



Roll Call Number

Agenda Item Number

17

Date September 25, 2017

RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING PRELIMINARY PLAT "BAUER HEIGHTS PLAT 4" ON PROPERTY LOCATED IN THE VICINITY OF THE 5500 BLOCK OF NORTHEAST 36TH COURT

WHEREAS, on September 7, 2017, the City of Des Moines Plan and Zoning Commission voted 11-0 for APPROVAL of a Preliminary Plat "Bauer Heights Plat 4" on property located in the vicinity of the 5500 Block of Northeast 36th Court, in unincorporated Polk County within the two-mile distance for extraterritorial review of subdivision plats by the City of Des Moines, to allow subdivision of the 13-acre property into a single-family residential development lot and a conservation outlot, subject to compliance with all administrative review comments by the City's Permit and Development Center, and subject to the provision of a note on the plat document that "future development is subject to Article 7 Section 4 'Natural Resources Protection, Woodlands' of the Polk County Zoning Code."

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the attached communication from the City Plan and Zoning Commission is hereby received and filed.

MOVED by \_\_\_\_\_ to receive and file.

FORM APPROVED:

Glenna K. Frank
Assistant City Attorney

(13-2018-1.05)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MOORE, WESTERGAARD, and TOTAL.

MOTION CARRIED APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk



|  |  |              |                                       |              |   |
|--|--|--------------|---------------------------------------|--------------|---|
| Jose Chavez (owner) for property located in the vicinity of the 5500 Block of Northeast 36th Court, in unincorporated Polk County within the two-mile distance for extraterritorial review of subdivision plats by the City of Des Moines. |  |              |                                       | File #       |   |
|  |  |              |                                       | 13-2018-1.05 |   |
| Description of Action  | Approval of a Preliminary Plat "Bauer Heights Plat 4", to allow subdivision of the 13-Acre property into a single-family residential development lot and a conservation outlot, subject to conditions. |              |                                       |              |   |
| PlanDSM Future Land Use  | N/A.   |              |                                       |              |   |
| Mobilizing Tomorrow Transportation Plan  | No planned improvements.   |              |                                       |              |   |
| Current Zoning District  | "ER" Estate Residential District. (Polk County)  |              |                                       |              |   |
| Proposed Zoning District   | N/A.   |              |                                       |              |   |
| Consent Card Responses   | In Favor   | Not In Favor | Undetermined                          | % Opposition |   |
| Subject Property   |  |              |                                       |              |   |
| Outside Area (200 feet)  |  |              |                                       |              |   |
| Plan and Zoning Commission Action  | Approval   | 11-0         | Required 6/7 Vote of the City Council | Yes          |   |
|  | Denial   |              |                                       | No           | X |

Jose Chavez, Vicinity of 5500 Block of Northeast 36th Court

13-2018-1.05



1 inch = 246 feet



September 19, 2017

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held September 7, 2017, the following action was taken regarding a request from Jose Chavez (owner) for review and approval of a Preliminary Plat "Bauer Heights Plat 4" on property located in the vicinity of the 5500 Block of Northeast 36<sup>th</sup> Court, in unincorporated Polk County within the two-mile distance for extraterritorial review of subdivision plats by the City of Des Moines, to allow subdivision of the 13-Acre property into a single-family residential development lot and a conservation outlot.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 11-0 as follows:

| Commission Action:  | Yes | Nays | Pass | Absent |
|---------------------|-----|------|------|--------|
| Francis Boggus      |     |      |      | X      |
| Dory Briles         | X   |      |      |        |
| JoAnne Corigliano   | X   |      |      |        |
| David Courard-Hauri | X   |      |      |        |
| Jacqueline Easley   | X   |      |      |        |
| Jann Freed          | X   |      |      |        |
| John "Jack" Hilmes  |     |      |      | X      |
| Lisa Howard         | X   |      |      |        |
| Carolyn Jenison     | X   |      |      |        |
| Greg Jones          | X   |      |      |        |
| William Page        | X   |      |      |        |
| Mike Simonson       |     |      |      | X      |
| Rocky Sposato       |     |      |      | X      |
| Steve Wallace       | X   |      |      |        |
| Greg Wattier        | X   |      |      |        |

**APPROVAL** of the requested Preliminary Plat for "Bauer Heights Plat 4", subject to the following conditions: (13-2018-1.05)

1. Compliance with all comments of the administrative review by the Permit and Development Center.
2. Provision of a note on the plat document that “future development is subject to Article 7 Section 4 “Natural Resources Protection, Woodlands” of the Polk County Zoning Code.”

## **STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Staff recommends approval of the requested Preliminary Plat for “Bauer Heights Plat 4”, subject to the following conditions:

1. Compliance with all comments of the administrative review by the Permit and Development Center.
2. Provision of a note on the plat document that “future development is subject to Article 7 Section 4 “Natural Resources Protection, Woodlands” of the Polk County Zoning Code.”

## **STAFF REPORT TO THE PLANNING COMMISSION**

### **GENERAL INFORMATION**

1. **Purpose of Request:** The developer is seeking to subdivide the property into two separate parcels for residential development within unincorporated area of Polk County. Polk County is requiring the subdivision into two parcels to go through their Preliminary Plat procedure.

Section 354.9 of the Iowa Code provides for review of land subdivision by a municipality within 2 miles of its corporate limit. When the territory overlaps with another municipal jurisdiction then the closer jurisdiction has right of review unless there is separate intergovernmental agreement pursuant to Chapter 28E of the Iowa Code. In this instance, the City of Des Moines is closer to the property than the City of Ankeny.

2. **Size of Site:** 13 acres.
3. **Existing Zoning (site):** “ER” Estate Residential District (Polk County).
4. **Existing Land Use (site):** The property contains a large woodland area and a small pond.
5. **Adjacent Land Use and Zoning:**

**North** – “MDR” Medium Density Residential (Polk County), Use is single-family dwellings.

**South** – “ER” Estate Residential District (Polk County), Use is single-family dwellings.

**East** – “ER” Estate Residential District (Polk County), Uses are single-family dwellings and undeveloped land.

**West** – “ER” Estate Residential District (Polk County), Use is single-family dwellings.

- 6. **General Neighborhood/Area Land Uses:** The subject property is located in the unincorporated area of Polk County in Delaware Township between Des Moines and Ankeny.
- 7. **Applicable Recognized Neighborhood(s):** The subject property is located in the unincorporated area of Polk County in Delaware Township. Notifications of the hearing for this specific item were mailed on August 28, 2017 (10 days prior to the hearing) to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the Preliminary Plat amendment boundary. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on September 1, 2017.
- 8. **Relevant Zoning History:** N/A.
- 9. **PlanDSM Land Use Plan Designation:** N/A. Polk County’s Comprehensive Plan 2030 Land Use map designates the property as Estate Residential.
- 10. **Applicable Regulations:** In consideration of the criteria set forth in Chapter 18B of the Iowa Code, the Commission shall determine if the Preliminary Plat conforms to the standards and requirements outlined in Chapter 354 of the Iowa Code. The Commission shall also determine if it conforms to the City Subdivision Ordinance and shall approve, conditionally approve or reject such plat within 45 days after the date of submission to the City Permit and Development Center. Unless the applicant agrees in writing to an extension of time, the preliminary plat shall be deemed approved if the Commission does not act within such 45-day period. The Commission's action for approval or conditional approval shall be null and void unless the final plat is submitted to the City Permit and Development Center within 270 days after the date of such action; provided, however, that the Permit and Development Administrator may grant, upon written request of the applicant, up to a 90-day extension for submittal of the final plat to the City Permit and Development Center.

The Preliminary Plat is concurrently reviewed and would be given final approval by Polk County Board of Supervisors.

**II. ADDITIONAL APPLICABLE INFORMATION**

- 1. **Natural Site Features:** The subject property contains tree canopy through a majority of the property. Any future development is subject to enforcement of Polk County’s Ordinance for tree preservation which is contained in Article 7 Section 4 of the Polk County Zoning Code. Polk County has different methodology for preservation of existing woodlands and requires protection of different percentages of woodland areas depending on the maturity of the canopy. Staff is recommending that a notation be included on the plat document that future development is subject

to Article 7 Section 4 "Natural Resources Protection, Woodlands" of the Polk County Zoning Code.

2. **Drainage/Grading:** The subject property generally drains to the western portion of the property. With any future development, Polk County will have enforcement of drainage and storm water management under site plan development standards within their adopted Ordinances and standards.
3. **Utilities:** The developer proposes to extend an existing 8-inch Des Moines Water Works main from the north within Northeast 36<sup>th</sup> Court frontage to the northern limit of the property. The developer also proposes on-site, septic sewage disposal.
4. **Traffic/Street System:** The subject property currently has the ability to develop access from Northeast 36<sup>th</sup> Court. A cul-de-sac would be developed extending from Northeast 36<sup>th</sup> Court.

## **SUMMARY OF DISCUSSION**

Jason Van Essen presented the staff report and recommendation noting this property is outside of the Des Moines City limits, but within 2 miles of the City limits. State Code authorizes the City to review and approve or deny the plat.

Mike Ludwig noted that Outlot X on the map could not be developed without further subdivision plat approval.

Jason Van Essen stated that was correct and the lot is proposed to remain as a wooded preserve.

Greg Jones asked for clarification of the P&Z Commission's role in this matter.

Mike Ludwig stated the main purpose of these reviews for subdivisions within two-miles of existing city limits is to comment on needs for right of way or easements for future street or utility extensions. In this case, there is no future need for sewer or water extensions or street development. The City should verify that it complies with general subdivision regulations. Staff does not have any issues or concerns.

Jason Ledden 2727 SW Synder Blvd, Ankeny, representing Synder & Associates as the civil engineer on this project. He stated that Polk County has already approved this project. He made it clear that they had no plans to develop Outlot X as it is in a flood plain. The owner plans to keep the Outlot as is and has no plans to divide or sell it.

## **CHAIRPERSON OPENED THE PUBLIC HEARING**

Jacqueline Easley asked if anyone was present to speak on this item.

LouAnn Anderson 3740 NE 54<sup>th</sup> Place, Des Moines came to speak on this item with concerns as to how many homes they intended to build and where.

Jason Ledden stated there will be one home to the north portion of the development.

LouAnn Anderson noted that a water way is eroding at the south portion of the land and is spilling out to the south portion of their property. They are not opposed to the development if Outlot X is left as is, but they are asking that the drainage be improved.

JoAnne Corigliano verified with LouAnn that she was no longer in opposition and they will have to work out the erosion.

Rebuttal

Jason Ledden addressed the water way concern. He was not aware of any problem, but also cautioned that it would be a lot of work and tree removal to do erosion control.

LouAnn Anderson stated he might not know of the problems with the water way, but the previous owner was well aware.

**CHAIRPERSON CLOSED THE PUBLIC HEARING**

**COMMISSION ACTION:**

David Courard-Hauri moved staff recommendation with the following conditions:

1. Compliance with all comments of the administrative review by the Permit and Development Center.
2. Provision of a note on the plat document that "future development is subject to Article 7 Section 4 "Natural Resources Protection, Woodlands" of the Polk County Zoning Code."

Motion passed 11-0.

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:tjh

Attachment