Planning Commission Members:
Jeff Bartelt ● Jenny Dumdei ● Katherine King ● Mark Spitzack ● Myron Volker

MINUTES OF THE CITY PLANNING COMMISSION

CITY OF JANESVILLE, WASECA COUNTY, MINNESOTA

MARCH 7, 2016

1. CALL TO ORDER

Katherine King called the meeting to order at 6:00 p.m.

Members present: Jeff Bartelt, Jenny Dumdei, Katherine King, Mark Spitzack and Myron Volker

Staff present: City Planner Brandon McCabe and Intern Dillon Petrowitz

Members absent: None

2. ELECTION OF PLANNING COMMISSION OFFICERS

Motion made by Dumdei, seconded by Bartelt, to approve Myron Volker as the Chairperson. Motion Carried 5-0.

Motion made by Dumdei, seconded by Volker, to approve Mark Spitzack as the Vice-Chairperson. Motion Carried 5-0.

3. APPROVAL OF AGENDA

Motion made by Bartelt, seconded by Dumdei, to approve the agenda. Motion carried 5-0.

4. APPROVAL OF MINUTES

Motion made by King, seconded by Bartelt, to approve the minutes from Planning Commission meeting held on Wednesday, November 4, 2015. Motion carried 5-0.

5. PUBLIC HEARING

a. Conditional Use Permit; Multi-Family Dwelling (Miller, Peter)

Petrowitz summarized his staff report of the request. Petrowitz stated Mr. Peter Miller, owner of the property located at 711 North Main Street, requests approval of a conditional use permit (CUP) to allow a duplex at the property. A brief history was given stating there were previous land use requests to allow a triplex which were

denied in 2000 and 2012. Staff recommended approval of the conditional use permit based on the following findings:

1. The Conditional Use request is consistent with the general intent of the R-1 Single-Family Residential District and will not have an adverse effect on the area in which it is proposed;

2. The Conditional Use request is consistent with the provisions of the City Comprehensive Plan and the multiple housing needs of the City Housing Study of 2006;

3. The Conditional Use request can be accommodated by public services and facilities including parks, schools, streets and utilities, and will not overburden the City's service capacity;

4. The Conditional Use request will not generate additional traffic and sufficient off street parking will be provided per the City's Parking Ordinance (§ 152.999); and

5. The Conditional Use request and all related activities that occur under this CUP shall meet the conditions of the City's Noise Ordinance and Nuisance Ordinance. Furthermore, all rental units in the City of Janesville are subject to the International Maintenance Code.

Volker opened the public hearing at 6:07 p.m. to hear comment on the request for a two-dwelling unit at 711 N Main Street.

Sharon Harsdorf of 709 N Main Street stated she was opposed to the two units. Sharon currently resides next to the single-unit and had concerns with no out building to accommodate storage. There was a trailer parked in the driveway full of garbage. Stated they had concerns with an out building for additional storage. There is garbage and debris around the house, barking dog, long grass, overgrowth of weeds encroaching their yard. There are concerns with cars parking in front of property.

McCabe noted he did not receive any comments prior to the meeting.

Daniel Gromsrud of 708 N Main Street stated that when the building first went in it was intended to be multi-family and City turned it down. The structure has been an eyesore. No storage. Asked if the City is going to regulate this from now on? Two parking spaces for two units are not enough and plows will have to go around. He is opposed and requested a denial for multiple use. Commercial vehicle in front of property. Stated it is just a mess.

McCabe stated the property was denied twice for a request for a triplex not listed as a permitted or conditional use. This request is for a duplex which is listed as a conditional use.

Gomsrud stated that the request may be approved but is not guaranteed.

McCabe stated that when it is listed as a conditional use then the City sees the use is acceptable given certain conditions.

Gomsrud replied "What if we don't think it's acceptable?" "You don't care, right?"

McCabe, "No that is not the case". McCabe stated that if a complaint is made regarding a nuisance then the City investigates and, if need, will notify the owner to make corrections. If corrections are not made within the allotted time, then the City will make the correction and bill or assess the property.

Gromsrud asked if the City will continue to do this.

McCabe replied that yes, it is a continuous process. Each complaint that was previously made on the property had been addressed by the owner and no corrections or assessments from the City had been made.

Gromsrud said, "I think you are going to hear a few from now on" (referring to hearing of complaints).

McCabe stated that he would rather have people contact the City to address the issue.

Tom Harsdorf of 709 N Main Street did not know of the pet policy but complained of six cats and two dogs. The cats used his sand box as a litter box and dogs continuously bark. He was relieved when the tenants moved. Tom assumed the building was a bear to heat and cool. He indicated that his property value would decline being next to a duplex.

Bartelt asked if the owners were new to the property. The applicant, Peter Miller, thought he had owned the property for approximately two and one half years. King asked if he had been renting it. Peter stated that his business partner had been living there and then a tenant was living there after that. Peter explained that the tenant was a problem and that it took time to remove her from the property.

Brian Ziegler of 713 N Main Street agrees with the nuisance complaints. Ziegler acknowledges that there is only so much the owner can do in situations with a poor tenants. The whole time the last people were there he was woken up by a dog, playing of loud music. Ziegler stated that he has made complaints and nothing had been done about it. When complaining to police nothing is done and hinders further

complaints. Stated that his window was broken from mowing the lawn, air compressor and fence "caked with grass". When confronted about the issue there was no resolution. Ziegler asked if background checks are required and if it was for the landlord or the tenant. McCabe, responded that every tenant is required to receive a background check.

Ziegler wants the owner to "keep it up" and stated that renters show no pride in ownership because they don't own it. The weeds from the property encroach into the surrounding neighbor's yard making it useless to spray for weeds. Ziegler stated that he knows the commission members would agree that they would not want to live by that property.

Gromsrud stated that all the properties in that neighborhood have a garage except for that property. Gromsrud would like a condition to require a garage for storage.

Ziegler understands it is not the owner's garbage but he needs to conduct visual inspections. Ziegler reiterated that complaints logged with the City have no resolution and the surrounding owners are the ones who must live with it and is very frustrating. He had cats living on and under the patio and defecating on his property.

Bartelt asked what happens if conditions are not met. McCabe state that the property will not be permitted to be a duplex but was unsure if that requires administrative, Planning Commission, or City Council action.

Volker asked if the City has a three strike policy on rental properties regarding nuisance complaints. McCabe stated that the City does not have a three strike policy regarding nuisance. Rentals are enforced by the International Maintenance Code (IMC). As long as the property adheres to the IMC than it is acceptable as a rental. If a nuisance based rental policy is needed then McCabe suggested pursuing an ordinance amendment. Volker would like the amendment proposal to be reviewed.

Bartelt asked if Peter Miller would like to address any of the concerns that were made during the hearing. Miller stated that is illegal to enter onto the property to make corrections which makes clean-up difficult. He acknowledges that he hates seeing his property being dilapidated but is limited on his control of the situation. He stated that a duplex offers more control so he can hire help for outside maintenance. He also would like to be informed of issues such as excessive cats so that he can enforce those issues.

Nicole Miller of Peka Homes stated that the tenant was not permitted to house that many animals and was not aware of the issue. She stated that one cat was permitted. Peter stated that they usually permit one cat or one small dog. Nicole stated no pets may be something that can be worked into the lease agreement.

Ziegler stated that Peter, as the owner, can't enforce issues because the "tenants have rights" is not understandable. Ziegler does not want to live next to it and is to the point of listing his property for sale due to the constant nuisance. Ziegler was going to mow the property to clean it but could not because of all the debris. Peter Miller explained that if he is informed by the Police of an issue than that will permit him to enter the property to make the corrections, but was unclear if he could enter the property without a lodged complaint. King asked where Peter resides. Peter lives in Le Sueur. Ziegler stated that he does not live close and prevents him from coming to town to enforce actions especially because of the tenants' rights.

King asked McCabe if he knew of the laws regarding owner access to rental properties. McCabe stated that the property owner is responsible and will be assessed when responding to nuisance complaints. King asked if Peter has spoken with an attorney regarding access to rental properties. Peter stated that he has language in the lease but is ultimately enforced by eviction, which he acknowledges as a lengthy process. King asked if he is allowed to do routine reviews and has a schedule to do so. Peter stated that he can make inspections but does not have the authority to enforce actions of the tenants. King recognizes that the property has significant issues that were previously stated. King strongly suggested the Council impose heavy conditions to the request. King urged all those in attendance to attend the Council meeting to be heard.

Spitzack sympathized with the public and explained that complaints made is a frustrating and long process. Ziegler did not want to have to call the cops and stated if the owner had his number he would hate him. Peter stated that he does appreciate calls on issues. King stated that maybe Peter should distribute his number.

Spitzack asked if a routine inspection and maintenance would be built into the lease agreement. Peter stated that if it was a duplex then someone can be hired to do the outside maintenance, acknowledged that he needs to do a better job self-enforcing but is difficult to do in certain situations. Nicole stated the last tenant was not great and created a lot of changes in their own policies.

Sharon Harsdorf stated that an outbuilding would really help excessive storage. Tom Harsdorf asked why the house is not "loanable". Peter responded that there was issues with mold in the basement but that had been removed and believes a loan could be issued for that property currently.

A brief discussion between Sharon, Tom, Peter, and Nicole was not directed to the Planning Commission and the majority was inaudible or the context was lost in the recording.

Volker closed the hearing at 6:31 p.m.

Planning Commission further discussed the request. King suggested that the Planning Commission approve the request and strongly urged the Council to impose strong conditions to the request to alleviate the nuisances that have been created by the property. In addition the Planning Commission recommended the City Council consider a three-strike policy to enforce poor tenant/landlord behavior at rental properties.

Motion made by King, seconded by Spitzack, to approve the Conditional Use Permit to allow a duplex at 711 N Main Street with the following conditions:

1. A building permit is required for all on site demolition, construction, and or change of use. All required permits must be obtained.
2. No storage of hazardous materials is permitted at the site.
3. All activities occurring under the CUP shall meet the conditions of the City's Noise Ordinance and Nuisance Ordinance.
4. A Rental License is required to operate the two-family dwelling as a rental property.
5. The property owner shall provide sufficient off street parking per City Ordinance § 152.199.
6. City provided utility services to the property must be provided to each dwelling unit separately or the property owner must be the billing customer on record.
7. Sufficient refuse and recycling must be provided to each individual dwelling and any accumulation of refuse or recycling warranting additional collection must be accommodated immediately.
8. An accessory structure not less than 100 square feet shall be provided at all times to accommodate outside storage items.

Motion carried 5-0.

b. Conditional Use Permit; Group Housing Exceeding 12 Units (Bradford Dev. LLC)

McCabe's Report stated that Bradford Holdings LLC, owner of the property located at 543 Oakwood Drive, requests approval of a conditional use permit (CUP) to allow a group house exceeding twelve (12) dwelling units. The structure is proposed to be a twenty-four (24) unit assisted living facility.

McCabe identified the history of the property which included approval of a variance (Resolution 2014-54) to allow the structure to encroach the side and rear yard and reduces the lot area requirement.

McCabe stated the proposal would satisfy the anticipated demand for senior housing that was projected in the 2006 Housing Study. The study identifies that (by 2010) if

an assisted living facility offers a mix of heavy and light services then the supply and demand of senior housing may be better matched to a proposed 24 – 26 unit facility.

Comments from the City Engineer were included in the report which expressed concern of the surface run-off filling the storage pond over capacity due to the creation of impervious surface. Bradford Development's intention is to place storm water retention detention tanks on the property as an alternative to the expansion of the existing pond.

Staff recommended approval of the conditional use permit based on the following findings:

1. The proposed use of an assisted living facility will have a positive effect long term on the fiscal stability of the community and will not diminish property values in the immediate vicinity. Moreover, the proposed use will provide a life-cycle mix of housing types of substantial individual and combined value. It will add an amenity available to the general public, including residents of properties in the immediate vicinity, and in turn enhance the value of such properties.

2. The proposed use is separated by public right-of-way on all sides adjacent to current or proposed development and does not infringe upon any current or future development.

3. The proposed site currently has access to utilities, roads, drainage and other necessary facilities. All necessary improvements to existing infrastructure will be constructed or constructed when necessary as part of this project.

4. Off-Street Parking Ordinance § 152.199 (R) provides a ratio of one (1) off-street parking space for each six (6) beds for an assisted living facility. The assisted living facility proposes fifteen (15) off-street parking stalls well within the regulations of Ordinance § 152.199 (R).

5. Upon construction, appropriate measures are required to accommodate environmental factors during and after construction. These include, but are not limited to, a grading plan, erosion control measures, turf establishment, and owner site maintenance measures.

6. City ordinances require standards of property maintenance during & after construction that will be enforced by the appropriate City personnel. Examples of these items that are enforced for compliance include erosion & runoff, miscellaneous refuse, and noxious weeds.

The public hearing was opened at 6:57 p.m.

Tammy Barnes resides directly across the street from the proposed location at 552 Oakwood Drive. Tammy stated, “I am totally in favor of a facility like this in Janesville and I have no arguments that it is highly need”. She gave a brief background of her volunteer work in similar facilities. She continues, “The one distinct difference that Janesville is looking at is where they’re putting a twenty-four unit facility, in a residential area, on a dead-end street, where it’s zoned for single-family homes.” Tammy continued that similar facilities in other cities are located by already existing multi-family dwellings. Tammy expressed that she is frustrated that she had just purchased her home and was not informed of the assisted living facility at that time. She referenced speaking to several City officials to receive approval of the location of her house and feels that a proposed facility in the neighborhood should have been disclosed. The road is narrow and windy. Now it is apparent that commercial vehicles will be “funneled” through the neighborhood to provide service to the facility. In Tammy’s opinion it is not consistent with what other cities have done. Tammy suggested that the facility be placed in the City owned property next to Hwy 14 which is already zoned commercial.

McCabe addressed Tammy and stated the zoning in the Northwood Subdivision is in fact zoned for multi-family uses. A conditional use permit is required for multi-unit dwellings over twelve units. Structures housing up to twelve units would be permitted without the requirement of a hearing.

John Barnes, 552 Oakwood Drive, asked if this was a “buyer beware” situation where when purchasing a property the owner must be prepared for a twelve unit structure as a neighbor. John Barnes elaborated and asked clarification that multiple twelve unit complexes can be placed in the neighborhood. In the event the applicant wants to build another facility across the street that that may be possible. McCabe, “Correct”. Barnes, “we could have ten of these places out there?” McCabe stated that was true and the Northwood Subdivision was always intended to house an assisted living facility.

John Barnes asked if the City would consider the development of either road abutting the proposed assisted living facility to allow a second point of access. McCabe stated that the existing road is a low maintenance road intended for emergency access. McCabe explained that a second point of access was intended through Northwood Drive and access to Oakwood Drive is not intended to be permanent. Tammy did not agree that the traffic level does not match. John Barnes argued that with the addition of employees and services to the facility that the traffic count will go from a few dozen per day and be quadrupled. John stated that trash and food service trucks may be arriving multiple times per week or every day.

Darin Hinze, 532 Oakwood Drive, asked why land that was designated for a twelve unit facility is now being proposed for a twenty-four unit facility. Hinze references Scott Cole's (Bradford Development LLC) presentation that referenced the Mankato structure. Hinze stated, "But that's out in Mankato". Hinze stated that when he purchased his lot he had no "inkling" that a twenty-four unit "skyscraper" would be taking away his view. Hinze argued that his children would be in danger from the added traffic from both commercial vehicles and elderly drivers. Hinze stated, "We are going to have senior citizens driving there, in a very closed area, and they've got no way out. They're lost… they're not going to know where they're going." Hinze asked why such a large facility being proposed in such a large area.

McCabe addressed Hinze stating that the area was always zoned for multi-family use and the zoning language reflects that. McCabe gave the example that the height restriction for the zone is four stories high. McCabe understood that the predominant use in the area is single-family homes but it was originally zoned multi-family to accommodate a larger facility. Hinze stated that it was to accommodate a twelve unit and did not understand why it is being proposed at double that size. McCabe explained that a twelve unit facility is a permitted use so that if someone wished to construct a facility to that size that it would be allowed outright and without the requirement of a public hearing. All uses above twelve units requires a conditional use which, McCabe explains, the City deems acceptable provided the use will meet certain conditions.

Tammy Barnes stated that the intention of a facility in the area was not public. Tammy explained that the City was involved in enforcing the elevation of her home which required several discussion with City Officials and the assisted living facility was never discussed. She continues that she had strategically chose the placement of her home based on the "country setting" of the area. If had known, Tammy would not have never chosen to live there. Tammy stated that it is apparent to her that the assisted living facility had received approval prior to moving into her home in April and she was not informed. Tammy stated that because she did not directly ask the City that she would otherwise not be informed.

Hinze referenced McCabe's statement that the facilities location would enhance surrounding properties value, causing a group outburst of disgust. Tammy stated, "Would you come buy my house now that that's there? Absolutely not!" John Barnes stated, "I don't think any of the members or any in this room would agree that you would want that sucker next to a brand new house." King stated that should would honestly not mind the facility across from her house. Hinze said that is because her location offers an access out.

The conversation diverted back to the accumulation of traffic with Hinze and Tammy Barnes arguing that traffic is funneled to the end of the cul-de-sac and forcing traffic to turn around. Tammy stated that the Commission is not aware of how many people drive down the street only to turn around after realizing it is not a through street. King asked McCabe if there was a sign indicating it was not a through street. McCabe stated there was not one.

A resident who did not identify her name or address asked why the existing maintenance street could not be opened. McCabe stated that was a discussion for City Council but it involved physically purchasing land and dedicating public right-of-way. Tammy stated that the road was already there and it would alleviate the traffic. Tammy acknowledged that it is difficult to debate the placement of the structure due to the current zoning but the development of the road would make the structure more acceptable to the neighborhood.

Hinze asked when it was zoned was the intention always make traffic turn around at the end of the street. McCabe stated there was no intention to create a though road other than the existing maintenance road. Tammy stated that was poor traffic planning. Hinze agreed that it does not make sense to make traffic turn around. Hinze referenced McCabe's statement that development was intended to continue on the north east side of the Northwoods Subdivision and said, "When I bought my lot they told me that that will never be sold. Shultz [Schrom] owns it, he will never sell it, there's no way anybody's going to live on this side of you, and you're down here by yourself." Hinze acknowledges that was a sales pitch but he was not planning on future development around him.

Tammy stated that she had received a letter but neighbors did not. Jess Blasing of 584 Oakwood Drive stated he did not receive a notice. Tammy stated every single person affected should be notified. McCabe stated that notice was provided in the newspaper and all residents within 350 feet were mailed a notice.

Hinze stated that he had encountered someone that would absolutely would not building next to this facility. Tammy had a similar encounter with a prospective buyer. Tammy stated the argument of increasing property value sounds "lovely" to people who don't live there. She stated it was not logical to assume living across the street improves the property and anticipates the rest of the vacant lots to remain so. Tammy suspects that she received a "good deal" on her lot because the development of the facility was known to the seller.

Hinze stated that the neighborhood may be the quietest in Janesville and the twenty-four unit assisted living facility is going to make it like a metropolis. Bartelt asked, "Have you ever been to an assisted living?" Hinze acknowledged, "Yes". Bartelt

states that he encounters assisted living facilities daily for work and does not understand where the additional traffic is coming from because nobody is hardly moving within the area. Tammy said, “There are visitors, right?” Scott Cole (Bradford Development LLC) stated that, unfortunately, families abandoned their elders resulting in few visitors. Hinze directed his comments to Cole and stated, “Where are they going to get their food, how are they going to get all their necessities?” Spitzack what vehicles deliver supplies to the facility? Cole explained that one day per week a van provides the food that is driven by a staff members. Hinze asked to clarify that one person is doing that for twenty-four units with a van. Cole stated, “Yes.”

Hans Holland of 531 Oakwood Drive stated he resides to the north and asked about the proposed parking. McCabe displayed the parking on the north and the south of the property. Holland asked if there are improvements made to the road. McCabe stated the surface is there and there no plans to make improvements to the road. Holland asked where deliveries will be made. Cole replied the north side. Holland asked what size vehicles will be delivering. Cole stated they vary in size but the smallest that they have had is the smaller version of a semi-truck. Adding most vehicles are vans.

Spitzack asked to clarify there are no plans to open up the maintenance road. McCabe stated there are no plans and that would involve major infrastructure.

Holland stated that he did not understand how a larger vehicle would turn around in the cul-de-sac. Cole stated that vehicles involved with the facility navigated a turn radius sufficient for a fire truck which is the current standard.

A resident who did not identify her name or address asked what it would take to open the maintenance road. McCabe stated the City would need to purchase the land to be dedicated as right-of-way and construct the street to current standards. Tammy highly encouraged the City look into the development of the road for a logical solution to traffic.

Dumdei asked the public to consider that the facility will house a maximum of twenty-four residents who will not be driving. The amount of traffic accumulation would be less than that of park road plaza. John Barnes directed his comments to Dumdei, “Ma’am, did you just spend $265,000 on a house and have this come across the street from your house. How would you feel about that?” Dumdei stated she had just purchase a new home recently but did look at the current lot the Barnes reside and choose not buy for other purposes. Barnes asked if she knew about the proposal of the assisted living facility. Dumdei acknowledged that she did. John indicated that she then could be an informed decision.

Volker stated that was land owned by the developers and not by the City. He stated the City cannot control who wants to develop on there.

Hinze stated that he does not have an issue with the twelve unit but does not agree with the twenty-four unit. Cole stated the footprint is exactly the same as proposed with the twelve unit, the difference being the addition of the second floor. Hinze disagreed stating, "No we're doubling everything." He referenced doubling food, people, traffic, and so on.

Holland asked about the expansion of the retention pond if it would be dug deeper or wider. McCabe stated that the engineer would determine that. Cole stated that was one option and the other being placing tanks at the facility or a combination of the two. Holland asked who pays for the improvement. McCabe stated that will be a negotiation between the City and Bradford Development. Holland asked if there would be an assessment. McCabe stated that is a Council decision and if they feel that is not required than it will not happen. John Barnes stated that the public could end up paying for the improvement. Cole stated that Bradford's intention is to place storm water retention detention tanks on the property and was not aware the expansion of the pond was an option.

John Barnes asked if there are currently utilities along Hwy 14. McCabe stated there is no infrastructure there.

Holland had a final comment that the facility moved from a twelve to a twenty-four which warranted conditional use hearing. He hopes the hearing will serve a purpose on the Cities decision.

The public hearing was closed at 7:24 p.m.

Motion made by Dumdei, seconded by King, to approve the Conditional Use Permit to allow a 24 unit assisted living facility at 543 Oakwood Drive with the following conditions:

1. That the assisted living facility use shall be constructed and maintained in accordance with the terms of the state building code, any specifications provided by the City Engineer and within the parameters of Resolution 2014-54.

2. Grading Plan must be submitted upon application for building permit and approved by City Engineer.

3. Reach an agreeable plan with the City to expand the active storage in the existing stormwater pond or the developer could consider other onsite additional water quality and/or volume control and discharge the allowable 30% to the regional pond.

4. All lighting fixtures must be designed to face inwards into the lot to avoid obtrusive encroachment into abutting properties.

5. Any intensification or change of use of the structure will be reviewed by the City and will be subject to all applicable standards and requirements.

In addition, the Planning Commission recommended to City Council to consider the feasibility of dedicating right-of-way along the existing maintenance road from N Main Street to Oakwood Drive for future development. This recommendation is not a condition to the proposed twenty-four unit structure.

Motion carried 5-0.

6. OLD BUSINESS

a. There was no Old Business.

7. NEW BUSINESS

There was no New Business.

8. REPORTS AND ANNOUNCEMENTS

a. Building Permit Report; End of Year.

McCabe presented a building permit report with the totals for building permit data collected in 2015. Permit data collected in 2014, 2013, and 2012 have been included for comparison:

b. EDA Initiated Planning Considerations.

McCabe presented a report of the recent Economic Development Authority goals and strategies to accomplish for 2016. Some of the goals the EDA desires may require action by the Planning Commission. McCabe stated we will most likely be holding joint meetings with the EDA to discuss the goals.

c. Small Cities Program Summary of Accomplished Projects.

McCabe presented a summary of the Small Cities Development Grant Program which was closed out at the end of 2015. A total of $99,413 of the $494,300 (20.1%) awarded was turned back (not used) to MN Department of Employment and Economic Development (DEED).

9. ADJOURNMENT

Motion made by King, seconded by Volker, to adjourn meeting at 7:32 p.m. Motion carried 5-0.