

**MINUTES OF THE CITY OF PELLA
PLANNING AND ZONING COMMISSION MEETING
APRIL 25, 2022**

CALL TO ORDER BY THE CHAIRPERSON AND ROLL CALL

Vice-Chairperson Canfield called the Planning and Zoning Commission to order at 7:00 p.m. in the Public Safety Complex. Members present were: Sarah Buchheit, Joe Canfield, Julio Chiarella, Mark Groenendyk, Kisha Jahner, Tom Johnson, Robin Pfalzgraf, and Ann Visser; absent: Cathy Haustein and Teri Vos. Staff present: City Administrator Mike Nardini, Planning and Zoning Director Gerald Buydos, Zoning Analyst Jared Parker, and the Deputy City Clerk. Nine members of the public were present.

APPROVAL OF TENTATIVE AGENDA

Motion by Pfalzgraf, second by Visser to approve the tentative agenda. Motion carried 8-0.

APPROVAL OF MINUTES

Motion by Johnson, second by Chiarella to approve the minutes of the March 28, 2022 meeting. Motion carried 8-0.

PUBLIC HEARINGS

Public Hearing to Consider a Vacation of Right-of-Way for a Portion of Orchard Drive

Pella Regional Health Center requested the vacation of the Orchard Drive right-of-way running north/south adjacent to their properties. This request is for the complete vacation of the street south of Monroe Street and dead ending at the Pella Regional Health Center property. The subject street is approximately 92 feet in length and is a remnant of the original Orchard Drive right-of-way. All City and private utilities were notified of the proposed easement vacation. The emergency siren and easement that was at the southern portion of the road right-of-way has been moved north to Monroe Street. No utilities indicated the presence of infrastructure in the affected right-of-way, nor did any utilities object to the right-of-way being vacated.

Staff believes the vacation request is compatible with the City's Comprehensive Plan and does not adversely affect any neighboring property owners or the general public. Therefore, staff recommended the request to vacate this portion of alley right-of-way be approved as submitted.

Convened **Public Hearing** on the proposed right-of-way vacation. One written comment was received.

Motion by Pfalzgraf, second by Johnson to close the public hearing as no further comments were received. Motion carried 8-0.

Motion by Jahner, second by Pfalzgraf to approve the right-of-way vacation request as submitted. Motion carried 8-0.

NEW BUSINESS PROPOSED

Consider a Final Plat Application for Lely, Submitted by Chad Huyser

163 Properties Corporation, on behalf of Lely North America, submitted a final plat for the Lely North American headquarters at 775 250th Ave., located at the southwest corner of the Highway 163 and 250th Avenue interchange. The 60.73-acre site is partially developed and is zoned Heavy Industrial (M2).

The Planning and Zoning Commission approved the preliminary plat for this project on August 24, 2020, and the City Council approved it on September 15, 2020. The proposed final plat includes one lot and two outlots.

The proposed final plat has been submitted to reflect City of Pella staff and consultant comments. Staff finds the final plat meets the minimum requirements of the zoning ordinance, subdivision ordinance and conforms to the previously approved preliminary plat. Additionally, staff finds the development conforms to the City's Comprehensive Plan. Based upon the findings, staff recommended approval of the final plat.

Motion by Johnson, second by Chiarella to approve the final plat. Motion carried 8-0.

Consider a Site Plan Application, Submitted by VB Pella, LLC, for a Warehouse at 921 Roosevelt Rd.

VB Pella, LLC submitted a site plan application to construct a warehouse 921 Roosevelt Rd. The proposed building will be approximately 5,769 square feet with approximately 4,700 square feet of paved parking.

According to the Zoning Ordinance, the proposed land use is classified as *Warehousing (Enclosed)*, which is defined as "uses including storage, distribution and handling of goods and materials within enclosed structures. Typical uses include wholesale distributors, storage warehouses and van and storage companies." The proposed land use is permitted by right in the City's M1 zoning district.

Chapter 165.36(F)(3) requires the proposed site plan to conform to the City's Comprehensive Plan. The Future Land Use Map of the Comprehensive Plan identifies this site for "Civic and Public" land uses. Staff believes the proposal meets the community's goals listed in the Comprehensive Plan due to the area noted as being adjacent to a preferred industrial growth area, along with providing more industrial acres, which are noted as a need in the Comprehensive Plan.

Staff believes the proposed site plan amendment meets the requirements of the City's zoning code and is consistent with the City's Comprehensive Plan. Therefore, staff recommended the site plan be approved as submitted.

Motion by Pfalzgraf, second by Jahner to approve the site plan as submitted. Motion carried 8-0.

Consider a Revised Preliminary Plat Application for West 12th Street, Submitted by Jeff Dingeman

Jeff Dingeman submitted a revised preliminary plat to subdivide two parcels (approximately 16.13 acres) into two developable lots. The proposed plat also includes two outlots, and a lot for dedication/reservation of street right-of-way. The subject property is located at the northern terminus of 12th Street. As background, a different preliminary plat was considered by the Commission for this property on February 28, 2022. That plat was recommended for approval with conditions, and it was presented to the City Council on April 5, 2022. The City Council tabled the item on April 5, 2022, directing that the item be brought back to the Planning and Zoning Commission because of stated discrepancies in the plat proposed by the applicant. Specifically, it was staff's understanding that the applicant did not agree with the conditions recommended by the Commission on February 28, 2022, and that the applicant desired to proceed with his original preliminary plat. However, during the Council meeting on April 5, 2022, the applicant stated he agreed with the Commission's recommendations and had submitted a revised plat which incorporated the recommendations. Due to the uncertainty regarding which plat the applicant was proposing, the City Council tabled the item.

The revised preliminary plat is the applicant's interpretation of the Commission's recommended changes for his original plat which was reviewed by the Commission on February 28, 2022. The revised plat only identifies the W. 12th Street right-of-way extension to the end of Lots 1 and 2. The plat does not propose to construct W. 12th Street, but only offers right-of-way for the extension of W. 12th Street. Staff is recommending denial of this plat because we do not believe the plat, as submitted, meets City Code requirements for extending W. 12th Street to the northern property boundary as recommended/required by City Code sections 170.11, 170.11.1, 170.11.2, 170.11.3(F), 170.11.3(H), 170.11.5(C), 170.11.5(E), and 170.13.1. The City Attorney reviewed the proposed plat and agreed with staff's assessment that the plat does not meet current subdivision code requirements related to the extension of streets and utilities to the property line.

Section 170.13(13) of the subdivision code allows for the deferral of public improvements for subdivisions that are located outside of the Urban Services Area of the City. However, that process allows deferral only upon the receipt of a petition and waiver from the subdivider, which would allow the City to assess for the future installation of the public improvements. The Urban Services Area is defined as the areas served by public sanitary sewer as shown on the City's latest version of the Urban Services Area Map. This property is located within the Urban Services Area.

The original preliminary plat submitted by the applicant proposed a public cul-de-sac which would be constructed at the southern boundary of his property in lieu of extending W. 12th

Street to the northern property boundary. During their meeting on February 28, 2022, the Commission considered this proposal and voted unanimously to conditionally approve the plat as submitted with the following conditions:

1. Build the cul-de-sac now as shown on the plat.
2. Dedicate the appropriate width right-of-way to the northerly edge of the property (Outlot B) as depicted on the plat.
3. Construct a road to terminate in a temporary cul-de-sac at the northern edge of Lots 1 and 2 as development occurs on Lots 1 and 2.
4. Road from northerly edge of Lots 1 and 2 to northern property boundary will be constructed as development occurs in that area.

While staff appreciates the Commission's effort to find a compromise solution to facilitate development, staff believes the above recommendation needs further refinement and clarification. For instance, the recommendation does not clearly identify when W. 12th Street would need to be extended and who is responsible for extending W. 12th Street. Second, the City of Pella's subdivision code requires the installation of public improvements, to the property boundary, at the time of platting. The only exception to this requirement is where the subdivision is located outside of the Urban Services Area. That exception is not applicable in this case. The recommendation to dedicate right-of-way without installing a public street is contrary to the City's subdivision code.

If the Commission's desire is to waive the City Code requirements for extending W. 12th Street to the property boundary, then the Commission should state the reasons for the waiver. This is important, because the City receives a number of development proposals on any given year which require public street extensions; therefore, unintended consequences for future developments could arise unless it is clearly understood why the Commission is recommending the waiver of the requirement for this applicant to extend W. 12th Street to their northern property line. Furthermore, any such waivers should be in accordance with City Code section 170.17, which is listed below:

170.17 VARIATIONS AND EXCEPTIONS FOR UNUSUAL CONDITIONS.

Whenever the tract proposed to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this chapter would result in substantial hardships or injustices, the City Council, upon written recommendation of the Commission, may modify or waive such requirements. Any variations and exceptions granted hereunder shall be in harmony with the intended spirit of this chapter, granted with a view toward protecting the public welfare and interest of the City and surrounding area, and not be in violation of the Zoning Ordinance.

The proposed land use is "Light Industrial" which is defined as the on-site extraction, storage, manufacture, assembly, processing, or production of goods by nonagricultural methods, and the storage and distribution of products.

The developer has indicated an intent to subdivide the parcels into two individual lots and one outlot. Staff reviewed the proposed subdivision and confirmed that the proposed lots meet all minimum lot requirements for the M1 zoning district.

According to City Code section 170.12, before the final plat of any area shall be accepted, the subdivider is required to make and install all public improvements identified in City Code section 170.13. Currently, W. 12th Street terminates at the southern boundary of this parcel. Staff believes City Code requires the preliminary plat to show the continuation of W. 12th Street from the existing southerly property edge to the northerly property edge. The reason this extension is needed is to serve subsequent developments to the north. Improvements need to consist of a fully dedicated right-of-way to the northern property boundary and partially constructed street improvements to the northern end of Lot 2. Staff believes terminating W. 12th Street at the southern portion of this property would limit the extension of utilities north of this parcel which will likely be needed for future development.

City Code section 170.06(2) requires the Planning and Zoning Commission to review the preliminary plat for conformance with the Comprehensive Plan, including the Future Land Use Map. The Future Land Use Map identifies this site for “Low-Density Residential” land uses, which is appropriate for projects with densities up to four units per acre. Because the site was identified for residential use, the City Council conditionally approved the applicant’s rezoning request on July 21, 2020. Specifically, Council approved the removal of allowable M1 zoning uses from the property because of their potential conflicts with future abutting and adjacent residential properties. Furthermore, Council required design standards and additional screening requirements for the industrial properties to lessen the impact to potential new residential developments adjacent to and abutting this site. This also underscores why it is important that W. 12th Street be extended in the future, as it could help facilitate additional residential development for the City which is a key strategic goal of the Comprehensive Plan.

The applicant’s original rezoning application, submitted in July 2020, included a concept plan that showed the extension of W. 12th Street. This emphasizes that the applicant was aware of the requirements to extend W. 12th Street before the property was rezoned.

Staff finds the preliminary plat meets the minimum requirements of the zoning ordinance, but it does not conform to the requirements of the subdivision ordinance regarding infrastructure. Based on the findings, staff recommended the preliminary plat be denied as submitted. The City Attorney reviewed staff’s recommendation and agreed with the assessment that the plat does not meet current subdivision code requirements related to the extension of streets and utilities to the property line.

The applicant, Jeff Dingeman, was present to speak in favor of the preliminary plat application and to answer questions from the Commission. He stated that he has received conflicting information from City staff since 2020 and has invested a significant amount of time and money in the preliminary plat process. Several Commissioners expressed concern with the conflicting information the applicant said was shared with him as well as the amount of time and money the applicant has invested in this process.

City Administrator Mike Nardini noted that the applicant was aware of the requirements to extend W. 12th Street before the property was rezoned and that the City only takes official action on submitted applications. He stated that allegations of miscommunication from staff to the applicant are not a standard for waiving City Code requirements.

Pfalzgraf stated that she has heard frustrations shared by local developers who are not given the same concessions as others, such as the concessions granted for the Prairie Ridge development. Nardini explained that the concessions for Prairie Ridge were developed as part of the Planned Unit Development process and workforce housing was identified as a need within the City of Pella.

Motion by Pfalzgraf, second by Groenendyk to recommend to City Council that they dead-end W. 12th Street and that the Commission is making this recommendation with the reasoning that Dingeman has been given the runaround, and the fact that he has gone to the City time after time and followed through, and he has documentation that he has done what staff has suggested he do.

Groenendyk stated that his understanding of Pfalzgraf's motion is that the cul-de-sac should end by Lot A, like it originally did, without Lot A extending to the north end of Outlot B. Pfalzgraf said that is correct, and dead-end the street and tell City Council that the reasoning for this is because it is what the Commission needs to do for Dingeman. Groenendyk stated that the motion made on February 28, 2022 is basically being restated.

Planning and Zoning Director Gerald Buydos stated that, in this case, Outlot B is forever unusable until W. 12th Street is extended. Johnson said making a determination on who will pay for the road is another matter the Commission will need to clarify. Dingeman said he would like to develop Lots 1 and 2 with just a cul-de-sac, if possible. Jahner said she thinks it would be fair to say that Dingeman can do Lot 1, but will have to finish the road to sell Lot 2.

Buydos said his understanding of Pfalzgraf's motion is that Dingeman can construct the cul-de-sac now in order to create Lot 1 on which to build his building. However, if the applicant ever wished to sell Lot 2, and make Lot 2 buildable, W. 12th Street would need to be extended through to Outlot B, which would then be a temporary cul-de-sac. Nardini stated that the City Attorney's opinion should be sought on this recommendation in order to make sure it is feasible.

Dingeman stated that he would be fine with Pfalzgraf's current motion, and to then let Council make the final determination, as he does not want to be delayed further.

Nardini said he understands the reasoning for Pfalzgraf's motion to put in a cul-de-sac is due to miscommunication at staff level, which he is not necessarily sure would qualify as a hardship under City Code.

Groenendyk asked why the City Council did not just deny the preliminary plat at their meeting instead of tabling the item. Councilmember Calvin Bandstra stated he was present for the February 28, 2022 Commission meeting, and that he thought there was agreement on the motion that had been made. At the April 5, 2022 Council meeting, it was presented that

Dingeman was not in agreement with the Commission's recommendation and that staff recommended the preliminary plat be denied. However, at the Council meeting, Dingeman said he was in favor of the Commission's recommendation. At that point, the item was tabled, not because Council disagreed with anything, but because there were opposing viewpoints on what was being presented. Councilmember Lynn Branderhorst stated that there were also missing documents, and Council could not make a decision on the preliminary plat with missing information.

Canfield suggested tabling this item until the Commission can receive clear guidance from the City Attorney.

Motion by Jahner, second by Johnson to table the preliminary plat, with the intention of having the City Attorney be present at the next meeting to answer the Commission's questions and to determine whether it is feasible to phase in the project. Motion carried 8-0. Staff will arrange a special meeting with the City Attorney to be present.

OTHER BUSINESS / WORK SESSION

Next Meeting Date

The next regular Planning and Zoning Commission meeting is scheduled for May 23, 2022.

Adjourned at 8:47 p.m.