

***PLANNING AND ZONING COMMISSION REGULAR MEETING
MARCH 9, 2021***

The Regular Bi-Monthly Meeting of the Andover Planning and Zoning Commission was called to order by Chairperson Bert Koehler IV on March 9, 2021, 7:00 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

Commissioners present: Karen Godfrey, Mary VanderLaan, Scott Hudson, Nick Loehlein (remote), Marni Elias (remote) and Wes Volkenant

Commissioners absent: None

Also present: Community Development Director Joe Janish
Associate Planner Jake Griffiths
Others

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

February 23, 2021 Regular Meeting and Workshop Meeting

Motion by Godfrey, seconded by Volkenant, to approve the February 23, 2021 Workshop meeting minutes as presented. Motion was taken by roll call:

Godfrey - aye

Hudson - aye

Koehler - aye

VanderLaan - aye

Volkenant – aye

Loehlein – aye

Elias – present

Motion carries 6 ayes, 1 present (Elias).

Motion by VanderLaan, seconded by Godfrey, to approve the February 23, 2021 Regular Meeting minutes as presented. Motion was taken by roll call:

Godfrey - aye

Hudson - aye

Koehler - aye

VanderLaan - aye

Volkenant – aye

Loehlein – aye

Elias – present

Motion carries 6 ayes, 1 present (Elias).

PUBLIC HEARING: CONDITIONAL USE PERMIT – ACCESSORY DWELLING UNIT – 4815 159TH AVENUE NW – MARGARET KLIBER (APPLICANT)

The Planning and Zoning Commission is asked to conduct a public hearing and make a recommendation to the City Council regarding a Conditional Use Permit for an accessory dwelling unit (ADU) at 4815 159th Avenue NW.

Associate Planner Griffiths stated the applicant is requesting an accessory dwelling unit. Mr. Griffiths explained an ADU is a separate living structure on a property that already has a house. He said they are commonly referred to as granny flats or mother-in-law suites. Mr. Griffiths indicated the structure will be 900 square feet. Mr. Griffiths stated the applicant does not have a proposal for the type of structure they are building, however, they will stay within the 900 square feet requirement. Mr. Griffiths stated there are 13 conditions that must be met for an ADU and referred to the staff report for details.

Commissioner VanderLaan asked how the ADU will be accessed by a driveway. Mr. Griffiths replied the driveway could be shared or separate and that a separate driveway would require a permit from the City Engineering Department.

Chairperson Koehler asked if the applicant came up with a plan that does not comply, such as renting the ADU, what process do they follow. Mr. Griffiths replied the applicant must meet all 13 conditions and can rent it if they apply for a rental license. He stated if they are in violation of any of the conditions, it will be sent back to the Planning and Zoning Commission and City Council for consideration of revoking the permit.

Motion by Hudson, seconded by Godfrey to open the public hearing at 7:10 p.m.

Motion was taken by roll call:

Godfrey - aye

Hudson - aye

Koehler - aye

VanderLaan - aye

Volkenant – aye

Loehlein – aye

Elias – aye

Motion carries unanimously.

Gordon Kliber, 4815 159th Avenue NW, came forward to answer the Commission's questions.

Commissioner Volkenant asked if they are intending to place the structure closer to the

neighboring property for maintaining privacy. Mr. Kliber responded that the addition of the structure would provide additional privacy, and that the dwelling on the neighboring property was at least 150 feet away from the proposed location.

Motion by Hudson, seconded by Godfrey, to close the public hearing at 7:12 p.m.

Motion was taken by roll call:

Godfrey - aye

Hudson - aye

Koehler - aye

VanderLaan - aye

Volkenant – aye

Loehlein – aye

Elias – aye

Motion carries unanimously.

Motion by Hudson, seconded by VanderLaan, to recommend approval of a Conditional Use Permit for an Accessory Dwelling Unit located at 4815 159th Avenue NW. Motion was taken by roll call:

Godfrey - aye

Hudson - aye

Koehler - aye

VanderLaan - aye

Volkenant – aye

Loehlein – aye

Elias – aye

Motion carries unanimously.

Mr. Griffiths stated the item will go to the City Council on March 16, 2021.

PUBLIC HEARING: COMPREHENSIVE PLAN AMENDMENT (CPA) (21-02)

The Planning and Zoning Commission is asked to hold a public hearing and make a recommendation to the City Council on the Comprehensive Plan Amendment for PID# 30.32.24.43.0001 on the corner of 7th Avenue and Bunker Lake Boulevard to be changed from Urban Residential Medium (URM) to Urban Residential Medium Low (URML).

Community Development Director Janish reviewed the Comprehensive Plan Future Land Use Map and stated the applicant cannot meet the number of units in the URM District and a density transfer was not allowed by the Met Council. Mr. Janish stated the reduction in density affects the number of potentially affordable units in the City and the units need to be replaced on a different property. Mr. Janish explained the City Council had a workshop to determine the best location to replace 60 units of potentially affordable housing and decided upon a property on Hanson and Bunker Lake Boulevard that is owned by Anoka County. He stated the property is zoned public and needs to be rezoned Urban Residential Medium.

Commissioner Loehlein asked if there were immediate plans to tear down the building on Hanson and Bunker Lake Boulevard and build something new in the short term. Mr. Janish replied not in the short term.

Chairperson Koehler stated the first time the Commission reviewed this item, they had discussed transferring units to the north side of Bunker Lake Boulevard. He asked what happened to change that. Mr. Janish stated the original intention was to transfer 60 units to the north side. He stated the Met Council required the City to change the Future Land Designation of the property and would not allow a transfer of units. Mr. Janish said the developer of the property to the north expressed concerns with market studies and supporting the number of units on the parcel.

Chairperson Koehler asked if the land to the south and east of the County land is open space. Mr. Janish stated it is part of Bunker Hills Park.

Commissioner Volkenant asked for a definition of affordable housing. Mr. Janish replied the Met Council defines affordable housing as at or above 8 units per acre. Commissioner Volkenant stated the City is looking at designating land that may never be developed as potentially affordable. He said the City has lost the opportunity to put affordable housing on property that was originally designated as affordable housing. Commissioner Volkenant stated he has concerns about making the change. Mr. Janish displayed photos of Anoka County HRA properties with higher density senior housing and stated he expects Anoka County to do something similar on the property located at Hanson and Bunker Lake Boulevard. Commissioner Volkenant asked Mr. Janish if he was aware there is discussion of Anoka County getting out of the business of managing senior apartment buildings. Mr. Janish stated they do not manage the properties, but they own them.

Commissioner Godfrey asked what impact a higher density development at Hanson and Bunker would have on utilities. Mr. Janish stated staff looked at sewer capacity before presenting options to the City Council. He said there is capacity at this site for 60-100 units. Commissioner Godfrey asked if the addition of the units will require a lift station. Mr. Janish replied if it does require an additional lift station, it is already in the plan.

Commissioner Elias asked if the City increases density on Hanson and Bunker would it alleviate the density in other areas. Mr. Janish stated it could be a possibility the City could lower density in other areas as long as the City averaged 3 units per acre.

Chairperson Koehler asked if this item played a role in the City's proposal to the Met Council to bank housing. Mr. Janish replied the intention of banking housing is for the City to allow properties to develop lower than 3 units per acre if certain conditions are met. In theory, the proposal at 7th and Bunker would have excess units which could be banked and used elsewhere, however, the drafted amendment allowed the transfer within the transitional residential district and if the City is short in a single-family area, they will

try to make up for it in a single-family area. He said anytime an area develops over 3 units per acre, it lifts the City's average units per acre. Mr. Griffiths added that Comprehensive Plan Amendment approved by the Council indicates transfer of units only applies to properties guided Urban Residential Low.

Commissioner Godfrey stated guiding the property on Hanson and Bunker as URM is safer because the streets are wider. She asked if safety personnel have looked at the plan. Mr. Janish replied safety staff have looked at it and they have no concerns.

Motion by Volkenant, seconded by Hudson to open the public hearing at 7:34 p.m.

Motion was taken by roll call:

Godfrey - aye

Hudson - aye

Koehler - aye

VanderLaan - aye

Volkenant – aye

Loehlein – aye

Elias – aye

Motion carries unanimously.

Tom Bakritges, Capstone Homes, 14015 Sunfish Lake Boulevard, came forward and stated the property to the north of his development was able to accommodate 12-18 units per acre but when the units went as high as 20-25 units per acre, it was not feasible to develop at that density. He explained the other option was to find alternative sites and that is the item before the Commission today. Mr. Bakritges stated he is happy with the staff report and option presented.

Motion by Hudson, seconded by Volkenant, to close the public hearing at 7:36 p.m.

Motion was taken by roll call:

Godfrey - aye

Hudson - aye

Koehler - aye

VanderLaan - aye

Volkenant – aye

Loehlein – aye

Elias – aye

Motion carries unanimously.

Motion by Godfrey, seconded by VanderLaan, to recommend approval of a Resolution amending the Comprehensive Land Use Plan of the City of Andover to include the following: change the future land use designation of part of PID# 30.32.24.43.0001 from Urban Residential Medium (URM) to Urban Residential Medium Low (URML) and change the future land use designation of part of PID# 35.32.24.32.0001 from Public to Urban Residential High Low (URHL).

Further discussion:

Commissioner Volkenant stated he will abstain from the vote because he has reservations about what they are looking at here.

Motion was taken by roll call:

Godfrey - aye

Hudson - aye

Koehler - aye

VanderLaan - aye

Volkenant – abstain with reservations

Loehlein – aye

Elias – ayes

Motion carries 6 ayes, 1 abstention (Volkenant).

This item will go before the City Council on Tuesday, March 16, 2021.

CITY CODE AMENDMENT – CITY CODE TITLE 12, CHAPTER 12 – CITY OF ANDOVER (APPLICANT)

The Planning and Zoning Commission is asked to conduct a public hearing and make a recommendation to the City Council for a City Code Amendment to allow daycares within legally conforming religious institutions and schools. Community Development Director Janish stated religious institutions and schools fall under a different building code category and have different types of requirements than a daycare. He said the applicants would need to work with the Building Official to make sure they meet the requirements for a daycare center. Mr. Janish stated this amendment would allow a private entity to rent space from the religious institution or school if legally permitted and if the facility meets building code for a daycare.

Commissioner Volkenant stated Anoka-Hennepin does not operate daycare facilities in Andover and they are not in the business of daycare. He asked Mr. Griffiths to explain why public schools are included in this discussion. Mr. Griffiths replied when staff researched this item, they found other cities allow daycares in religious institutions and schools. They are both large spaces and not utilized at certain times and a daycare can fill the empty times.

Commissioner Godfrey asked staff to address the issue of “within” schools and religious organizations and how does the City avoid the proliferation of temporary structures. Mr. Janish replied the subordinate structures are an Interim Use in the City. He said the use would have to be legally permitted and a daycare is not a permissible use in a portable classroom unless the City allows it through an Interim Use Permit.

Motion by Volkenant, seconded by Hudson to open the public hearing at 7:46 p.m.

Motion was taken by roll call:

Godfrey - aye

Hudson - aye

Koehler - aye

VanderLaan - aye

Volkenant – aye

Loehlein – aye

Elias – aye

Motion carries unanimously.

No one came before the Commission.

Motion by Hudson, seconded by VanderLaan, to close the public hearing at 7:46 p.m.

Motion was taken by roll call:

Godfrey - aye

Hudson - aye

Koehler - aye

VanderLaan - aye

Volkenant – aye

Loehlein – aye

Elias – aye

Motion carries unanimously.

Motion by Volkenant, seconded by Godfrey, to recommend approval of an amendment to City Code Title 12: Zoning Regulations, Chapter 12: Residential Permitted Accessory, Conditional, Interim, and Prohibited Uses.

Further discussion:

Commissioner Godfrey asked if the City received any public comment on this issue. Mr. Janish replied the City did not receive any comments. He explained there is an individual looking at opening a daycare within a religious institution. Commissioner Godfrey asked if this applies to the St. Francis School District. Mr. Janish stated it applies to school facilities located within Andover.

Chairperson Koehler asked if a business operated a pre-k daycare and had a subordinate structure, could it be called a pre-k classroom. Mr. Janish stated the Building Code would look at it as a daycare because of the age of the children. Chairperson Koehler asked if the City knew of any subordinate structures operating a daycare. Mr. Janish replied he cannot answer the question beyond a doubt. He stated technically there shouldn't be a daycare in a subordinate structure. Chairperson Koehler stated the problem is that the City wouldn't know, and he is having a problem putting kids that are really young in a subordinate structure. Mr. Janish stated the IUPs that are in place do not indicate that subordinate structures are being used as daycares. Chairperson Koehler stated he has seen IUPs for subordinate structures come back for renewal multiple times and he is worried that there will be too many of them in the City. Chairperson Koehler stated he is not against a daycare, but he is worried they will find their way into a subordinate structure.

Commissioner Volkenant asked where subordinate structures came into play. He stated he is under the impression the daycare would be located in the building. Mr. Janish stated there are some religious institutions with IUPs using subordinate structures as classrooms and they need to reapply every 5 years. He explained the Planning Commission and City Council had a conversation with a religious institution and noted the subordinate structures are becoming permanent rather than temporary. The City asked the religious institution to come up with a plan to expand their building to accommodate the need for extra space. Chairperson Koehler stated there are some subordinate structures that have been in place for 15 years.

Commissioner Volkenant asked if there was a way to write in the condition that the daycares must be within the main facility and not in a subordinate structure.

Commissioner VanderLaan stated the City Council has revoked IUPs for subordinate structures when the organization was not able to meet some requirements. She explained the absence of a guideline for a daycare to be in or out of building is applicable, it's only whether or not the Commission applies a different form of standard.

Commissioner Elias asked if a daycare is asking to use a subordinate classroom or if this is something Chairperson Koehler is looking to avoid in the future. Chairperson Koehler stated there is no applicant at this time and the Commission is deciding to recommend a change to City Code. He explained that once this change is made, it applies to everyone looking to open a daycare in one of these facilities. Commissioner Elias stated they are looking at a situation that may never happen and that daycares are in great need as the City grows.

Chairperson Koehler stated he knows the Building Department makes sure the subordinate structures are safe and his issues are aesthetics, cutting corners instead of building a permanent structure, and using portables as a stopgap that never stops being a stopgap.

Mr. Janish stated it is an option for the Planning and Zoning Commission to put a condition in the amendment stating a daycare can operate within the building, however cannot operate in a portable classroom.

Commissioner Loehlein stated he agrees with the Chair's concern and supports the condition to allow a daycare in the main building but not in a portable.

Commissioner Volkenant withdrew his motion and Commissioner Godfrey agreed. Motion withdrawn.

Commissioner Volkenant stated he would like the term "within" a school or religious institution to mean the operation must be in the main building and not in a subordinate structure.

Chairperson Koehler stated the Commission can make a recommendation to allow daycares within schools and religious institutions and ask staff to craft language that restricts it to the building and to not allow it in portable classrooms. Mr. Janish stated the Chair is correct.

Motion by Volkenant, seconded by Loehlein, to recommend approval of an amendment to City Code Title 12: Zoning Regulations, Chapter 12: Residential Permitted Accessory, Conditional, Interim, and Prohibited Uses with language that prohibits daycare in portable classrooms.

Further discussion:

Commissioner Hudson stated the motion is saying a private daycare cannot be in a subordinate structure. He asked what is to stop a church from putting a daycare in the main facility and requesting a subordinate structure for other programming. Chairperson Koehler stated they could, but it would come before the Planning and Zoning Commission for review. Commissioner Hudson stated he would like language that prohibits a daycare from triggering the need for a subordinate structure.

Commissioner Godfrey stated the City Code identifies subordinate structures as a permitted use that requires an Interim Use Permit which would make the language suggested by Commissioner Hudson unnecessary as the process is already triggered.

Commissioner Volkenant stated he supports the suggestion by Commissioner Hudson and feels it is more comprehensive than what he proposed.

Mr. Janish indicated the concern of Commissioner Hudson is a separate topic requiring staff to look at the subordinate structure language and make modifications that will ask if the need is due to a daycare facility being operated in the main structure.

Chairperson Koehler suggested this item be added to a workshop for discussion. Mr. Janish stated staff can bring this item to the Commission for review at the March 23 workshop.

Motion was taken by roll call:

Godfrey - aye

Hudson - aye

Koehler - aye

VanderLaan - aye

Volkenant – aye

Loehlein – aye

Elias - aye

Motion carries unanimously.

This item will go to City Council on March 16, 2021.

OTHER BUSINESS

Mr. Janish stated the City sent the Comprehensive Plan Amendment about banking density to the Met Council and they deemed it incomplete. The Met Council asked for a map that shows where these units would be transferred to and from, and staff felt the information was already provided. He explained staff has asked for guidance from the Met Council on how to move forward. Mr. Janish said the City has several Comprehensive Plan Amendments submitted to the Met Council.

Mr. Griffiths stated there will be a Planning and Zoning Commission workshop on March 23, 2021 at 7 p.m.

Chairperson Koehler asked if the Commission would discuss an IUP rather than a CUP for building a home at that same workshop. Mr. Griffiths replied that item will be discussed during the winter months when the Commission has fewer items on the agenda.

Commissioner Godfrey asked for the number of building permits issued year-to-date. Mr. Griffiths replied there are 14 as of today.

Commissioner Volkenant wished Chairperson Koehler a happy birthday.

Chairperson Koehler wished anyone who celebrates it, a Happy St. Patrick's Day.

ADJOURNMENT

Motion by Godfrey, seconded by Hudson, to adjourn the meeting at 8:12 p.m. Motion was taken by roll call:

Godfrey - aye

Hudson - aye

Koehler - aye

VanderLaan - aye

Volkenant – aye

Loehlein – aye

Elias - aye

Motion carries unanimously.

Respectfully Submitted,

Shari Kunza, Recording Secretary
TimeSaver Off Site Secretarial, Inc.