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The Planning Board met for its regular meeting on July 12, 1989 at 2:00 P. M. in Room 209, City Hall. Members present were Chairman John F. Keaney; Vice Chairman Frank D. DeFalco; Clerk Joan C. Sadowsky; John T. Reynolds; George Russell. Also present were Director Francis J. Donahue; Assistant Commissioner Gerhard P. Muenchmeyer; Assistant City Solicitor Michael E. Traynor; Senior Planner Alexander A. Pridotkas; Planning Coordinator Philip Hammond.

View

The Board viewed Catalpa Circle - review, Morningside Terrace - remove from official map, Hygate Road - remove from official map, Burncoat Meadows - review.

Regular Meeting - Room 209 - City Hall

Call to Order

Chairman Keaney called the meeting to order at 3:40 P. M.

Minutes of May 3, 24, June 7, 9, 16 and 28, 1989

Mr. DeFalco moved that the minutes of May 3, 24, June 7, 9, 16 and 28, 1989 be approved. Mrs. Sadowsky seconded the motion. The vote was unanimous.

Rogers Street - private street opening

Mr. Donahue stated that the petitioner did not appear at the Board's last meeting and the request was tabled.

Mr. DeFalco moved that this item be tabled because again nobody appeared to answer any of the questions. Mrs. Sadowsky seconded the motion. The vote was unanimous.

104 Randolph Road - IDFA bond

Mr. Donahue stated that Odd Fellows Home, Inc. proposes to construct a new facility at 104 Randolph Road and use it as a nursing home. In order for the applicant to submit an application for a Certificate of Convenience and Necessity to the State Industrial Finance Agency in connection with the proposed issuance of an industrial bond, the Board has to make a determination if the proposed project is in conformance with the Master Plan of Worcester. He stated that the area is zoned residential, the proposed use is a nursing facility and is in conformance with the Master Plan.

Mr. DeFalco moved that the Board notify the State Industrial Finance Agency that the proposed project is in conformance with the Worcester Master Plan. Mrs. Sadowsky seconded the motion. The vote was unanimous.

Holy Cross - IDFA bond

Mr. Donahue stated that College of the Holy Cross proposes the renovation and construction of buildings on the campus on College Street and use it for institutional purposes. In order for the applicant to submit an application for a Certificate of Convenience and Necessity to the State Industrial Finance Agency in connection with the proposed issuance of an industrial bond, the Board has to make a determination if the proposed project is in conformance with the Master Plan of Worcester. He stated that the area is zoned residential, the proposed use is residential and is in conformance with the Master Plan.

Mrs. Sadowsky moved that the Board notify the State Industrial Finance Agency that the proposed project is in conformance with the Worcester Master Plan.

Mr. Russell seconded the motion. The vote was four in favor with Mr. DeFalco abstaining.

Jonathan Circle - release bond

Mr. Donahue stated that the developer of this subdivision has requested the Board that the bond being held by the city be released because all the required work has been completed.

Peter Ivaska, 11 Brookdale Street, stated that there is water running off the development onto his property. Vegetation was removed from the steep slope and replaced with large rocks to stabilize the slope. Two huge rocks slid down and are about two feet on his property. The contractor was informed of the water problem but was told to contact the contractor's liability carrier. He stated that he has done so and is waiting for a response.

Mr. Muenchmeyer stated that the water is not coming from the development but from a spring in the ground. Because of the blasting that had to be done it may have caused this problem but it is difficult to pinpoint the cause. The water is brownish in color indicating it contains iron. He stated that the Department of Public Works has reviewed the plans and the following comments are noted.

1. The written decree and decree plan has been submitted to the Department of Public Works.
2. One driveway opening on Jonathan Circle needs to be finalized paved.
3. An existing driveway at the corner of Jonathan Circle and Hamilton Street needs to be graded, loamed and seeded.

Mr. Muenchmeyer recommended that the bond not be released until items #2 and 3 are completed.

Wildwood Acres - bond reduction

Mr. Donahue stated that the developer of this subdivision has requested the Board for a reduction of bond being held on this subdivision.

Mr. Muenchmeyer recommended that the bond be reduced by \$25,000.

Mr. DeFalco moved that the Board reduce the amount of bond from \$50,000 to \$25,000 of which 10% must be in cash. Mrs. Sadowsky seconded the motion. The vote was unanimous.

Gates Lane - bond release

Mr. Donahue stated that the developer of this subdivision has requested the Board that the bond for this subdivision be released because all the major work has been completed and all punch list items will be completed prior to this meeting.

Mr. Muenchmeyer stated that several items of work still require completion on this project and recommends that the request be tabled to the Board's next meeting. The work should then be completed and the bond could be released.

Mr. DeFalco moved that the Board accept Mr. Muenchmeyer's recommendation.

Mr. Reynolds seconded the motion. The vote was unanimous.

Catalpa Circle and Burncoat Meadows - update

Attorney Traynor stated because of the conditions of the above subdivisions, the Board has voted to take action to recover the proceeds of the Lender's Agreement to reconstruct the roadways and drainage utilities within said subdivisions. Comfed Savings Bank is foreclosing on these subdivisions and he was informed that the bank may turn over the funds to the city or complete the work themselves. Since this last conversation with the bank no other response has been received.

Mr. Reynolds stated that pressure should be put on the bank to come to a conclusion of their intent with the developments.

Mr. Donahue stated that the Board might allow the bank to make a decision regarding this matter. If no decision is made, the city could proceed with the courts to recover the bonds.

Mr. Russell stated because of the dangerous conditions of some of the buildings, the city should board them up.

Mr. Muenchmeyer stated that Code Inspection could do that work and then place a lien on the properties.

Mrs. Sadowsky moved that a letter be written to the bank that the city intends to recover the bonds to reconstruct the roads for public safety if the bank does not submit a time frame to do the work. Also, for public safety, a decision has to be made to either secure, rehabilitate or demolish the existing vacant buildings.

This information has to be submitted at the Board's next meeting. Mr. DeFalco seconded the motion. The vote was unanimous.

Barrows Road - approval not required plan endorsement

Mr. Donahue stated that a plan showing a parcel of land was submitted to the Board for "approval not required" signature. The plan shows a 15-foot right-of-way to the rear lot.

Mr. Reynolds moved that the Board deny endorsing the plan because of inadequate access to the lot and that "approval under subdivision control is required."

Mr. DeFalco seconded the motion. The vote was unanimous.

Plans to be Ratified

Mr. DeFalco moved that the following plans be ratified. Mr. Reynolds seconded the motion. The vote was unanimous.

4062 - plan of land on Woburn Street & Mount Avenue, owned by Henry M. Milewski,
signed 6/9/89

4067 - plan of land on Peacedale Avenue, owned by Joseph Wersal, signed 6/9/89

4068 - plan of land on Mountain St. East, owned by Robert Handy, signed 6/16/89

4069 - plan of land on Norfolk Street, owned by Villa Nova Realty Trust,
signed 6/16/89

4070 - plan of land on Gibbs & Ballard Streets, owned by David Corbett, signed
6/16/89

4071 - plan of land on Fielding Street, owned by Michael Blanchard, signed 6/20/89

4072 - plan of land on Burncoat Street, owned by Mark & Diane Murray, signed
6/20/89

- 4073 - plan of land on Humes & Yukon Avenues, owned by Christopher M. Larson,
signed 6/22/89
- 4074 - plan of land on Passway Five, owned by Heritage Equity Resources, Inc.,
signed 6/22/89
- 4076 - plan of land on Fourth Street, owned by R. H. Gallo Builders, signed 6/28/89
- 4077 - plan of land on Batavia Street, owned by Terence M. Meehan and Arthur &
Marth Ledoux, signed 6/28/89
- 4078 - plan of land on Lebanon Street, owned by Steven C. & Nancy M. Raffa,
signed 6/28/89
- 4079 - plan of land on Lebanon & Genesee Streets and Hulbert Road, owned by
Village Realty Trust & Hulbert Realty Trust, signed 7/6/89
- 4080 - plan of land on Timrod Drive, owned by Vivian S. Clark, signed 7/6/89
- 4081 - plan of land on Granite Street, owned by Carl Raymond Erlandson, signed
7/6/89
- 4083 - plan of land on Greenwood Street, owned by Wonder Properties, signed 7/12/89
- 4084 - plan of land on Vivian Street, owned by Arthur A. Jr. & Michael Rheaume,
signed 7/12/89
- 4085 - plan of land on Indian Hill Road, Watt Road & Marconi Road, owned by
Laura Realty Trust, signed 7/12/89
- 4086 - plan of land on Falcon Street, owned by John & Charlotte Setaro, signed
7/12/89
- 4087 - plan of land on Meola Avenue, owned by Joseph Kowaleski, signed 7/12/89
- 4088 - plan of land on Franklin Street, owned by High Voltage Engineering Corp.,
signed 7/12/89.

Date of Next Meeting - August 9, 1989.

Any Other Business354 Franklin Street - approval not required plan endorsement

Attorney Jonathan Finkelstein, representing David Clark Co., Inc., stated that presently located on the property are four multi-story brick buildings, constructed approximately ninety-five years ago and designated buildings A, B, C and O which share one or more common walls. The buildings are shared by a number of different manufacturing concerns. David Clark Company desires to subdivide the property into two lots with building A on one lot and the other three buildings on the second lot so that it may purchase and use building A in connection with its manufacturing business. David Clark has just recently been granted a variance by the Board of Appeals from the 15-foot rear yard setback requirement which when subdivided will put this new lot in conformance with the Zoning Ordinance.

David Clark Company believes it is entitled to endorsement as an Approval Not Required Plan because this is the division of a tract of land, on which two or more buildings were standing when the subdivision control law went into effect in Worcester, into separate lots on each of which one of such buildings will remain standing. M.G.L. Ch. 41, Section 81L. Such a division of land according to the subdivision control law does not constitute a subdivision and is, therefore, entitled to an endorsement as an Approval Not Required Plan.

Mr. Donahue then read the Subdivision Control Regulations which defines a subdivision and in this case it is not a subdivision and the plan can be endorsed "Approval Not Required."

Mr. DeFalco moved that the plan be endorsed as recommended. Mr. Reynolds seconded the motion. The vote was unanimous.

Ralph Avenue and Hamilton Street - approval not required plan endorsement

Mr. Donahue stated that a plan showing a division of land located on Ralph Avenue and Hamilton Street was submitted to the Board for "approval not required" endorsement but the Board denied endorsing the plan because one of the rear lots had a 20-foot access to it. After reviewing the plan with the Law Department it was noted that the plan could be endorsed.

Attorney Traynor stated that the M.G.L. defines access as practical access, not adequate access.

Mr. Donahue reiterated that the lot has a 20-foot access to a street on the official map.

Mr. Reynolds stated that the Board should view the site prior to endorsement of the plan.

After the view, Mr. Reynolds moved that the Board deny endorsing the plan because of inadequate access to the lot and that "approval under subdivision control is required." Mrs. Sadowsky seconded the motion. The vote was unanimous.

Recess

Chairman Keaney recessed the meeting at 5:30 P. M.

Public Hearings - Council Chamber - City Hall

Chairman Keaney called the meeting to order at 7:30 P. M.

Zoning Ordinance Amendment - Article X

Mrs. Sadowsky read the notice of the public hearing on the petition of Norton S. Remmer to amend the Zoning Ordinance of the City of Worcester by adding to Article X a new section as follows. In Business and Manufacturing districts where a building is located in more than one district, the building shall not be required to comply with the Floor Area Ratio for each district in which it is located provided that the total floor area shall not exceed the sum of the areas for each district separately, and furthermore the height of the building shall not exceed the height allowed for any of the districts in which it is located.

Mr. Keaney then asked for the proponents.

Norton S. Remmer, petitioner, reiterated the same statement as was read by Mrs. Sadowsky.

Mr. Keaney questioned if there were any certain lots in question.

Mr. Remmer replied that there are some lots in the city in this situation but no specific lot is being discussed.

Mr. Russell questioned what is Mr. Norton's interest in this matter.

Mr. Norton replied that he was hired by other communities as a consultant and had run into the same problem which was corrected by means of changing the

zoning ordinance. He is trying to do the same for the city as an individual.

Mr. Russell questioned if the petition is rightfully before the Board and whether a petitioner has to be the owner of the specific site that is to be affected.

Attorney Traynor then read M.G.L. Chapter 40A which states that the petitioner has to be the owner of property to be affected or a petition filed and signed by ten registered voters to amend the zoning ordinance as requested.

Mr. Remmer stated that this was discussed at a City Council meeting and the Council referred it to the Board for a recommendation.

Mr. Keaney then asked for the opponents of which there were none.

Mr. Keaney then declared the hearing closed.

Morningside Terrace - remove from official map

Mrs. Sadowsky read the notice of the public hearing on the petition of Madeline F. Kittredge to remove a portion of Morningside Terrace, from a point 150 feet south of Morningside Road to the southerly terminus of the street, from the Official Map of the City of Worcester.

Mr. Keaney then asked for the proponents.

Attorney Linwood M. Erskine, Jr., representing the petitioner, stated that

Morningside Terrace is only partially opened and is used only by the petitioner. It is an unpaved street and is inappropriate to be used for public purposes. The city and the public would benefit if the street is removed from the map.

Mr. Keaney then asked for the opponents.

Attorney Richard F. Reidy, representing property owners Boyer and Hendelman, stated that they are persons in interest because their property abuts Morningside Terrace and are opposed to the petition.

Attorney Traynor stated that per M.G.L. Chapter 4, Section 81, the Planning Board cannot remove a private street from the map if a party of interest objects to the removal.

Attorney Erskine then wished to amend the petition by removing a portion of Morningside Terrace to the southerly line of Hygate Road.

Attorney Reidy stated that if this was done there would be a strip of a street on the map but leading nowhere. His clients would not be able to use Morningside Terrace.

Mr. Keaney stated that by statute the Board cannot approve the petition.

Mr. Keaney then declared the hearing closed.

Hygate Road - remove from official map

Mrs. Sadowsky read the notice of the public hearing on the petition of Madeline F. Kittredge to remove Hygate Road from the Official Map of the City of Worcester.

Mr. Keaney then asked for the proponents.

Attorney Linwood M. Erskine, Jr., representing the petitioner, stated that the street is unusable because of the vegetation and serves no purpose to the public.

Mr. Russell questioned if it is the petitioner's wish to remove this street from the map even though the petition to remove Morningside Terrace from the map will have to be denied.

Attorney Erskine replied affirmatively.

Mr. Keaney then asked for the opponents of which there were none.

Mr. Keaney then declared the hearing closed.

Regular Meeting - Council Chamber - City HallCall to Order

Chairman Keaney called the meeting to order at 7:50 P. M.

Items of Public Hearing

Zoning Ordinance Amendment - Article X

Mr. Reynolds moved that this petition be referred to the Law Department for their review and comments. Mr. DeFalco seconded the motion. The vote was unanimous.

Morningside Terrace - remove from official map

Mr. DeFalco moved that the Board deny the petition to remove Morningside Terrace from the map because at the public hearing a person of interest was recorded in opposition. Mrs. Sadowsky seconded the motion. The vote was unanimous.

Hygate Road - remove from official map

Mr. Russell moved that the Board remove Hygate Road, a private street, from Morningside Terrace westerly, from the official map. Mr. Reynolds seconded the motion. The vote was unanimous.

Adjournment

Chairman Keaney adjourned the meeting at 8:00 P. M.