



City Planning Commission
City of Cedar Rapids
101 First Street SE
Cedar Rapids, IA 52401
Telephone: (319) 286-5041

MINUTES
CITY PLANNING COMMISSION REGULAR MEETING,
Thursday, January 31, 2013 @ 3:00 p.m.

Cedar Rapids City Hall Council Chambers, 101 First Street SE

Members Present: Scott Overland, Chair
Jim Halverson, Vice – Chair
Scott Friauf
Allan Thoms (Via Phone)
Mike Tertinger
Carletta Knox-Seymour
Virginia Wilts
Laura Seaton

Members Absent: Gloria Frost

CD Staff: Vern Zakostelecky, Planner
Brad Larson, Planner
Alicia Abernathy, Administrative Assistant

The meeting was called to order at 3:02 p.m.

Opening statements were presented stating the protocol of the meeting and the purpose of the City Planning Commission.

Roll call was answered with eight (8) Commissioners present and one (1) absent.

Commissioner Overland stated Commissioners have received the minutes from January 10, 2013 and called for additions or corrections. Commissioner Overland stated with no additions or corrections, the minutes from January 10, 2013 stand approved.

Commissioner Overland stated there was a request to move regular agenda item #3, 820 Wiley Boulevard NW, to the #2 spot for discussion.

Commissioner Overland called for a motion to approve the agenda. Commissioner Friauf made a motion to approve the agenda. Commissioner Halverson seconded the motion. The motion passed unanimously with none opposed.

REGULAR AGENDA

1. Case Name: 1257 3rd Avenue SE (Conditional Use) Case No. COND-000686-2012; Case Manager: Vern Zakostelecky

Recommendation for approval of a Conditional Use for a crisis counseling center for homeless families in a RMF-2, Multiple Family Residence Zone District for property at 1257 3rd Avenue SE as requested by Knapp Warden, LLC (Applicant) and Westminster Presbyterian Church (Titleholder).

Vern Zakostelecky, Community Development, stated this request is for a Conditional Use at 1257 3rd Avenue SE. The property contains a house owned by the Westminster Presbyterian Church that would be converted to a crisis counseling center for homeless families. The lot is 5,600 sq ft with the building area at 1,462 sq ft. The applicant is proposing to use the Church parking lot to provide parking. There would be no storm water management requirements as there are no changes proposed for the site. Screening is provided along the north and west boundaries of the site next to residential properties. Mr. Zakostelecky presented an aerial photo, zoning map and site plan for the property.

Commissioner Overland called for questions of Mr. Zakostelecky. Commissioner Thoms stated the staff report states there would be screening with a wooden fence along the west and north of the property. Mr. Zakostelecky stated the screening is a requirement based on the use, to screen from the neighboring residential properties but the screening is currently not in place. Commissioner Thoms stated the staff report, under #7, states screening is not required. Mr. Zakostelecky stated screening will be required for the property.

Commissioner Overland called for a representative of the applicant. Stefanie Munsterman-Robinson, Board President of Family Promise Linn County (LPLC), stated LPLC serves families with children who are homeless. LPLC would use the property for homeless families to come during the day, 7 a.m. to 5 p.m., for training, education, use of computers, etc. LPLC is a big organization that is backed up by 15 congregations in the community who are doing the volunteer work. Ms. Munsterman-Robinson stated it is important to remember the program is volunteer-based and serves the families who are in need in the community.

Commissioner Overland called for questions of the applicant. No questions were presented.

Commissioner Overland called for members of the public who wished to speak. No member of the public wished to speak.

Commissioner Overland called for a motion to approve the Conditional Use. Commissioner Thoms made a motion to approve the Conditional Use request for a crisis counseling center for homeless families in a RMF-2, Multiple Family Residence Zone District for property at 1257 3rd Avenue SE. Commissioner Friauf seconded the motion.

Commissioner Overland called for discussion on the motion. No discussion was presented. The motion passed unanimously with none opposed.

3. **Case Name: 820 Wiley Boulevard NW (FLUMA and Rezoning) Case No. FLUMA-000274-2012 and RZNE-000275-2012; Case Manager: Vern Zakostelecky**

- a) Request for an amendment to the Future Land Use Map in the City's Comprehensive Plan from Low Density Residential to Industrial as requested by Robert and Penny Brecke (Applicants/Titleholders).
FLUMA-000274-2012
- b) Recommendation for approval of a rezoning from R-2, Single Family Residence Zone District to I-1, Light Industrial Zone District as requested by Robert and Penny Brecke (Applicants/Titleholders).
RZNE-000275-2012

Mr. Zakostelecky stated this is a two-part application with an amendment to the Future Land Use Map from Low Density Residential to Industrial and a rezoning from R-2 to I-1. The property is located at the northwest corner of the intersection of Wiley Boulevard and F Avenue NW. The property owners, Robert and Penny Brecke, would like to build an accessory building on the lot that would be used for personal use and somewhat for their business on the other side of Wiley Boulevard. The site would also have paved parking to provide for overflow parking from their existing business. The property is .62 acres and the proposed building would be 3,000 sq ft. The case went to the Board of Adjustment and two variances were granted. Mr. Zakostelecky presented a zoning map, aerial photo, site plan, floor plan and pictures of the proposed building. Mr. Zakostelecky pointed out City staff struggled with putting industrial on this corner and one resident had concerns with the rezoning. From staff's perspective, because the other corners of the intersection are industrial, it was not as troublesome in decision making as it would have been if the corners were residential.

Commissioner Overland called for questions of Mr. Zakostelecky. Commissioner Thoms asked if the rezoning had to be I-1 to get the personal storage building and parking. Mr. Zakostelecky stated the applicant wants to have the parking for the existing use across the street therefore the rezoning needed to be something other than residential. The property could be a C-3 with a conditional use for a contractor shop but staff was less comfortable with a C-3 zoning because if the Brecke business went away a bar or a more intense use could be there. If the applicant sold the property, the new property owner would have to confine activities to inside the building so the I-2 made more sense than C-3.

Commissioner Overland called for a representative of the applicant. Josh Entler, Hall & Hall Engineers, stated Mr. Brecke is willing to accommodate any conditions and deed restrictions for the property. Mr. Entler presented maps and photos and reiterated staff comments.

Commissioner Overland called for questions of the applicant. Commissioner Tertinger asked if the landscaping, including the trees, shown on the site plan were accurate. Mr. Entler stated landscaping variances were received and the trees on the plan would not be included. Commissioner Knox-Seymour read a statement from the staff report and asked for clarification. Mr. Entler stated a neighborhood meeting was held on November 27, 2012 and it would not be too jarring of a change because an industrial facility is not being developed on the property. One complaint was received and Hall & Hall staff reached out to the person to inform them of the intent of the development. Commissioner Thoms asked if the neighbors were made aware that

this development can go away and industrial uses could go in. Mr. Entler stated it was made clear and this is why Mr. Brecke has agreed to accommodate conditions and deed restrictions.

Commissioner Overland called for members of the public who wished to speak. No member of the public wished to speak.

Commissioner Overland called for a motion to approve the Future Land Use Map Amendment. Commissioner Friauf made a motion to approve the amendment to the Future Land Use Map in the City's Comprehensive Plan from Low Density Residential to Industrial. Commissioner Halverson seconded the motion.

Commissioner Overland called for discussion on the motion. Commissioner Halverson asked if this property of .62 acres would be the only property zoned I-1 and if the property next door was being rezoned as well. Mr. Zakostecky stated the property would be the only one zoned I-1 and the residential property next door will remain residential. Commissioner Thoms stated he has concerns with making this property Light Industrial and asked what restrictions could be placed on the property. Mr. Zakostecky stated one of the things that could be done is placing a condition on the property that if the use were to change from the proposed use the owner would have to implement the full screening requirements. There could also be a restriction that there is no outdoor storage or no outdoor activities.

Commissioner Seaton stated she is concerned with the parking situation and asked if conditions could be added in regard to the parking lot. Mr. Zakostecky stated there could be a deed restriction that would restrict the size of vehicles in the parking lot. Commissioner Seaton stated she would like to add a deed restriction for parking. Mr. Entler stated the applicant would be accepting of the restrictions mentioned.

Commissioner Friauf stated if the proposed property use changes or becomes a different owner the landscape buffering requirements would have to be put in place by the seller of the property. Also, the parking restriction would be limited to $\frac{3}{4}$ ton vehicles or less for no more than 48 hours. Mr. Zakostecky suggested instead of saying by the seller it would be prior to a temporary or final certificate of occupancy for change of use. Commissioner Friauf agreed to the change. Commissioner Seaton asked if a future owner were to remove the building would there be anything to prevent the new owner from building a larger structure. Mr. Zakostecky stated they would have to return through a preliminary site plan process. Commissioner Halverson stated he raised the question about the size of zoning because over $\frac{1}{2}$ acre limits ability to expand by way of an industrial use so in some degree there are already restrictions. Mr. Zakostecky stated staff looked at this as well and the applicant would have to provide storm water management and to put much more on the site would be very difficult.

Commissioner Tertinger asked if there could be any deed restrictions that would limit the next use, should Brecke sell the property. Mr. Zakostecky stated the deed restrictions address things that can be done to the site to minimize the impacts of the industrial use.

Commissioner Overland stated there was a motion and second along with conditions that were attached to the motion and called for a vote on the motion. The motion passed unanimously with none opposed.

Commissioner Overland called for a motion to approve the rezoning. Commissioner Halverson made a motion to approve the rezoning from R-2, Single Family Residence Zone District to I-1, Light Industrial Zone District with the same conditions as the Future Land Use Map Amendment. Commissioner Knox-Seymour seconded the motion.

Commissioner Overland called for discussion on the motion. No discussion was presented. The motion passed unanimously with none opposed.

2. Case Name: 2200 C Street SW (Conditional Use) Case No. COND-000239-2012; Case Manager: Vern Zakostelecky

Recommendation for approval of a telecommunications tower in an R-2, Single Family Residence Zone District for property at 2200 C Street SW as requested by Cedar Rapids Cellular Telephone L.P. (Applicant) and Czech National Cemetery Association of Cedar Rapids (Titleholder).

Mr. Zakostelecky stated this is a conditional use request in a residential zone district, where cemeteries are allowed as a permitted use, to construct a 120 ft monopole communication tower for cell phone service. The proposed site is in the Czech National Cemetery between C Street and Wilson Avenue SW, east of Bowling Street. Numerous letters were received from objectors and proponents and a neighborhood meeting was held on January 23, 2013 to get neighborhood input. At the neighborhood meeting the following issues and concerns were mentioned:

- The use is not appropriate for a cemetery.
- There are better locations in the area for the proposed tower.
- The tower is not compatible with the surrounding neighborhood.
- The cemetery may be eligible as a historic property & the tower is not appropriate.
- Eben Israel Cemetery representatives do not want tower visible from their property.

Mr. Zakostelecky presented an aerial photo, zoning map, site plan, elevations, photos of the proposed tower and proposed fencing.

Commissioner Overland called for questions of Mr. Zakostelecky. Commissioner Tertinger asked if this would be the first cell tower in a Cedar Rapids cemetery. Mr. Zakostelecky stated there are currently no cell towers in Cedar Rapids cemeteries but there was a pre-application review for a cell tower to go in the Cedar Memorial Cemetery. Commissioner Tertinger asked if research was done to show if cell towers are appearing in cemeteries around the country. Mr. Zakostelecky stated staff did not research this but the applicant can provide information on where other cell towers are located.

Commissioner Overland called for a representative of the applicant. Julie Shebek, First American Site Acquisition, stated she does site acquisition work for U.S. Cellular and introduced Mike Kempin, U.S. Cellular Engineer; and Kevin Haines, U.S. Cellular Project Manager. Ms. Shebek stated the purpose of the cell tower is to improve the in-building and capacity in a residential zoned area to allow customers to be able to use their phones. A 60 by 60 ft area would be leased for the cell tower and there would be a 125 ft fall zone surrounding the tower. The proposed fence and landscaping surrounding the tower were proposed to be aesthetically pleasing and meet the ordinance requirements. Ms. Shebek addressed a map of Cedar Rapids pointing out the orange dot is the proposed cell tower and the yellow dots are other sites that were considered for

the cell tower. Not all property owners were contacted and three components were considered when determining the site for the tower. The three components include a willing land owner, whether the site meets the goals and objectives from the engineer and whether it complies with the City ordinances. The cemetery was chosen because it works for all three components.

Commissioner Overland called for questions of the applicant. The following questions were asked by commission members and were answered by Ms. Shebek, Mr. Kempin and Mr. Haines:

- Will the cell tower provide a stronger signal?
 - Yes, it will provide a stronger signal in brick, stone, metal buildings or in basements.
- Will the cell tower emit noise?
 - There is no noise from the tower and there will be no use of a generator at this time.
- Will other companies be able to use the cell tower?
 - Yes, the tower would be built for other companies to use as well.
- If other companies used the tower would their equipment be in the fenced area?
 - Yes, as part of the ordinance it would be required to be in a fenced area.
- What is the diameter of the tower?
 - A typical tower is 30 inches in diameter at the base and the top would be approximately 20 inches in diameter.
- How far down from the top of tower would another carrier's antenna be?
 - 10 ft is a common separation distance between antennas to ensure they do not interfere with one another.
- Is there a way to camouflage the tower or make it more appealing to the eye?
 - The antennas can be tight to the pole to help reduce the visual impact. Also, the use of a grey pole will blend in when the sky has overcasts.
- Towers can be painted as pine trees or clock towers to blend in to backgrounds, was anything like this considered for this tower?
 - It is a possibility, but a 120 ft pine tree might look out of scale.
- Would it be possible to have an internal antenna?
 - The antennas can be on the inside and make the tower appear more like a flag pole but this would require a man lift when needing any adjustments to the tower. This is an option that can be considered.
- Why not put the tower at Jones Park?
 - Jones Park was considered but the City of Cedar Rapids denied the request.
- Why does the fall zone have a 125 ft setback?
 - The ordinance requires a 60 ft fall zone but to be safe rather than sorry this tower will have a 125 ft fall zone.
- Should technology change and the tower is no longer necessary, who is responsible for removing the tower?
 - The City has communications regulations and provisions for removal that lay out a number of days the tower needs to be removed. The condition is also in the lease with the cemetery the tower will be removed within 30 days of no longer being necessary.
- How long is the lease between the cemetery and U.S. Cellular for the tower?
 - It would be a 30 years lease.
- If the cemetery was deemed a local landmark district, would cell towers be allowed?
 - The State Historic Preservation office was notified of the proposed plan and after research was completed, approval was granted.

Commissioner Overland asked Mr. Zakostecky why the City of Cedar Rapids said no to the placement of a cell tower in Jones Park. Mr. Zakostecky stated he does not have an answer and would have to check with the Parks and Recreation Department. Commissioner Wilts asked if restrictions can be put on so no other companies may place their antennas on the tower. Mr. Zakostecky stated based on the City Zoning Ordinance it would not be allowed as the code was designed to prevent multiple towers in close proximity.

Commissioner Overland stated 30-40 letters were received both for and against the project. Commissioner Overland pointed out that regardless of the decision made the case will go to the Board of Adjustment. Commissioner Overland called for members of the public who wished to speak.

The following members of the public spoke and addressed concerns with the project:
Al Aossey, Teri Petrazalek, 2335 E Avenue NE; Chuck Nedal, 2566 Ivanhoe Road; Craig Spear, 4927 Ellis Road NW; Steven Vosatka, 3050 Wilson Avenue SW; Brian Cohen, 125 Broughten Road, Robins.

Comments and concerns heard are as follows:

- The cemetery land is sacred land similar to Indian Burial Grounds.
- The cemetery could use the extra income to help maintain the cemetery.
- If the tower is allowed, the landscaping needs to address all four sides of the tower.
- The drawings provided by U.S. cellular outline a generator when the representatives of U.S. Cellular said there will be no generator.
- The drawings show the diameter of the cell. tower as 60 inches and the representatives said it would be 30 inches in diameter.
- The representatives said there is a neighborhood hole for coverage but on the U.S. Cellular site it shows the area as green showing there is coverage.
- The drawings show grave sites within the fall zone.
- The construction of the tower could damage grave sites.
- A cell tower in a cemetery is inappropriate and distasteful.
- Putting a cell tower in the cemetery is a win-win for the cemetery, City & neighborhood.
- This site is the least intrusive site on the SW side.
- The cemetery is a historic landmark not to be degraded by placing an industrial tower in the middle of it.
- It would be a disaster if the tower were to collapse on grave sites.
- There are radiation hazards from cell towers.
- The Eben Israel Cemetery is less than 500 ft away from the tower and is holy ground.

Commissioner Halverson asked what the consequences would be for not building a tower in this area. Mr. Kempin stated the consequences of not building the cell tower include not having good indoor coverage or 911 coverage. Calls can be made in the area but there is weak coverage and calls are delayed.

Ms. Shebek addressed some of the comments made by members of the public stating the drawings show a proposed generator and explained the drawings are templates and should not have contained a generator. There are no plans proposed including a generator. Ms. Shebek

explained there is an entrance off Wilson Avenue that would be a direct route to the cell tower placement area. There are no intentions of cutting trees down for the placement of the cell tower.

Commissioner Knox-Seymour asked Ms. Shebek to address whether or not grave sites are in the fall zone. Ms. Shebek apologized and stated there are a few grave sites in the northeast corner of the 125 ft fall zone and the zoning ordinance only requires a 60 ft fall zone. Ms. Shebek added the towers are designed to have a weak point that would cause the towers to collapse within themselves rather than falling over like a tree.

Commissioner Seaton made a motion to deny the Conditional Use request for a telecommunications tower in an R-2; Single Family Residence Zone District for property at 2200 C Street SW. Commissioner Tertinger seconded the motion.

Commissioner Overland called for discussion on the motion. Commissioner Seaton stated she was prepared to consider the flag pole design and the intended design is unacceptable for the space. Commissioner Seaton emphasized appreciation to Ms. Petrazalek and Mr. Cohen for their work to show the tower in scale and what their view would be when visiting the cemeteries. The comments from the public helped in the convincing that the flag pole design is not appropriate either. Commissioner Seaton stated she is not convinced this cell tower is necessary.

Commissioner Friauf stated he hopes the cemetery was not mislead because this is set up for at least four carriers and when looking at the 60 by 60 ft fence there is obvious room for expansion. Also, there is no guarantee a generator will not be put in. The tower will be constructed and after a while more carriers will be coming to add their antennas and over the next 30 years there will be people entering the cemetery for repairs. U.S. Cellular should go back to the City of Cedar Rapids and place a cell tower in Jones Park.

Commissioner Knox-Seymour stated she is in the area and experiences problems with reception. There are other places in the area that could allow a cell tower. Commissioner Wilts stated this is a way of having some extra income for the cemetery and the tower is necessary in the area because there are a number of people that need the service. If the cemetery is considered a national cemetery then it needs to be taken care of in the proper fashion.

Commissioner Tertinger stated there is no absolute necessity of this location and U.S. Cellular did not go out of their way to find any other spots other than the cemetery. The design of the tower is horrific for placement in the cemetery and is not appropriate. Commissioner Thoms stated the Czech National Cemetery agreed to the tower and the commission should take this into consideration to this because they run the cemetery, however, the adjacent properties are not in favor. As technology and mankind change there are different things that need to be taken into consideration. Commissioner Thoms stated he was not satisfied with the response the commission received regarding the noise that would come from the tower. With the addition of three or four other carriers it would create a lot of maintenance and commercial use in the cemetery.

Commissioner Overland stated he would echo many things heard while personally not against using the cemetery for this purpose and respects those who feel otherwise. This is not the right location as it is very prominent in the cemetery and it should be somewhere out of the way and ongoing maintenance will not disturb anyone.

Commissioner Overland called for a vote on the motion. The motion passed with a vote of seven (7) to one (1).

OLD BUSINESS

1. Case Name: 1430 2nd Avenue SE (Rezoning) Case No. 91-12-028; Case Manager: Vern Zakostelecky

Recommendation for approval of a rezoning from O-S, Office/Service Zone District to R-2, Single Family Residence Zone District as requested by WDJ Investments, LLC. (Applicant/Titleholder).

Mr. Zakostelecky stated this is a rezoning request that came before the commission in late 2012 where the commission unanimously recommended approval. The request was to rezone the property from O-S to RMF-2, which is consistent with the zoning on either side. This property was zoned O-S and was used as an office building and the property owner would like to convert the property back to a single-family use. On November 27, 2012 City Council held a public hearing where staff presented the basic information and CPC recommendation. City Council expressed the following concerns:

- Wellington Heights Neighborhood Association objected to multi-family zoning since the intended use of the property is single-family.
- The R-2 Zoning District is consistent with neighboring properties of similar size, character and use and is the appropriate density for the area.
- The property could not be used for multi-family residential without going back through a rezoning process.

Mr. Zakostelecky stated there are no physical changes proposed for the property. An aerial photo and location map were presented pointing out the property and neighboring properties. City Council asked staff to work with the property owner to see if they were willing to rezone to single family rather than multi-family. The property owner was willing to rezone to single-family and because the commission previously gave a recommendation for multi-family, City Council needs a new recommendation.

Commissioner Overland called for questions of Mr. Zakostelecky. Commissioner Thoms asked for clarification as the staff report states RMF-2 and discussion was for R-2. Mr. Zakostelecky clarified the request is to rezone to R-2.

Commissioner Overland called for a representative of the applicant. Jeff Frese, WDJ Investments, stated the property was purchased because WDJ Investments own the apartment complex next door. There have been issues seen in the neighborhood and it was purchased so the quality could be maintained. There have been concerns about multi-family but the property will be rented out as a single-family residence.

Commissioner Overland called for questions of the applicant. No questions were presented. Commissioner Overland called for members of the public who wished to speak. No member of the public wished to speak.

Commissioner Overland called for a motion to approve the rezoning. Commissioner Thoms made a motion to approve the rezoning from O-S, Office/Service Zone District to R-2, Single Family Residence Zone District. Commissioner Knox-Seymour seconded the motion. Commissioner Overland called for discussion on the motion. No discussion was presented. The motion passed unanimously with none opposed.

NEW BUSINESS

1. Amendments to Chapter 32 of the Municipal Code, the Zoning Ordinance to revise Core Area parking regulations as recommended by the City Council Development Committee.

Mr. Zakostecky stated this has been ongoing since early 2012 and City Council has asked City staff to look at parking regulations. The regulations have been broken into three phases with one identifying thing that need to be changed based on current trends and specific uses. Phase I is now complete and staff has moved into the second phase. The phase includes looking at core area parking and parking for established overlay districts. This went before the Development Committee on May 29, 2012 and July 10, 2012 and gave staff the go ahead to start drafting language and work with the development community to get buy-in on the proposed changes. Mr. Zakostecky went through 11 recommended amendments to parking regulations.

Commissioner Overland called for questions of Mr. Zakostecky. Commissioner Seaton stated No. 8 and 10 are not based on a percentage and there should be a limit. Commissioner Knox-Seymour asked if the parking regulations will work when the one way streets downtown are converted to two way streets. Mr. Zakostecky stated it would have a favorable impact on businesses on those streets.

Doug Laird, 411 1st Avenue, stated there is support for the parking regulation changes. This is something that has been worked on for years and the changes are flexible.

Commissioner Overland called for a motion to approve the amendments. Commissioner Halverson made a motion to approve the amendments to Chapter 32 to revise Core Area parking regulations. Commissioner Seaton seconded the motion. Commissioner Overland called for discussion on the motion. No discussion was presented. The motion passed unanimously with none opposed.

2. Amendment to Chapter 32 of the Municipal Code, the Zoning Ordinance to make Delayed Deposit Service Uses (commonly known as “payday lenders”) a conditional use in the C-2, Community Commercial Zone District and requiring a distance separation of 1,000 feet between Delayed Deposit Service Uses and other certain protected uses.

Mr. Zakostecky stated staff was approached by neighborhood leaders last fall regarding increasing regulations for businesses that cause health and financial problems for area residences. One of the types of businesses is payday lenders that may charge triple digit annual rates on loans and trap people into repeat borrowing cycles and increasing their debt. The City of Cedar Rapids currently has no restrictions against payday lenders but other Iowa cities do. The cities include Iowa City, Des Moines, West Des Moines, Ames and Clive. Mr. Zakostecky presented map showing the existing payday lenders located in Cedar Rapids.

Mr. Zakostecky stated staff is recommending a distance separation of 1,000 ft from any child care center, educational facility, park or recreational facility, religious institution, or other delayed deposit service use. Staff is also recommending the use be limited to specific commercial or industrial zones as a conditional use.

Commissioner Thoms stated this is a legal business licensed by the State of Iowa and regulated by the State of Iowa. The distance separation makes it seem as if the business is illegal and the people that use the business are criminals. Commissioner Thoms stated he would agree to limit the business to commercial or industrial zones but the distance separation makes it seem as if the business is a predator. Commissioner Seaton stated there are almost no places outside the 1,000 ft separation distance to build and this may not be a Chapter 32 issue.

Commissioner Friauf stated this is a legal business and payday lenders would argue they are there to help people not hurt them. Commissioner Friauf stated he cannot agree with putting this kind of a restriction on payday lenders. Commissioner Wilts asked if existing payday lenders would be grandfathered in because then this process is null and void. Commissioner Knox-Seymour stated she agrees with the other commissioners but there are many problems brought on by these kinds of institutions. It is up to individuals to decide what to buy and what not to buy.

Mr. Zakostecky stated there are two parts to this request and one is to allow these types of uses as a conditional use in only the C-2 zoning district and the second part is the separation distance. Commissioner Overland stated the easiest thing to do is to limit the payday lenders to the C-2 zoning and forget the separation distance. Commissioner Overland asked if there were a lot of payday lenders not currently in C-2 zoning districts. Mr. Zakostecky stated he believes C-2 and C-3 are the primary zoning districts payday lenders are in. Commissioner Thoms asked how this would limit the payday lenders. Mr. Zakostecky stated that is a good question and the question becomes whether or not to make the code retroactive and give a time period for payday lenders to become in compliance. The City used this process when adopting the adult entertainment regulations. Commissioner Thoms stated unless a criminal element is identified the payday lenders are used to help people. Commissioner Seaton stated it does not matter whether payday lenders help people or not and the fact the debate is taking place shows this does not belong in Chapter 32.

Mr. Zakostecky asked the commission to vote on the two recommendations separately. Commissioner Thoms stated the language used is the issue. Commissioner Friauf recommended staff rethink the issue and come back to CPC with a new recommendation. Commissioner Tertinger stated this is basically asking the City Council to put these on par with the adult entertainment establishments. Mr. Zakostecky stated this is consistent with best practices research done on other cities. Commissioner Tertinger stated if the City wants to ban payday lenders they need to just ban them. Mr. Zakostecky stated when looking at payday lenders in the area a lot of them have other businesses associated with them, such as pawn shops. Commissioner Overland asked if there was a problem with payday lenders in Cedar Rapids. Mr. Zakostecky stated neighborhood leaders asked the City to take a look at this because they felt there was an issue.

Commissioner Friauf asked staff to bring CPC a new proposal. Mr. Zakostecky asked what changes the CPC would consider. Commissioner Thoms asked for staff to bring back a change in zoning. Commissioner Knox-Seymour stated having lived in areas where people are depressed financially, they need these institutions. People may be getting ripped off but it is not for CPC to

work out. Commissioner Thoms suggested keeping payday lenders to a certain zoning. Commissioner Seaton stated that does not accomplish anything because there is still an issue of arbitrarily picking on one type of business. Mr. Zakostecky stated it would not be picking on them because it is only outlining what zoning districts they can be in. This is done for all kinds of uses. Commissioner Seaton stated this is similar to cities requiring fast food restaurants not to be in low income areas. This is saying the City is deciding what is good for you and what is not good for you. Commissioner Seaton stated when talking about adult entertainment there is more logic as to why it cannot be near a child care center but in this case it seems this is because the business is not liked. When making a planning decision the CPC should be very thoughtful as to the reason behind the decision.

Commissioner Thoms made a motion to refer the recommendation of payday lenders back to staff for reconsideration. Commissioner Friauf seconded the motion. The motion passed unanimously with none opposed.

The meeting was adjourned at 6:00 p.m.

Respectfully Submitted,

Alicia Abernathey, Administrative Assistant II
Community Development