



Council Communication

Office of the City Manager

Date

December 17, 2007

Agenda Item No. 44
Roll Call No. 07-
Communication No. 07-730
Submitted By: **Larry Hulse, Community
Development Director**

AGENDA HEADING:

Hearing on an appeal from Alycia Peterson regarding the Plan and Zoning Commission's decision to uphold the administrative denial of a plat of survey.

SYNOPSIS:

Recommend that the City Council uphold the Plan and Zoning Commission and Permit and Development Administrator decisions to deny the Plat of Survey for Section 14-77-24, located at 3630 120th Avenue in Warren County within the City of Des Moines two-mile extraterritorial jurisdiction review area. The owner and developer of the property is Alycia Peterson, PO Box 275, Carlisle, IA 50047.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

The proposed plat of survey would create three parcels of land, with an existing house on one lot, a 2nd three-acre lot to be subdivided and sold for the construction of a house, and a large remainder parcel that is not proposed to be developed at this time. The plat of survey submittal did not provide for the future extension of utilities or for a future street network through the subject property.

On July 31, 2007, the Permit and Development Administrator denied the plat of survey in accordance with Section 106-198 of the City of Des Moines Subdivision Ordinance based on the following provisions:

Sec. 106-9. Acre subdivision.

Wherever a tract of land is subdivided and the plat shows one or more lots containing more than one acre of land so situated that such lot might eventually be further subdivided into smaller lots, the Plan and Zoning Commission may require that the plat allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be required as a condition to approval of the plat.

Sec. 106-132. Platting of land.

In the design of any subdivision plat, due consideration shall be given to the preservation of scenic and historic sites, drainageways, stands of fine trees, marshes, lakes and ponds, watersheds and shall be in accordance with the following:

- (3) Lot design. The lots shall be designed to provide a proper architectural orientation with regard to sunlight, air, abutting street or other rights-of-way, and lot grades for the buildings contemplated. In addition the development of lots shall conform to the following:

(h). When land is subdivided into larger lots than typically required for building, such lots shall be arranged in such a manner as to allow for the opening of future streets and logical further subdivision of the lots.

Sec. 106-133. Street layout.

Relation to adjoining street system. The arrangement of streets in new subdivisions shall provide for the continuation and proper intersection of the principal streets with existing streets and shall provide for proper projection to accommodate the extension of improvements on adjoining property that has not been subdivided. The width of such streets in new subdivisions shall comply with the requirements established by the design standards. If a principal street in an existing subdivision is continued in the new subdivision, the applicant shall provide for the removal of any vehicular turnaround on such street, and the applicant shall be responsible for the construction or reconstruction of driveways and sidewalks and regarding made necessary as a result of such removal.

In addition to a failure to comply with provisions of the Subdivision Ordinance, staff has concern with numerous plats of survey in the vicinity of the subject property that have been previously approved by Warren County, preventing future street networks from being extended through the area. Staff believes the approval of additional plats of survey within the two-mile extraterritorial jurisdiction review area will seriously hinder the implementation of Des Moines' 2020 Community Character Plan and the Iowa Highway 5 Corridor Study that is in the draft development framework stage.

Section 106-199 of the Subdivision Ordinance allows the applicant to appeal the determination of the Permit and Development Center Administrator to the Plan and Zoning Commission. On August 25th, 2007, the applicant formally requested such an appeal, which was promptly scheduled for the September 28, 2007, Plan and Zoning Commission hearing. The applicant was mailed the staff recommendation and notified of the hearing time and date on September 14th, 2007, however, the applicant was not present at the hearing. The Plan and Zoning Commission voted to uphold the decision of the Permit and Development Administrator to deny the plat of survey. The applicant was advised by staff to submit a major subdivision plat that included the provision of public utilities and a future street network.

Section 106-199 of the Subdivision Ordinance also allows the applicant to appeal the determination of the Plan and Zoning Commission to the City Council. A simple majority vote of the City Council is necessary to overturn or modify the action of the Plan and Zoning Commission.

Should the City Council deny the appeal and uphold the decision of the Plan and Zoning Commission and Permit and Development Administrator, the applicant may submit a subdivision plat that shows the logical extension of a street network through the property. Staff would further review the plat and reschedule it for consideration by the Plan and Zoning Commission.

PREVIOUS COUNCIL ACTION(S):

Date: December 3, 2007

Roll Call Action: 07-2301

Action: On appeal of Permit and Development Administrator's decision to deny Plat of Survey for land in the vicinity of 3630 120th Avenue (located within the two mile jurisdiction area), (12-17-07). Moved by Hensley to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Date: September 28, 2007

Case Number: None

Action: Plan and Zoning Commission upheld the Permit and Development Center Administrator's decision to deny the plat of survey.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

If staff's recommendation is approved, the applicant may submit for consideration a plat that includes the logical extension of a street network through the subject property.