



# Council Communication

Office of the City Manager

Date

April 20, 2009

Agenda Item No. 61  
Roll Call No. 09-  
Communication No. 09-253  
Submitted by: Larry Hulse, Community  
Development Department Director

## AGENDA HEADING:

Hearing on request from Hubbell Realty Company, to rezone property at 5525 SE 14<sup>th</sup> Street from Ltd. "R-3" (Multiple-Family Residential) to "R-3", removing limitation of senior residential housing on multiple-family dwellings and allowing for up to 240 multiple-family residential dwellings.

## SYNOPSIS:

On February 9, 2008 the City Council voted 7-0 to continue the public hearing to the April 20, 2009 Council meeting at 5:00 PM. The City Manager was asked to create a Task Force of neighbors to work with Council Member Meyer and City staff to review and make recommendations regarding street repairs, water control and traffic control. Information regarding these issues is provided in the "Additional Information" section of this report.

## FISCAL IMPACT:

Amount: Indeterminate

Funding Source: GE001 FIN820700 (p. 147) General Fund Property Tax Revenue

## ADDITIONAL INFORMATION:

At the February 9, 2009 Council meeting, a public hearing was continued to April 20, 2009 to review a proposed rezoning request from Hubbell Realty Company. Detailed information was presented at that meeting which summarized points discussed during a meeting between Hubbell Realty Company and neighborhood residents that took place on February 2, 2009. This information, including items regarding storm water management, traffic circulation, density and site development is included below. Hubbell has indicated they are able to comply with all of

the City requirements for development that would typically be applicable for multiple-family residential projects.

Council directed that neighbors work with Councilmember Meyer, City Manager and staff. Subsequently, a meeting was held between neighborhood residents, Councilmember Meyer and City staff on Saturday February 21, 2009. Hubbell Realty Company submitted a detailed list of information for the meeting, outlining actions taken to address neighborhood concerns. As in previous meetings, specific topics of watershed management, traffic circulation, density, and site development were covered. The meeting concluded with no additional support from the neighbors for the project being achieved.

On Saturday, April 11, 2009 a final meeting was facilitated with the neighbors to attempt to build understanding and support for the project. Two Hubbell Realty Company representatives attended the meeting to speak on the project and work to find consensus with the neighborhood. The meeting covered many of the same topics previously discussed and efforts were made to facilitate support from the neighbors. The meeting concluded without support being achieved.

City staff facilitated a previous meeting with the developer, surrounding property owners and neighborhood association representatives on the evening of February 2nd, 2009. The following information was submitted in response to the Council's directive on March 26th, 2009 and neighborhood concerns voiced at the February 2nd, 2009 meeting:

1. Watershed Issues

#### **Melbourne Apartments (on-site)**

The first submittal of the development plan shows runoff from the Phase 1 (84 dwelling units on the C-2 portion of the property) being collected in a private storm sewer system that eventually outlets to the east along the south boundary of the property that is subject to the rezoning request. There are 2 dry bottom basins proposed – one in the middle of the Phase 1 property near S.E. 14<sup>th</sup> Street and one in the SW corner of the property that is subject to the rezoning request. A graded swale is proposed along the south boundary of the subject property until runoff reaches a portion of the property that is located between 1540 and 1590 E. Diehl Avenue, where runoff is directed toward the existing drainage way (the historical release point for storm water flows). Phase 2 of the proposed development would have a detention basin at the far southeast corner of the subject property. During the February 2nd, 2009 meeting, the developer and staff suggested the possibility of extending the outlet for the Phase 1 development farther to the east (downstream of the back yards along E. Diehl Avenue) to better match up with the outlet from the Phase 2 portion of the site. However, this design would require a storm water flowage easement from an adjoining property owner (Charles Eilbert). The developer also committed to constructing a berm along the south boundary of the subject property to provide additional storm water protection for the adjoining properties to the south. The developer and their designer agree that all phases of the development will be required to provide both water quantity and water quality detention per City Code.

**Menards (off-site)**

The dry bottom detention basin near S.E. 14<sup>th</sup> Street that serves the Menard's site is designed for water quantity detention per the City's site plan policies as they existed at the time of the original development. The basin outlet is a 24-inch pipe fitted with a restrictor plate having about a 17-inch diameter hole. Staff has verified that the detention basin is operating per the original design. However, staff believes that the outlet structure could easily be retrofitted to provide water quality detention per current City Code requirements. Menard's has submitted a rezoning petition to add a garden center on the north side of their building. Staff has advised Menard's that any staff recommendation for approval of the rezoning will be subject to a condition that the storm water detention for the entire Menard's site be retrofitted to provide water quality detention per current City Code requirements. If the zoning is not approved, staff will continue to work with Menard's to voluntarily retrofit the existing storm water detention basin.

**Stoney Pointe (off-site)**

The dry bottom detention basin on the south side of E. Diehl Avenue (east of Culvers, etc.) is currently configured to retain the 100-year run-off from the Stoney Pointe development. The outlet pipe is a 24-inch diameter pipe that flows to a roadside ditch on the south side of Diehl Avenue. Other culverts convey the flow to the north side of Diehl Avenue (at approximately 1500 E. Diehl Avenue). The outlet configuration is being reviewed by City staff to ensure that the existing basin is being properly maintained and to determine potential changes that would result in smaller rain events being detained. Detention of smaller events will positively affect the flow from the basin with respect to volume and velocity. The storm water utility staff has been in contact with the Stoney Pointe Owners Association and will be meeting to discuss improvements to the detention basin to be paid for by the storm water utility.

**2. Traffic Issues****Melbourne Apartments (on-site)**

On December 9th, 2008 the developer submitted a traffic study prepared by Jeff Morrow, P.E. of Anderson-Bogert Engineers, Inc. The first scenario analyzed was for Phase 1 (84 units on the C-2 zoned parcel) and the second scenario analyzed was for Phase 2 (adding 240 units on the subject property). The study notes that the full build scenario (324 units) "generated peak hour volumes that are between 25% and 35% lower than the originally proposed Prairie Hills Assisted Living facility and commercial out lots. Average daily site generated traffic overall is nearly 40% lower for the Melbourne Apartments than the full build scenario of the original Prairie Hills development." City staff has reviewed and concurs with the projected traffic numbers and that the surrounding transportation network can accommodate the increased traffic generated by the proposed development.

**Traffic Recirculation (off-site)**

Staff met with representatives of Hubbell Development and Tasty Tacos on February 3rd, 2009 to discuss a connection from the Melbourne Apartment site to E. Diehl Avenue through the Tasty Tacos site. Such an access was previously noted on the Tasty Tacos site plan. Hubbell Development and Tasty Tacos are still in negotiations. Staff will also facilitate future discussions between Hubbell Development and the Dino's Storage development to discuss a connection that was noted on the Dino's Storage site plan.

### **E. Diehl Avenue (off-site)**

On February 2nd, 2009 neighborhood residents expressed concern regarding the surface condition of E. Diehl Avenue and stacking of vehicles that is caused by southbound left turning movements at the E. Diehl Avenue and SE 14<sup>th</sup> Intersection. The City Traffic Engineer has indicated that the existing paved surface width will not accommodate separate turn lanes. Previous developments on both sides of Diehl Avenue have been constructed in a way that will allow a future turn lane to be constructed on the north side of the roadway. Currently, the traffic volumes on Diehl are relatively light, and the delay or congestion at the signalized intersection with SE 14<sup>th</sup> Street is minor. The small amount of additional traffic from the proposed development is not expected to significantly change the amount of delay or congestion at this intersection. Therefore, construction of this turn lane is not warranted at this time. However, if future traffic volumes increase substantially and the congestion increases substantially, the City will consider a project in the Capital Improvements Program to construct an additional lane on the north side of Diehl east of SE 14<sup>th</sup> Street.

East Diehl Avenue has a pavement condition index of between 26-29 placing it in the mid range of the "Fair" pavement condition category. It was originally scheduled to be resurfaced using gaming funds in 2008; however, due to a lack of funding, it was deleted from the schedule. Based on resurfacing needs and funding availability, this may be considered for resurfacing during the 2009 construction season. The estimated cost of resurfacing East Diehl Avenue would be \$100,000.

### **Safe-route for School Children**

On February 2nd, 2009 neighbors expressed concern for the safety of children in the development that may cross SE 14<sup>th</sup> Street to attend Lovejoy Elementary. Staff has confirmed with the Des Moines Public School District that the site is included within Lovejoy School's attendance boundary. The school walk route includes Diehl Avenue, west of SE 14th Street, and then north to the school site. However, the Des Moines Public School District provides transportation to students within the Lovejoy School boundary and east of SE 14th Street, including this site.

### **3. TIF**

City staff is currently reviewing potential tax increment boundaries and potential tax increment for this area and Se 14<sup>th</sup> Street. A report was presented to the City Council for discussion during a workshop in March 2009.

#### 4. Crime / Density

On February 2nd, 2009 neighbors expressed concerns regarding the increased potential for crime in the neighborhood due to the proposed density of the development. Hubbell Development proposes to build 240 units on the 14.15 acres that are subject to the rezoning. When combined with the 84 units in Phase 1 that are proposed on the 4.20 acres of existing C-2 zoned ground, a total of 324 units are proposed on 18.35 acres, which is an overall density of 17.65 dwelling units per acre. There are no development review standards that project crime statistics for varying densities of development. Therefore, City staff believes it is more important to evaluate the amenities that a development provides for an associated density. Hubbell Development noted the following amenities of the Melbourne Apartment project at the February 2, 2009 meeting:

- Hubbell Development has a demonstrated record of property management.
- Hubbell's management is not required to live on-site, but the property manager and maintenance staff are available to be contacted 24-hours per day.
- Hubbell participates in the Des Moines' Police Department's Crime Free Multi-family Program.
- Hubbell's tenant screening procedures are more stringent than other multi-family properties (income level must be at least 3 times monthly rent, local and national crime screening search, rental behavior history and credit worthiness are evaluated, etc).
- The Melbourne Apartment project will have playgrounds, a splash pool, fitness room and open space / green space throughout the development.
- Hubbell's Property Manager is willing to attend surrounding neighborhood association meetings to keep lines of communication open and to address any future issues.
- Storage for each dwelling unit is required as part of the State of Iowa Low Income Housing Tax Credit program and will be provided.
- Tenants are not allowed to store items other than patio furniture on apartment balconies.
- Hubbell proposes to construct a 6'-high fence along the south property line.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: February 9, 2009

Roll Call Number: 09-214

Action: On request from Hubbell Realty Company to rezone property at 5525 SE 14<sup>th</sup> Street from Ltd. "R-3" (Multiple-Family Residential) to "R-3", removing limitation of senior residential housing on multiple-family dwellings and allowing up to 240 multiple-family residential units. (A Plan and Zoning Commission motion to approve the request failed by a vote of 5-5. 6 Council votes are required to approve the request due to the % of opposition by adjoining property owners). (Council Communication No. 09-075)

) Moved by Meyer to continue to 4-20-09 at 5:00 PM; create a Task Force of neighbors to work with the City Manager and Council Member Meyer to review and make recommendations regarding street repairs, water control and traffic control. Motion Carried 7-0.

Date: January 26, 2009

Roll Call Number: 09-130

Action: On request from Hubbell Realty Company, to rezone property at 5525 SE 14<sup>th</sup> Street from Ltd. "R-3" (Multiple-Family Residential) to "R-3", removing limitation of senior residential housing on multiple-family dwellings and allowing for up to 240 multiple-family residential dwellings. (A Plan and Zoning Commission motion to approve the request failed by a vote of 5-5. 6 Council votes are required to approve the request due to the % of opposition by adjoining property owners) There has been a request from Hubbell Realty to continue this item to the February 9<sup>th</sup> Council meeting. Moved by Meyer to continue to the February 9, 2009 Council meeting at 5:00 PM. City Manager to report back on watershed and traffic issues and assign someone to work with both parties involved. Also explore possibility of the area being a TIF district. Motion Carried 7-0.

Date: January 5, 2009

Roll Call Number: 09-017

Action: On request from Hubbell Realty Company, to rezone property at 5525 SE 14<sup>th</sup> Street from Ltd. "R-3" (Multiple-Family Residential) to "R-3", removing limitation of senior residential housing on multiple-family dwellings and allowing for up to 240 multiple-family residential dwellings, (1-26-09). (Council Communication No. 09-010) Moved by Vlassis to adopt. Motion Carried 7-0.

Date: November 24, 2008

Roll Call Number: 08-2090

Action: Melbourne Apartments 1, LLC in the SE 14<sup>th</sup> Street Enterprise Zone. Moved by Vlassis to adopt. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S):**

Date: January 15, 2009

Action: Plan and Zoning Commission denied the rezoning application by voting 5 members in favor and 5 members opposed on a motion to approve the application. No further motion on this matter was brought forward.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Second and third readings unless waived by the City Council.

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