

ZONING BOARD OF APPEALS

Tuesday, June 17, 2008
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

ZBA Members: Alice Howard
William Orr
Julio Salgado
Alicia DiBenedetto
Craig Sockwell

Absent: Scott Sanders
Dan Roszkowski

Staff: Todd Cagnoni – Manager of Current Planning
Sandra Hawthorne – Administrative Assistant
Kerry Partridge – City Attorney, Zoning Board of Appeals
Frank Schmitt – Chief, Fire Prevention Division
Reid Montgomery – Director, Community and Economic Development
Rob Lamb – Manager of Industrial Development

Others: Alderman Lenny Jacobson
Kathy Berg, Stenographer
Applicants and Interested Parties

The meeting started at 7:05 P.M. A **MOTION** was made by William Orr to **APPROVE** the minutes of the May 20, 2008 meeting as submitted. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 5-0 with Dan Roszkowski and Scott Sanders absent.

004-08 **175 Executive Parkway**
Applicant First Rockford Group
Ward 1 **Variation** to increase maximum freestanding business sign height to 30 feet
 Variation to increase sign area to 320 square feet in the C-2,
 Commercial Community District
 Laid Over from February, March, April & May meetings

Prior to the meeting, a request was received from the Applicant to Lay Over this item to the July 15th meeting.

The Board agreed to Lay Over this item one more time to the July meeting, but indicated that this application could not be laid over any further.

A **MOTION** was made by William Orr to **LAY OVER** the Variation to increase maximum freestanding business sign height to 30 feet; and to **LAY OVER** the Variation to increase sign area to 320 square feet in a C-2, Commercial Community District at 175 Executive Parkway for one additional month only. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 5-0.

023-08 **47XX South Main Street**
Applicant Pastor Brad Hampton / Faith Center
Ward 5 **Zoning Map Amendment** from I-1, Light Industrial District to
 C-3, General Commercial District
 Laid Over from May meeting

Prior to the meeting, a request was received from the Applicant to Lay Over this item to the July 15th meeting.

A **MOTION** was made by William Orr to **LAY OVER** the request for Zoning Map Amendment from I-1, Light Industrial District to C-3, General Commercial District at 47XX South Main Street. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 6-0.

024-08 **4871 East State Street**
Applicant Cheryl Saladino
Ward 14 **Zoning Map Amendment** from C-2, Limited Commercial Zoning District to C-3, General Commercial Zoning District
Special Use Permit for a Sexually-Oriented Business of bookstore and video store including retail sales of videos, toys, skin care products, and lingerie
Special Use Permit for a Sexually-Oriented Business of nude modeling in a C-3, General Commercial Zoning District
Laid Over from May meeting

Prior to the meeting, a request was received from the Applicant to Lay Over this item to the July 15th meeting.

A **MOTION** was made by William Orr to **LAY OVER** the request for Zoning Map Amendment from C-2, Limited Commercial Zoning District to C-3, General Commercial Zoning District; **LAY OVER** the request for Special Use Permit for a Sexually-Oriented Business of bookstore and video store including retail sales of videos, toys, skin care products, and lingerie; and to **LAY OVER** the request for Special Use Permit for a Sexually-Oriented Business of nude modeling in a C-3, General Commercial at 4871 East State Street. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 5-0.

027-08 **66XX East State Street**
Applicant Rockford Crossings Outlot, L.L.C.
Ward 1 **Variation** to reduce the west side yard setback from six feet to zero feet in a C-2, Limited Commercial District

The subject property is located in the Rockford Crossing shopping center between Target and Old Navy stores. Steven St.Peter, Rubloff Development, reviewed the request. He explained a Variation for the same request was approved for this property in February, 2003, but construction never took place. The current request is for a 16,745 square foot building, which is smaller than the building previously approved.

Staff Recommendation was for Approval with two conditions. No Objectors were present.

A **MOTION** was made by William Orr to **APPROVE** the Variation to reduce the west side yard setback from six feet to zero feet in a C-2, Limited Commercial District at 66XX East State Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Submittal of elevation plans for staff review and approval.
2. Compliance with all applicable building and fire codes.

ZBA 027-08
Findings of Fact for a Variation
To Reduce the West Side Yard Setback from Six Feet to Zero Feet
In a C-2, Limited Commercial District at
66XX East State Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property but to develop a vacant lot.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

028-08 **33XX-43XX Southbend; 43XX-45XX Condon Road;**
86XX-89XX Friday Road; 43XX-45XX Edson Road

Applicant Yvonne Wolfenberger
Ward **Pre-Annexation Agreement and Zoning Map Amendment** from County AG to City I-2,
 General Industrial District

This property consists of 18 parcels located southwest of the City of Rockford airport area, and is 883 plus acres. The property is not contiguous at this time. The Applicant is petitioning for a Pre-Annexation Agreement and Zoning Map Amendment to City I-2. James Stoddard, Attorney representing the Applicant, reviewed the request. This property would be annexed to the City when it becomes contiguous. He noted the year 2020 Plan designates this area to be Light Industrial. This agreement assures Rockford that this property would be annexed when applicable. Mr. Sockwell asked Attorney Stoddard to verify that there was no proposed use for this property at this time. Attorney Stoddard responded there are no specific plans at this time but that there are a lot of opportunities because of proximity to the airport. He also pointed out there are restrictions written into the Pre-Annexation Agreement, which limit uses for this property. They would not be able to have waste related uses, hazardous materials disposal or storage, incinerators, liquid waste handling facilities, sanitary landfills, vehicle towing and storage as well as similar limitations.

Staff Recommendation was for Approval with 2 conditions. Objectors were present.

Alderman Lenny Jacobson expressed concerned that the 2020 Plan designates the area as Light Industrial, and this request is for a more intense use of General Industrial. He stated truck traffic would be too heavy for the existing roads. He expressed environmental concerns as well as a concern for the future use in an area this large. Alderman Jacobson stated his daughter lives in this area and also has these concerns.

Attorney Stoddard assured Alderman Jacobson that this property has never been looked at as a landfill use and that this type of use is restricted by the pre-annexation agreement. Whoever develops this property would have to comply with City ordinances. He further stated that he could say unequivocally that Rockford Blacktop is not looking to put in a gravel pit at this location.

The following Objectors were also present:

Melinda Jacobson & Vincent Schideman, 4403 Condon Road	Roger Hochstatter, 8448 Friday Road
Robert Hanna, 8353 Friday Road	Sharon Eldridge, 4549 Condon Road
Ron Honeyman, 7957 Wagon Wheel Lane	Peter MacKay, Rockford Township Highway
Jake Henry, 4125 Oak Lane Road	Michelle Zack, 4382 South Bend Road
Mark Haring, 8275 Friday Road	Michael & Norma Lager, 7891 Wagon Wheel Ln.
Ellen Rippon, 3678 South Bend Road	Deborah Griffin, 7974 Wagon Wheel Lane
George Serns, 7804 Wagonwheel Lane	Kathleen Shaw, 3761 South Bend Road
Deborah Wilson, 3675	Joe Johnson, 8299 Friday Road
Virginia Pehowski, 3957 South Bend Road	William Corrigan, 4397 Condon Road
Kay Schmidt, 8489 Friday Road	Pat Henry, 4125 Oak Lane Road
Larry Roop, 4433 Condon Road	Kurk Williams, 8392 Friday Road
Jon Mercer, 7933 Wagon Wheel Lane	Alice Jane Sieveking, 3437 South Bend Road
Robert Sieveking, 3437 South Bend Road	

Objectors expressed concern with the effect truck traffic would have on the roads, environmental issues, air quality, noise level, lighting, and the lose of a natural environment. Several of the area residents stated they have horses and most felt this large acreage should be kept as agriculture. There was a great deal of concern that there are no proposed uses being presented at this time for the property. It was stated that once this property is zoned as General Industrial, surrounding residents will have no control over what type of use is established. . Peter MacKay stated Light Industrial is designed to be compatible with residential areas, but General Industrial is not. Some Objectors were concerned that they would also be annexed into the City and questioned how the annexation of the proposed property would affect them. Residents were in agreement that this area has a natural environment of wildlife and nature that should be preserved rather than turned into Industrial use. Mr. & Mrs. Corrigan expressed they would have less concern with a proposed use of Light Industrial, but felt General Industrial was too heavy a use this close to residential. Deborah Griffin questioned whether Stillman School would still be an option if they were annexed into the City. William Corrigan stated Condon Road floods a couple of times a year and could not handle heavy traffic. He also stated there were too many "ifs" in this proposal that the surrounding neighborhood had no control over. There was a general concern of residents having to convert to City water if annexation occurred next to them. Mr. & Mrs. Sieveking stated their well is already tainted due to sludge dumping in the area and they are forced to drink bottled water. Sharon Eldridge also stated her well tested positive for chemicals when sludge dumping in the area occurred, and she has had health problems as a result. Several residents also pointed out that there are many empty industrial buildings throughout the City that could be better utilized by revitalization rather than sit as a vacant building.

In response, Attorney Stoddard pointed out that any development on this site will require soil studies prior to development. He explained to Ms. Griffin that school districts do not necessary follow the city lines and more than likely Stillman School would remain as their school. Regarding annexation and well issues, Mr. Cagnoni explained that when a property is developed, the subdivision process requires City water. However, for existing subdivisions, there is no immediate requirement to convert to City water upon annexation. This would depend on whether a water main is available in the area, and whether there is an existing well or a new well. Mr. Cagnoni also verified to all parties that the request before the Board this evening was for a Zoning Map Amendment only.

Interested Parties

Janyce Fadden, Rockford Area Economic Council. Ms. Fadden explained the Rockford Area Economic Council's function is to work with businesses to see what is necessary to help them grow and stay in this region. In 2006, a study was done by an outside party which determined this region needs a 500 acre industrial park. Communities around the City have had this happen for the same reason. Because most of the industrial buildings in Rockford were built before 1985, they are not useful to modern manufacturing methods and are unable to market. Ms. Fadden stated only 38 acres of industrial area in Rockford is "shovel ready". Industrial areas want to be with other industrial areas, i.e. Industrial Parks. The Greater Rockford Industrial Park is full. Most industrial parks in the area are full. The City has been exploring areas in which they can move forward.

Attorney Stoddard stated that Mr. Sieveking pointed out that there is an airport nearby as a change to the area. He added that this parcel is one of a kind able to utilize transportation facilities situated nearby.

Mr. Cagnoni wished to clarify some issues for the Board. He stated the City has prepared a report and recommendation supporting this project. Should Board approve this application, the project would move forward towards an industrial park on this property. When it comes to industrial uses in the area the City wants to be able to respond to both the industrial and employment needs of the city. He agreed that the existing roads are not suitable for industrial use as they are now, but as this development move forward roads will be improved. He assured that this industrial park will be of the highest of quality to create jobs and needs for the future.

Alice Howard pointed out that condition 2 does clarify that Staff would have to approve all tentative and final plats for development of this property.

Alicia DiBenedetto asked for clarification of industrial classification. Mr. Cagnoni explained the City has three classifications of industrial Districts. There is a continuation of some uses in all three districts. The major changes between the I-1 and I-2 District are land fills, outside storage, and the structure of permissibility of use. He further explained that manufacturing uses are an appropriate land use and consistent with the City's 2020 Plan.

William Orr stated that the land that now has homes built on it was also all agricultural land until it was developed, which indicates that progress has already taken place.

A **MOTION** was made by William Orr to **APPROVE** the Pre-Annexation Agreement and Zoning Map Amendment from County AG to City I-2, General Industrial District at 33XX-43XX Southbend; 43XX-45XX Condon Road; 86XX-89XX Friday Road; and 43XX-45XX Edson Road. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. The terms of the Pre-Annexation Agreement.
2. Submittal of a tentative and final plat for Staff review and approval.

ZBA 028-08
Findings of Fact for a Pre-Annexation Agreement
and Zoning Map Amendment
From County AG to City I-2, General Industrial District at
33XX-43XX Southbend; 43XX-45XX Condon Road
86XX-89XX Friday Road and 43XX-45XX Edson Road

Approval of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
 - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and its proximity to the Rockford Global Trade Park Redevelopment Planning area.
 - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
 - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood
2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as IL, Light Industrial.

029-08

Text Amendment

Applicant

City of Rockford Legal Department

Zoning Ordinance Text Amendment to Section 70-002 Office of Zoning Officer; 70-002-A Creation; 30-008-A. Pre-Application and 80-001-C. Repairs and Maintenance

Attorney Kerry Partridge reviewed the request. The proposed changes are a result of a Department reorganization. The Building Department will no longer be a stand-alone department – it will be contained within the newly created Construction and Development Services Division of the Department of Community and Economic Development under the direction of the Director. The purpose and intent of the proposed text amendment is to clarify and update the language contained within these subsections and be in accordance with the newly created Construction and Development Services Division. Prior to this change, the Zoning Office was part of the Planning Division.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Zoning Ordinance Text Amendment to Section 70-002 Office of Zoning Officer; 70-002-A Creation; 30-008-A. Pre-Application and 80-001.C. Repairs and Maintenance. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 5-0.

Revision to read as follows:

70-002 Office of Zoning Officer

- **70-002-A Creation:** The Office of the Zoning Officer is hereby created and shall be contained within the Construction and Development Services division ~~Planning Division~~ of the Department of Community and Economic Development. The Zoning Officer shall be either the Manager of the Construction Services Division or Manager of the Planning and Zoning Section of that division ~~the same person who is named Planning Coordinator of the Planning Division, pursuant to Section 2 414.1 of the Rockford Code of Ordinances~~, or such person delegated the authority by the zoning officer.

30-008 Procedure

- **30-008-A. Pre-Application:** Prior to filing of an application for the approval of a planned unit development/tentative plat, the applicant shall meet and consult with the zoning officer. The Zoning Officer will review the proposed planned unit development with staff of the Department of Public Works, ~~Building Department~~, Fire Department, and Department of Law. The city staff will provide written comments and recommendations to the applicant regarding any areas of concern. The applicant shall address these concerns either in writing or in overall design of the project. After receipt of written comments and input from the Zoning Officer the applicant may proceed with tentative plat review.

80-001 Statement

- **80-001-C. Repairs and Maintenance**
 1. Nonconformity's must be maintained in a safe and sound condition.
 2. Incidental repairs and normal maintenance necessary to keep nonconformity in sound condition are permitted unless otherwise expressly prohibited by this zoning ordinance.
 3. Nonconformity's may be restored or repaired to a safe condition in accordance with any order of the Rockford Building Department Code Official, except as otherwise provided in this ordinance.

030-08

Applicant
Ward 9

2852, 2860, 2844 and 2874 City View Drive

Bill & Dominique Rattner

Zoning Map Amendment from R-4, Multi-family Residential District to C-2, Limited Commercial District

Special Use Permit for a drive-thru coffee/fast food restaurant in a C-2, Limited Commercial District

The subject property is located on the north side of West Riverside Boulevard and 145 feet west of Eagle Drive and is currently vacant land. Kaycee Chadwick, Attorney; Ken Neusome, Realtor; and Bill Rattner, Applicant were present. Attorney Chadwick reviewed the requests. Mr. Rattner agreed to modify his request to C-1 zoning based on Staff Recommendation. The four lots total 1.73 acres. The Applicant is proposing retail use, a fast food restaurant and a coffee drive-thru. The drive-thru requires a Special Use Permit. There will be a shared access to City View Drive. Attorney Chadwick stated there are no specific tenants as yet. She explained surrounding zoning is multifamily, a gas station, and a bar/grill establishment.

Staff Recommendation was for Denial of the Zoning Map Amendment to C-2; approval of a Zoning Map Amendment to C-1, and Approval of the Special Use Permit with 4 conditions. One interested party was present.

Charles Barber, 1125 Key West Drive asked for clarification on the parcels involved. Mr. Cagnoni provided Mr. Barber with an Aerial designating the 4 parcels. Mr. Barber was also interested in what possible uses on this development would be. Mr. Neusome stated an Intermediate care facility has expressed interest, Family Video store, and possibly a Quizno's. Mr. Barber asked if the existing trees would remain, as well as a timetable for development. Mr. Neusome stated once a signed offer is received from a tenant and exact drawings are presented, construction would begin in approximately 6 months. He also stated he is assuming most of the large trees would be left as a buffer.

Mr. Cagnoni clarified the City's long range plan for this area was for heavy density residential. This proposal also allows medical offices. He further explained that Staff's recommendation for Denial of C-2 use was due to their concern with allowing this level of commercial use without specifically knowing the use. Access will be restricted to Riverside Boulevard. Issues involved Riverside access will be based on a PUD rather than the application before the Board.

A **MOTION** was made by Craig Sockwell to **APPROVE** a Zoning Map Amendment from R-4, Multi-family Residential to C-1, Limited Office District; and to **APPROVE** a Special Use Permit for a drive-thru coffee/fast food restaurant in a C-2, Limited Commercial District at 2852, 2860, 2844 and 2874 City View Drive as amended. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Submittal of a final plat for Staff review and approval.
3. Submittal of a revised site plan, landscape plan and elevation plan for Staff review and approval as part of a PUD Final Plat submitted.
4. Access to be reviewed by the Department of Public Works, approval of PUD does not constitute approval of access to Riverside.

ZBA 030-08

Findings of Fact for a Zoning Map Amendment

**From R-4, Multi-Family Residential to c-1, Limited Office District at
2852, 2860, 2844 and 2874 City View Drive**

Approval of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:

With no further business to come before the Board, the meeting was adjourned at 8:47 PM.

Respectfully submitted,
Sandra A. Hawthorne, Administrative Assistant
Zoning Board of Appeals