and revisited with the fire Dept. to find something that everyone is comfortable with.

Nochevich opened the public portion of the meeting.

Ed Lukasic stated he submitted a letter in remonstrance of this petition. Lukasic stated he has lived in Niles Creek behind this proposed development for 36 years. Lukasic stated he knows Iowa St. is in the Lake County Hwy system and asked why the city of Crown Point is determining what to do to Iowa St. Lukasic stated he would like to see the entire plan posted so that all the residents that surround this property have a chance to view it. Lukasic brought up the fact that the public notice is incorrect and has the wrong address. Lukasic stated the entire development is inconsistent and incompatible with the existing scheme of development in that area. Lukasic stated Niles Creek Unit 1 has approximately 20 homes in 40 acres, Niles Creek Unit 2 has approximately 18 homes in 40 acres and Miller Farm has approximately 16 homes in 40 acres which is a total of 54 homes in 120 acres. Lukasic stated Fleming wants to cram 53 homes in 40 acres with one entrance. Lukasic stated this is a major public safety hazard. Lukasic voiced his concern with the traffic circles because they are not the proper geometry. Nochevich stated the matter at hand is the entrance to this subdivision and the other issues not conducive to this petition cannot be addressed or discussed. Schlueter reiterated what Nochevich noted. Schlueter stated the additional questions should be directed to the Plan Commission during site development.

Grafer stated there were 5 comments on wufoo that will be part of the public record but were more directed toward the Plan Commission. Grafer stated there were comments on facebook but were not about the entrance.

With no other public coming forward, Rohaley closed the public portion of the meeting.

Rohaley entertained a motion. Rohaley motioned to defer Petition #21-03 for additional study. Marshall seconded the motion. Marshall stated he wanted to know what other subdivision in Crown Point has 40 homes and only one entrance. Marshall stated he only knows of one and he knows how that happened. Marshall stated he wants that information included for next month's meeting. Schlueter stated the petition will need to be deferred for the Plan Commission as well due to it cannot move forward until they have BZA approval.

Fleming asked if there was any way to move forward subject to the BZA approval. Nochevich asked Irak if that was possible. Irak stated he feels it is up to the Board to make that determination. Irak stated that is kind of putting the cart before the horse. Schlueter stated that petition is already on the agenda for the Plan Commission and asked Irak to verify that it will be up to the Plan Commission to determine if it can be heard. Irak confirmed. Taylor asked if the Fire Dept has a change of feelings on this emergency entrance and agree that is a feasible option does the BZA still need to vote. Irak stated it will still need to be heard and voted on due to it being an emergency exit. Schlueter agreed. Irak stated the petitioner would need to know that any approvals would be subject to BZA approval. Schlueter reported even if the subdivision receives primary approval the petitioner would not actually receive primary approval until they received approval from the BZA for this petition. Irak stated if the BZA does not approve the petition, the petitioner will have to go back before the Plan Commission. Nochevich asked Fleming to verify that he understands that it will be the Plan Commissions decision on whether they will hear the petition since this is being deferred. Fleming stated he understands. Taylor asked the Board if it is possible to approve a single entrance subject to an approved emergency access. Irak stated he feels it is a feasible option if the Board agrees. Rohaley stated there is a motion and the vote should be called. Nochevich asked for a roll call vote of 4 Ayes, 1 Nays, and 0 Abstentions Petition #21-03 was deferred for 30 days.

MISCELLANEOUS AND PUBLIC COMMENT

No Public.

No Misc.

ADJOURNMENT

At 9:10 pm, Nochevich entertained a motion to adjourn. Marshall motioned to adjourn; motion was seconded by Nochevich.

ATTESTMENT OF MEETING MINUTES.

The above minutes were approved and adopted by majority on the _____ day of _____ 2021.

Nick Nochevich, Chairman

Anthony Schlueter, Executive Secretary