

★ **Roll Call Number**

Agenda Item Number

43A

Date November 7, 2011

WHEREAS, on August 7, 2000, by Roll Call No. 00-3381 the City Council adopted the Des Moines 2020 Community Character Land Use Plan; and

WHEREAS, the City Plan and Zoning Commission has advised in the attached letter that at a public hearing held October 6, 2011, the members voted 10-1 to recommend **APPROVAL** of a request from Russell Parks (owner) for property in the vicinity of 4805 Observatory Road to amend the Des Moines' 2020 Community Character Plan to revise the existing future land use designation from Low Density Residential and Parks/Open Space to Low/Medium Density Residential.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the proposed amendment to the Des Moines 2020 Community Character Land Use Plan described above, is hereby approved and adopted.

MOVED by _____ to adopt, and approve the proposed amendment.

FORM APPROVED:



 Michael F. Kelley
 Assistant City Attorney

(21-2011-4.11)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

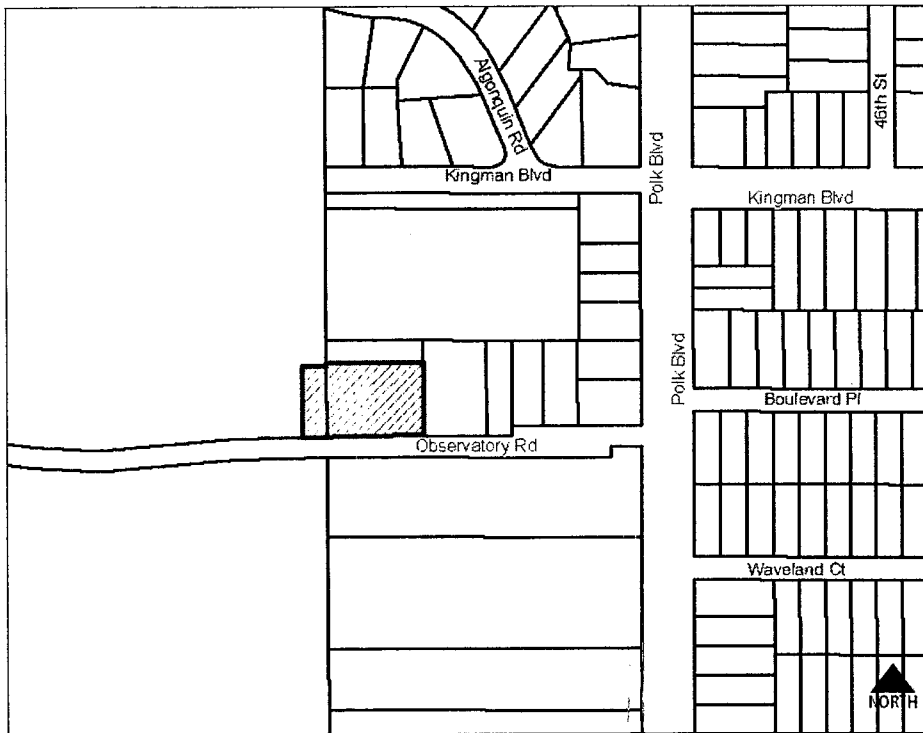
_____ City Clerk

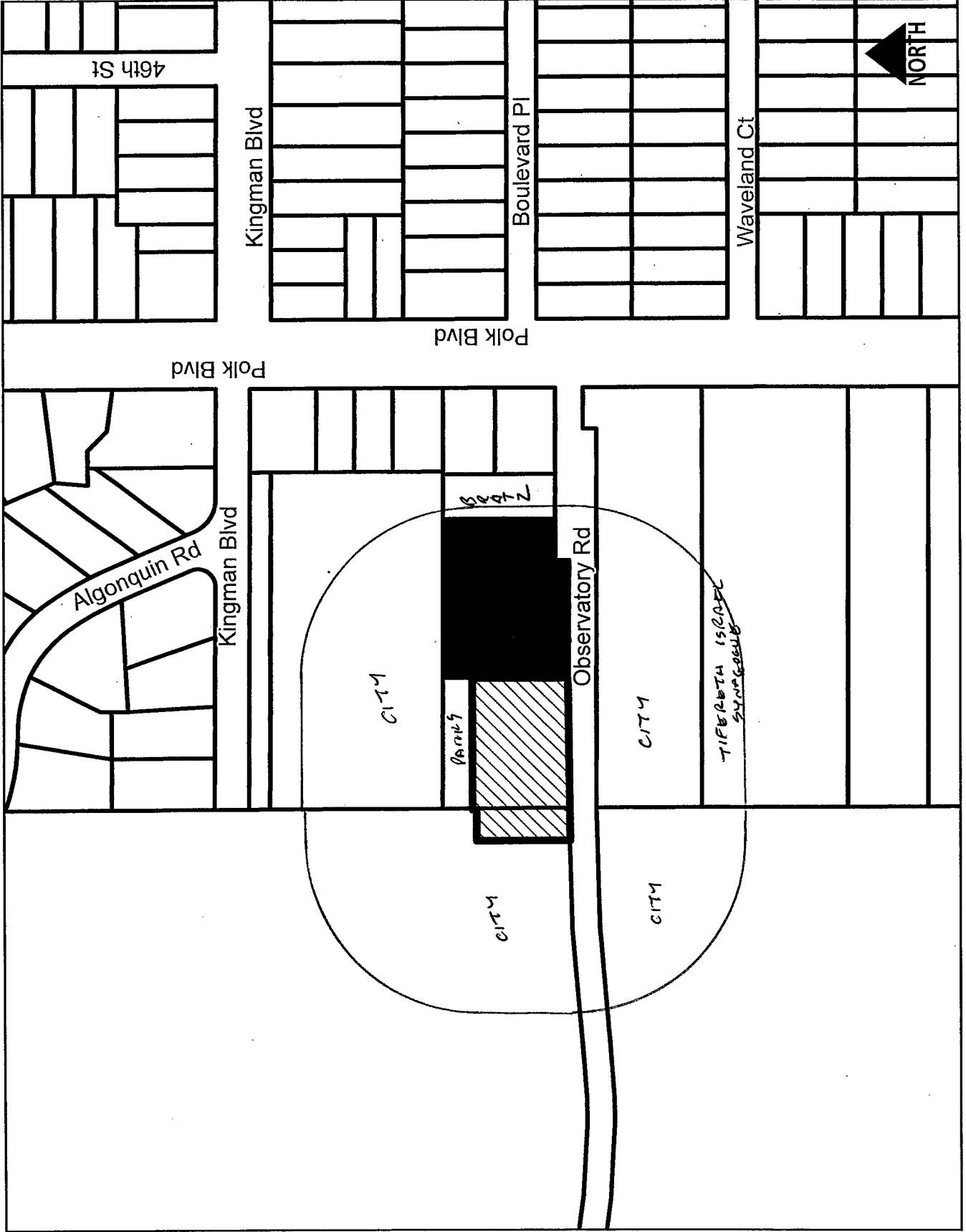
45A

Request from Russell Parks (owner) to rezone property in the vicinity of 4805 Observatory Road. Additional subject property is owned by the City of Des Moines.		File # ZON2011-00170		
Description of Action	Review and approval to rezone the property from "R1-80" One-Family Residential District to Limited "R-3" Multiple Family Residential District, to allow for infill development of no more than six residential units within three single-family semi-detached dwellings, all contained within a commonly owned parcel with access from Observatory Road.			
2020 Community Character Plan	Low-Density Residential and Park/Open Space			
Horizon 2035 Transportation Plan	No Planned Improvements			
Current Zoning District	"R1-60" One-Family Low-Density Residential District			
Proposed Zoning District	Limited "R-3" Multiple Family Residential District			
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition
Inside Area	2	3		
Outside Area				
Plan and Zoning Commission Action	Approval	10-1	Required 6/7 Vote of the City Council	Yes
	Denial			No

Russell Parks - 4805 Observatory Road

ZON2011-00170





October 12, 2011

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held October 6, 2011, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 as follows:



CITY PLAN AND ZONING COMMISSION
ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309 -1881
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1981
2003

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Tim Fitzgerald	X			
Dann Flaherty	X			
John "Jack" Hilmes	X			
Joel Huston				X
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee	X			
Mike Simonson				X
Kent Sovern	X			
CJ Stephens	X			

APPROVAL of a motion to find the property in the vicinity of 4805 Observatory Road not in conformance with the Des Moines' 2020 Community Character Plan future land use designation.

By separate motion Commissioners recommended 10-1 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Tim Fitzgerald	X			
Dann Flaherty		X		
John "Jack" Hilmes	X			
Joel Huston				X
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee	X			
Mike Simonson				X
Kent Sovern	X			
CJ Stephens	X			

APPROVAL of the requested amendment to the Des Moines' 2020 Community Character Plan revising the future land use designation from Low Density Residential and Park/Open Space to Low/Medium Density Residential. 21-2011-4.11

By separate motion Commissioners recommended 10-1 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Tim Fitzgerald	X			
Dann Flaherty		X		
John "Jack" Hilmes	X			
Joel Huston				X
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee	X			
Mike Simonson				X
Kent Sovern	X			
CJ Stephens	X			

APPROVAL of a request from Russell Parks (owner) to rezone property in the vicinity of 4805 Observatory Road from "R1-80" to "R-3", subject to the applicant agreeing to the following conditions: ZON2011-00170

1. There shall be a maximum of six residential units developed on the property.
2. Any residential units constructed on the property shall be subject to review by the Plan and Zoning Commission and shall meet the following minimum design standards:
 - a) Each dwelling unit shall have a private garage, whether attached or detached.
 - b) Minimum building floor areas for residential units shall be 1,200 square feet, excluding garages and basements.
 - c) ~~The front elevation of each dwelling constructed excluding windows and doors must consist of 1/3 to 1/2 stone or brick masonry.~~
 - d) ~~The front elevation of each dwelling constructed must contain one of the following:~~
 - 1) ~~Shutters on each side of each window; or~~
 - 2) ~~Window trim not less than 4" in width.~~
 - e) ~~The exterior of each dwelling must be of masonry (brick or stone) and/or vinyl, cedar, or Hardi-Plank siding. If vinyl siding is selected, it must be greater than 40 mills thick.~~
 - f) The roof on any dwelling constructed shall be of architectural type shingles or cedar shakes.
 - g) ~~Fencing shall be limited as follows:~~
 - 1) ~~Black vinyl-clad chain link is the only fencing material permitted.~~
 - 2) ~~The maximum height of fencing allowed in a side or rear yard is six feet (6').~~
 - 3) ~~Wood privacy screens up to six feet (6') in height are permitted when located outside of the required setbacks for a principal structure, outside of conservation easements and when adjoining private patios or decks outside the required front yard.~~
3. Identification and protection of mature trees as part of any future development in accordance with City Tree Protection and Mitigation Ordinances, including proper fencing of tree drip lines during grading or construction operations.
4. Provision of proper soil erosion controls during any development or grading operations in accordance with a grading and soil erosion protection plan.

5. Providing a “dark sky” compliant lighting plan.
6. Review and approval of final building elevations as part of Plan and Zoning Site Plan review.

Written Responses

0 In Favor

2 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the requested rezoning be found not in conformance with the Des Moines’ 2020 Community Character Plan future land use designation.

Part B) Staff recommends approval of the recommended amendment to the Des Moines’ 2020 Community Character Plan revising the future land use designation from Low Density Residential and Park/Open Space to Low/Medium Density Residential.

Part C) Staff recommends approval of the requested rezoning from “R1-80” to “R-3” subject to the applicant agreeing to the following conditions:

1. There shall be a maximum of six residential units developed on the property.
2. Any residential units constructed on the property shall meet the following minimum design standards:
 - a) Each dwelling unit shall have a private garage, whether attached or detached.
 - b) Minimum building floor areas for residential units shall be 1,200 square feet, excluding garages and basements.
 - c) The front elevation of each dwelling constructed excluding windows and doors must consist of 1/3 to 1/2 stone or brick masonry.
 - d) The front elevation of each dwelling constructed must contain one of the following:
 - 1) Shutters on each side of each window; or
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 - e) The exterior of each dwelling must be of masonry (brick or stone) and/or vinyl, cedar, or Hardi-Plank siding. If vinyl siding is selected, it must be greater than 40 mills thick.
 - f) The roof on any dwelling constructed shall be of architectural type shingles or cedar shakes.
 - g) Fencing shall be limited as follows:
 - 1) Black vinyl-clad chain link is the only fencing material permitted.
 - 2) The maximum height of fencing allowed in a side or rear yard is six-feet (6’).
 - 3) Wood privacy screens up to six-feet (6’) in height are permitted when located outside of the required setbacks for a principal structure, outside of conservation easements and when adjoining private patios or decks outside the required front yard.
3. Identification and protection of mature trees as part of any future development in accordance with City Tree Protection and Mitigation Ordinances, including proper fencing of tree drip lines during grading or construction operations.
4. Provision of proper soil erosion controls during any development or grading operations in accordance with a grading and soil erosion protection plan.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant proposes to develop three single-family semi-detached dwelling units (a minimum of six units total) with separate ownership for each unit upon a single commonly owned parcel. The submitted rezoning development concept indicated four units would be served by a common drive entrance and two other units would share a separate drive entrance, both accessing onto Observatory Road.
2. **Size of Site:** 34,424 square feet.
3. **Existing Zoning (site):** "R1-80" One Family Residential District.
4. **Existing Land Use (site):** Vacant land and vacated undeveloped park land formerly part of the Waveland golf course.
5. **Adjacent Land Use and Zoning:**
 - North* – "R1-80", Use is public open space known as "Cummins Woods".
 - South* – "R1-80", Use is City Parks and Recreation owned tennis courts.
 - East* – "R1-80", Uses are single-family dwellings.
 - West* – "R1-80", Use is Waveland City Golf Course.
6. **General Neighborhood/Area Land Uses:** The subject property is at the fringe of a low-density residential area where it abuts the Waveland City Golf Course.
7. **Applicable Recognized Neighborhood(s):** Waveland Park Neighborhood.
8. **Relevant Zoning History:** On August 29, 2011 the City Council vacated the western portion of the subject property contained within the Waveland Golf Course making it available to the applicant for purchase and development. This action was subject to the following recommendations of the Parks and Recreation Board:
 - A) City approval of rezoning of the Waveland Golf Course parcel to allow the townhome proposal;
 - B) The intended use of the property is limited to redevelopment as a six-unit townhome project;
 - C) The development of the property shall include a landscaping plan presented to the Park and Recreation Board and shall conform to the City tree mitigation ordinance and any additional requirements set forth in the City's tree mitigation policy; and
 - D) The property adjacent to the Waveland Golf Course parcel referred to as a "Bird Sanctuary" will be protected from the construction process with silt fencing to control run-off.
9. **2020 Community Character Land Use Plan Designation:** Low-Density Residential and Park/Open Space.

10. Applicable Regulations: The Commission reviews all proposals to amend zoning regulations or zoning district boundaries within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in §414.3 of the Iowa Code. The Commission may recommend that certain conditions be applied to the subject property if the property owner agrees in writing, prior to the City Council Hearing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

- 1. Natural Features:** The subject property is partially timbered and has sensitive downward slopes toward the north and west. The conveyance of the park property would require the protection and mitigation of mature trees in accordance with the City's tree mitigation Ordinance. The conveyance would also require soil protection measures as part of any grading of the property.
- 2. Drainage/Grading:** Future development of the subject property would require a storm water management plan and a soil erosion protection and grading plan as part of the required Site Plan review. The conveyance of any park land would require that measures be taken to protect the "bird sanctuary" area of Cummins Woods to the north from grading activities. The subject property naturally drains to the north and west.
- 3. Utilities:** While there is a 36-inch Des Moines Waterworks feeder main in Observatory Road fronting the subject property, proposed development will not be able to access this directly. Public water main will need to be extended by any future developer of the subject property from an 8-inch water distribution main located in Polk Boulevard to the east. Public sanitary sewer is located along the north and west edges of the subject property. There is not readily accessible public storm sewer serving the subject property. Appropriate design for stormwater management and detention will likely require a design which accounts for a surface release to the natural drainage way. This may require special engineered measures to protect from erosion at the point of release such as rip-rap, engineer fabric underlayment, and constructed dissipaters.
- 4. Landscaping & Buffering:** Landscaping and tree plantings will be required in accordance with the Des Moines Landscape Standards as applicable to "R-3" Site Plan landscaping policies. Additional landscaping material may be required to conform to tree mitigation formulas in the City's tree mitigation Ordinances.
- 5. Development Review:** Any development of the submitted concept for three single-family semi-detached dwellings (six total units) will require Site Plan review by the Plan and Zoning Commission under design guidelines for multiple-family residential use as well as a subdivision plat for any separately created ownership lots. Depending on the development proposal, additional appeals to the Zoning Board of Adjustment may be necessary for off-street parking setbacks and building setbacks.
- 6. 2020 Community Character Plan:** The proposed "R-3" zoning and multiple-family development concept would require an amendment to a Low/Medium Density Residential future land use designation from the existing Low-Density Residential and Park/Open Space future land use designations. With the overall development limited to a maximum of six units. The proposed density is very similar to the existing density of development on nearby residential properties. Staff does not believe the proposed density increase will be detrimental to the character of the surrounding neighborhood so long as it is limited to no more than six-units on the subject property.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Dann Flaherty asked who will hold the conservation easement.

Jason Van Essen stated that the City will hold the conservation easement.

Tim Fitzgerald asked are sidewalks a condition.

Jason Van Essen stated assuming the zoning is put in place the sidewalks are something that is looked at in the Site Plan phase. There are no existing sidewalks along the north side of Observatory Road west of Polk Blvd.

JoAnne Corigliano asked if there will be fences around this property.

Jason Van Essen stated that staff does not know. It is common when there are residential developments. However, staff proposes design guidelines for fencing. At the site plan level the fencing issue could be looked at.

CJ Stephens asked if the sensitive natural habitat area addressed now or when the project comes back.

Jason Van Essen stated that the tree mitigation would be addressed at the Site Plan review stage.

Russell Parks 1509 Pleasantview Drive pointed out that the Des Moines Water Works requires an 8" main and promises to provide free connection for all homes on Observatory Road. He has a couple of concerns with the staff recommendation. Conditions 2d and 2e are a bit restrictive and do not allow the architecture any leeway with their design.

Dann Flaherty asked in reference to those conditions would the applicant be willing to bring back the elevations to the Commission before the Site Plan is approved.

Mike Ludwig stated that if they are single-family residential lots Plan and Zoning Commission review would not be required. He proposes that if they are just single-family dwellings they keep the design guidelines, but if they come back with six units, they would be subject to multi-family Site Plan review by the Commission.

Dann Flaherty wants it to come back to the Commission in any event.

Russell Parks stated that he agrees to bring back the actual elevations to the Commission with the Site Plan. One more concern he has is condition #3g in regards to the wood privacy screens up to six feet in height. He might want to put a privacy fence that is closer to the west property line beyond the setback.

Kent Sovern asked if the applicant had a price point in mind for these properties.

45A

Russell Parks stated that he is working with a contractor and they have not got to that point yet. He knows he has to be competitive with the development Reserve Townhome PUD.

Dann Flaherty asked why he wants to put a fence on the far west side when there are beautiful views that he should want to maintain.

Russell Parks stated that the views to the west is not that wonderful because there are some kind of scrubby trees in the way and looking out there is an irrigation pump building.

Dann Flaherty stated that he thinks that would be a better view than a cedar fence.

Russell Parks stated that a six foot fence only give a minimum amount of protection, the view over it can still be seen.

CJ Stephens suggested that the applicant consider omitting the fence.

CHAIRPERSON OPENED THE PUBLIC HEARING

The following spoke in favor of the applicant's request

Will Rogers 1328 43rd Street, member of the Waveland Park Neighborhood Association stated that he supports the applicant's request as the project brings a new type of housing to the neighborhood. It is a nice plan and it adds additional benefit for the bird sanctuary and will add additional tax dollars. He encourages the Commission to approve the applicant's request.

David Huston 4321 University Avenue #2. Stated that this project is close to the Drake Municipal Observatory so he asks that the Commission add dark sky requirement for lighting. He commends Mr. Russell Parks for his tenacity and his willingness to build good homes.

The following spoke in opposition of the applicant's request

Eric Bakker 4721 Observatory Road stated that this project is on a dead end street and would go from "R-1" to "R-3". Everyone that turned in their cards on this street is opposed to this project. He asked for the code citation on the requirement of 6/7 votes when more than 30% of adjoining land is owned by the government. He believes that the neighborhood association did not listen to the neighbors that live close to the project and that the bird sanctuary will be gone.

John Latch 4801 Observatory Road stated that he purchased his home due to the character in the neighborhood. He believes that this project goes against the 2020 Community Character Plan and does not feel that it is right to pack six families into these woods. The real estate exchange with the City of Des Moines is making this project viable. Therefore, by approving the applicant's request the Commission will be approving the destruction of the habitat.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Greg Jones asked the applicant would he be willing to allow access to the bird sanctuary through his property.

Russell Parks stated that the only place that has been suggested is at the east end of his property which would be adjacent to Mr. Latch's property. Mr. Latch may not be in favor of that. Therefore, he has avoided agreeing to that. It makes more sense to develop the west end of the existing parking area with some modification as opposed to having people parking in the middle of the block.

Greg Jones asked about restricting the applicant's lighting to meet the dark sky standards.

Russell Parks stated it would not be a problem. There are different models of lights that are designed to mitigate sky exposure.

Kent Sovern asked staff what could be built on this property without the approval of P&Z Commission under the current zoning.

Jason Van Essen stated with the current zoning it could be divided into lots that meet the "R1-80" standard for single-family residential units.

COMMISSION ACTION:

Greg Jones moved staff recommendation Part A) to find the rezoning not in conformance with the Des Moines' 2020 Community Character Plan future land use designation.

Motion passed 11-0.

Greg Jones moved staff recommendation Part B) to approve the recommended amendment to the Des Moines' 2020 Community Character Plan revising the future land use designation from Low Density Residential and Park/Open Space to Low/Medium Density Residential.

Motion passed 10-1 (Dann Flaherty voted in opposition).

Greg Jones moved Part C) to approve the requested rezoning from "R1-80" to "R-3" subject to the applicant agreeing to the following conditions:

1. There shall be a maximum of six residential units developed on the property.
2. Any residential units constructed on the property shall be subject to review by the Plan and Zoning Commission and shall meet the following minimum design standards:
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~~easements and when adjoining private patios or decks outside the required front yard.~~

3. Identification and protection of mature trees as part of any future development in accordance with City Tree Protection and Mitigation Ordinances, including proper fencing of tree drip lines during grading or construction operations.
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5. Providing a "dark sky" compliant lighting plan.
6. Review and approval of final building elevations as part of Plan and Zoning Site Plan review.

Motion passed 10-1 (Dann Flaherty voted in opposition).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Ludwig".

Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

Item 2011 00170

Date 9-30-11

I (am) (am not) in favor of the request.

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT
OCT 10 11
DEPARTMENT

Print Name RUSSELL PARKS

Signature *[Handwritten Signature]*

Address 1509 PLEASANT VIEW DR.

Reason for opposing or approving this request may be listed below:

WILL ENABLE LONG VACANT LAND TO BECOME
A PRODUCTIVE TAX REVENUE GENERATING
PROPERTY. WILL MAKE IT POSSIBLE FOR 6
NEW FAMILIES TO ENJOYING LIVING IN THIS
GREAT NEIGHBORHOOD.

Item 2011 00170 Date 10-2-2011

I (am) (am not) in favor of the request.

RECEIVED

COMMUNITY DEVELOPMENT

Print Name Jonathan D. Latch

OCT 05 2011

Signature Jonathan D. Latch

DEPARTMENT

Address 4801 Observatory Rd.

Reason for opposing or approving this request may be listed below:

This re-zoning would negatively affect the character of our single family home neighborhood.

Item 2011 00170 Date 9/28/11

I (am) (am not) in favor of the request.

RECEIVED

COMMUNITY DEVELOPMENT

Print Name CHRISTINE PARDEE

OCT 07 2011

Signature Christine Pardee

DEPARTMENT

Address 4321 UNIVERSITY AVE.

Reason for opposing or approving this request may be listed below:

The development is consistent with the Wauchland Park Neighborhood Plan II: diverse housing stock (pg. 10) Wauchland Park has very ~~little~~ few multi-family residences.

Item 2011 00170

Date 9-29-11

45A

I (am) (am not) in favor of the request.

RECEIVED
COMMUNITY DEVELOPMENT

Print Name Drennan L. Fischer

UCI 08/2011 Signature [Signature]

DEPARTMENT Address 4721 Observatory Rd, DSM 1A
50311

Reason for opposing or approving this request may be listed below:

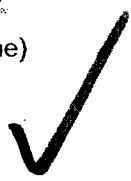
We oppose this request by Russell Parks because we
feel that adding 6 residential units to our little dead end
street is dangerous! This street is utilized by the neighborhood;
There is a lot of pedestrian foot traffic, small children riding bikes & in
strollers & of course, The tennis court traffic. Roosevelt cross country
practices on the street! There is no sidewalk & five small children live on ^{this} street

Item 2011 00170

Date 09-29-2011

I (am) (am not) in favor of the request.

(Circle One)



Print Name GREG SELLERS

Signature [Signature]

Address 4717 Observatory Rd.

Reason for opposing or approving this request may be listed below:

I am against added traffic to an already
busy street with children, students &
elderly walking down the street to the
tennis courts. NOT ENOUGH ROOM TO SUPPORT
PARKING, FOOT TRAFFIC AND MORE VEHICLES!

