

**MINUTES
CITY OF AMES
PLANNING AND ZONING COMMISSION**

Date: January 20, 2016	Debra Lee, Chairperson	2018
	Rob Bowers, Vice Chairperson	2018
Call to Order: 7:00 p.m.	Yvonne Wannemuehler	2018
	Julie Gould	2016
Place: Ames City Hall	John Tillo	2016
Council Chambers	*Carlton Basmajian	2017
	Matthew Converse	2017
Adjournment: 9:59 p.m.		
	*Absent	

MAJOR TOPICS DISCUSSED:

1. Public Hearing for the Rezoning of 217 6th Street from Neighborhood Commercial to Downtown Service Center
2. Public Hearing for a Zoning Map Amendment Adding the Environmentally Sensitive Area Overlay (O-E) to Properties with a FEMA Designated Floodway
3. Zoning Text Amendment for the Environmentally Sensitive Area Overlay (O-E), Chapter 29 of the Ames Municipal Code
4. Zoning Text Amendment for Floodway Regulations and Conditional Use Permit Requirements, Chapter 9 of the Ames Municipal Code

CALL TO ORDER: Debra Lee, Chairperson, called the meeting to order at 7:00 p.m.

APPROVAL OF AGENDA:

MOTION: (Wannemuehler/Converse) to approve the Agenda for the meeting of January 20, 2016.

MOTION PASSED: (5 - 0)

APPROVAL OF THE MINUTES OF THE MEETING OF DECEMBER 16, 2015:

MOTION: (Bowers/Gould) to approve the Minutes of the meeting of December 16, 2015.

MOTION PASSED: (5 - 0)

PUBLIC FORUM: There were no public comments.

PUBLIC HEARING FOR THE REZONING OF 217 6TH STREET FROM NEIGHBORHOOD COMMERCIAL TO DOWNTOWN SERVICE CENTER

John Tillo arrived at 7:03 p.m.

Justin Moore, Case Planner, stated that the applicant, United Church of Christ, proposes to rezone the property from Neighborhood Commercial (NC) to Downtown Service Center (DSC). He stated that this property is a one-half acre parcel located at the corner of Sixth Street and

Kellogg Avenue. Mr. Moore stated that the applicant is requesting the rezone in order to move forward with future church improvements that they are currently not allowed to make under NC zoning. He reviewed the types of properties/uses that surround this parcel. Mr. Moore explained the purpose of the DSC and the allowed uses. He stated that the Land Use Policy Plan map designates the property as DSC. Mr. Moore outlined three alternatives for the Commission to consider. He stated that changing the zoning to DSC will not likely change the character of the area or the physical relationship of the site to its neighboring uses. Mr. Moore stated that the DSC zoning district requires a special use permit in order to make changes to a property. He stated that special use permit requests are reviewed by the Zoning Board of Adjustment.

John Lott, 823 Douglas Avenue, stated that he represents Benjamin Design Collaborative, the property owner's architect. He stated that he has been working with the applicant for quite some time. Mr. Lott stated that they have been working with a master plan that was put into place a little over a year ago. He stated that this church has been located on this site for over 150 years. Mr. Lott stated that the church plans to be located at this site for many years to come.

MOTION: (Gould/Tillo) to accept Alternative #1, which states: that the Planning and Zoning Commission recommends that the City Council approve the request for rezoning of the properties at 217 6th Street from Neighborhood Commercial Zone (NC) to Downtown Service Center (DSC) based upon staff's findings and conclusions as found in the addendum.

MOTION PASSED: (6 - 0)

PUBLIC HEARING FOR A ZONING MAP AMENDMENT ADDING THE ENVIRONMENTALLY SENSITIVE AREA OVERLAY (O-E) TO PROPERTIES WITH A FEMA DESIGNATED FLOODWAY

Kelly Diekmann, Director of Planning & Housing, stated that the next three agenda items are related. He stated that staff feels that the Zoning Map Amendment should be heard first, followed by the zoning text amendment that outlines the rules that would be followed if the Environmentally Sensitive Area Overlay (O-E) is approved. Mr. Diekmann stated that the order of tonight's agenda can be changed if the Commission feels that it is appropriate. He explained the purpose of each agenda item and asked that discussion pertain to the appropriate agenda item.

Charlie Kuester, Planner, reviewed details of the Environmentally Sensitive Area Overlay (O-E). He stated that the O-E Overlay was adopted in 2000 when the current Zoning Ordinance was adopted. Mr. Kuester stated that this is the first time that the O-E has been placed on the map. He stated that the City proposes to apply the O-E to those portions of the City that are located within the floodway as defined by the Federal Emergency Management Agency (FEMA). Mr. Kuester stated that the floodway and floodway fringe boundaries will not change. He stated that if the O-E is approved, development within the floodway would require a major site development plan. Mr. Kuester stated that the property owner or applicant would need to provide a plan to address, obviate, or mitigate the adverse impacts of that development on the floodway; and, it would need to be approved by the City Council. He outlined additional details of this process.

Debra Lee asked staff to provide background information as to why the City Council wanted staff to look into this matter. Mr. Diekmann stated that in November the City Council asked staff

to place potential development or disturbance in the floodway on the Planning Department work plan as an item to report back to the City Council. He stated that staff outlined for the City Council several options how this could be achieved. Mr. Diekmann stated that the City Council was not interested in reviewing the floodway fringe. He explained that development does not usually occur in the floodway. Mr. Diekmann stated that normally accessory and supportive uses, e.g. parking lots and storm water facilities, are built in a floodway.

Mr. Kuester outlined the floodways located in the City. He stated that FEMA determines where the floodways are located. Mr. Kuester stated that development is very limited in a floodway. He outlined the floodway fringe on a map. Mr. Kuester explained what may be built in the floodway fringe. He stated that development in the floodway fringe needs to meet an elevation or flood proof requirement.

Ms. Lee asked for clarification that tonight's discussion does not include the floodway fringe. Mr. Diekmann stated that it does not include the floodway fringe. He stated that the floodway fringe is not going to be rezoned nor are the performance requirements being altered.

Mr. Kuester explained the approval criteria differences between going to the Zoning Board of Adjustment (ZBA) and the City Council. He stated that the applicant needs to have an Environmental Assessment Report that shows how they plan to address, obviate, or mitigate the negative effects of the development. Mr. Kuester stated that the City Council will not approve the major site development plan unless they have reviewed the Environmental Assessment Report.

Mr. Kuester reviewed the goals of the Land Use Policy Plan as they pertain to this proposed map amendment.

Ms. Lee summarized various details of Mr. Kuester's presentation. Mr. Diekmann stated that one thing that will change in the permitted uses/development uses will be grading. He stated that it is an issue that has been regulated at staff level. Mr. Diekmann stated that adding more than 12 inches of fill to a site might potentially trigger a City Council review.

Mr. Kuester outlined the development that has occurred in various floodway areas on a map and the approval requirements that were required. He stated that some floodway areas are on public land.

Mike Satterwhite, 447 Westwood Drive, outlined where his property is located along Clear Creek. He stated that he has various questions regarding this proposal. Mr. Satterwhite asked if his land will be devalued because of the proposed rezoning. He outlined the problems that he has with a collapsed sewer system on his property that leads to Clear Creek. Mr. Satterwhite stated that he has massive erosion on his property because of the collapsed sewer system. He stated that he feels that this is an environmentally sensitive issue. Mr. Satterwhite stated that he wants a clear definition of an Environmentally Sensitive Overlay. He stated that he would like to know the location of the flood plain boundaries in case he wants to make improvements to his property. Mr. Satterwhite asked when FEMA made the floodway determination. He asked why city parks are exempt and a homeowner is not exempt. Mr. Satterwhite asked if a fence is a structure as he needs to put up a fence on his property. He stated that one of the agreements that he had, when he sold a portion of his property to the City, was that they would find a way to keep people off his property when they walk to Ann Munn Heritage Woods and Emma McCarthy Lee Park by keeping them on the north side of the creek in order to decrease his liability; however, nothing has been done.

Wayne Hauber, 3337 Southdale Drive, outlined several hydrology/flood studies that have been done over the years in his area. He said at one time he was told that he was not in the floodway. Mr. Hauber stated that in 2008 he tried to build a deck on his property but his request was denied because it was in the floodway. He stated that a neighboring property owner has allowed a 10 foot wide area of trees to grow by Kate Mitchell School that allows the floodway to drift. Mr. Hauber stated that he does not know where the boundaries are located, is it the 100 year flood boundary or the 500 year flood boundary. He asked what he needs to do to build a small deck on his property.

Scott Renaud, FOX Engineering Associates, stated that he feels that this proposal does apply to the floodway fringe. He sighted a section in the Commission Action Form which states: if any activity, defined as a development use in Section 9.4 (2), occurs within the O-E zone the requirements of this section shall apply to the entire parcel. Mr. Renaud outlined various development activities that can occur without going to the ZBA for approval. He stated that he feels that this process is not necessary. Mr. Renaud stated that this is being taken out of a defined staff process into a political process. He stated that the process needs to be predictable. Mr. Renaud stated that if you cannot park in the flood zone, park in your driveway, have a fire access, or implement drainage work it impacts how well you can develop the remainder of your property in the flood fringe. He stated he feels that this proposal will devalue properties. Mr. Renaud stated that he does not feel that this process improves anything. He stated that environmentally sensitive issues are currently covered by the requirements of Ordinance 5b.

Marilyn Clem, 3306 Morningside, stated that she has lived in the College Creek area for forty years. She stated that she had to pay flood insurance for 35 years. Ms. Clem said that she currently does not need to pay flood insurance. She asked if these changes would require her to pay flood insurance again. Mr. Kuester stated that this proposal does not move the flood boundaries. He stated that the City does not require flood insurance. Mr. Kuester stated that lending institutions require flood insurance.

Yvonne Wannemuehler asked if FEMA updated the City's flood maps in 2007 or 2008. Mr. Kuester stated that in 2008 FEMA took the 2004 maps and digitized them and made them into digital flood insurance rate maps. He stated that the boundaries did not change at that time. Mr. Kuester stated that in 2014 the flood maps for College Creek, Worle Creek, and two tributaries of Worle Creek were adopted that narrowed the floodway and floodway fringe. Ms. Wannemuehler asked if residents could clearly see whether their property was in the floodway or floodway fringe by looking at the maps. Mr. Kuester reviewed where those maps can be found.

Jim Howe, Howe's Welding, 811 South Duff Avenue, stated that new construction around him has formed a dike around his property by building six to eight feet higher than his property. He asked who decides how high someone can build. Mr. Howe stated that he has been in business on this property for 29 years. He stated that he does not feel that this is fair.

Public Hearing was closed at 8:04 p.m.

Julie Gould asked when FEMA will be updating their maps. Mr. Kuester stated that FEMA does not automatically update their maps. He reviewed the process for updating the flood maps. Mr. Kuester stated that it is very costly to update the maps and the City does not have any current plans to undertake the project. He outlined several instances when smaller updates have been made.

Ms. Lee asked if the zoning text amendments should state that they will be revisited if the boundaries are changed. Mr. Diekmann stated that the O-E cannot be changed without City Council action. He stated that it takes a public review process in order to change the maps.

Mr. Kuester reviewed various details about the flood insurance rate maps/study.

Ms. Gould spoke about the elevation of new development on South Duff Avenue. She asked if the City can regulate the elevation that the developer proposed. Mr. Kuester stated that if there is work being done in the floodway the developer needs to prepare an Environmental Assessment Report. He outlined the options available to the City Council after review of the Environmental Assessment Report. Ms. Gould asked if they would take into account how the development would affect adjacent properties. Mr. Diekmann stated that the standard is based on the assumption that fill is occurring. He stated that it is not reviewed on a case-by-case review. Mr. Diekmann stated that it is the expectation and policy of the City that fill in the floodway fringe is not only desirable but mandated up to the floodway line. Mr. Kuester outlined options available to those individuals who have property in the floodway.

Mr. Diekmann stated that even with the overlay there is not a performance requirement with the major site development plan other than the basic requirement that there cannot be a rise in the elevation of the floodway.

John Tillo asked if there is a definition of the Environmental Assessment Report in the code. Mr. Diekmann stated that it is not a defined term as the O-E can apply to any environmental issue. Mr. Diekmann stated that O-E is a generic term that applies to a specific issue at the time of application.

Mr. Tillo asked if staff considered more restrictive terminology besides obviate, mitigate, and address to make it clear for an applicant. Mr. Diekmann explained why this terminology was chosen.

Ms. Lee asked staff to summarize what this proposal hopes to accomplish. Mr. Diekmann stated that staff feels that this will help clarify the expectation of the environmental goals listed in the Land Use Policy Plan balanced with the economic development and neighborhood goals.

Mr. Tillo stated that it would be helpful if Mr. Renaud could explain how this proposal would have changed some of the projects in which he has been involved. Mr. Diekmann stated that the public hearing has been closed. Ms. Lee stated that she was surprised that a parking lot could be built in a floodway. Mr. Tillo stated that he is looking for more information and facts in order to make an informed decision.

Ms. Lee invited Scott Renaud to speak at 8:28 p.m.

Mr. Renaud spoke about the Riverside project. He stated that they would not have had parking by right so they would have needed to bring a site plan to the Planning & Zoning Commission and the City Council. Mr. Renaud stated that that would mean that the number of apartments and how to develop the property would be unknown. He stated that this property was developed under Ordinance 5b so it has treatment facilities as part of the project. Mr. Renaud stated that the developer has a flood notification plan in place for removing cars if this area floods. He stated that the applicant first attempted to flood proof the nursing home. Mr. Renaud stated that they went before the Zoning Board of Adjustment with their plans and were denied. He stated that the applicant decided to go with a predictable process and demolish the nursing home. Mr. Renaud listed his concerns with a discretionary review process. Ms. Lee asked if he would

prefer a process with defined prohibitions. Mr. Renaud stated that if the Commission would say that there is no parking in the floodway he would consider that a taking because it is a change from the current zoning requirements. He stated that the current process works. Mr. Renaud stated that it is a defined process. He spoke about parking requirements in residential zones and commercial zones.

Ms. Gould stated that she feels that this places an unnecessary hardship on property owners. She stated that she feels that the current process does work. Ms. Gould stated that she does not feel that the intent is to politicize the process but that it does open the door for this to happen.

Mr. Tillo stated that he feels that there is value in making this a more public process. He stated that he is in favor of staff's recommendation. Ms. Gould stated that she respects the public hearing process. She stated that she does not feel that it will solve the problem. Discussion was held on how this could apply to properties downstream.

Discussion was held on the advantages and disadvantages of the proposed approval process.

MOTION: (Tillo/Wannemuehler) to accept Alternative #1, which states: that the Planning and Zoning Commission recommends that the City Council approve the request to place the Environmentally Sensitive Area Overlay (O-E) on the Floodway, based upon staff's analysis as found in the addendum.

MOTION PASSED: (3 - 2 -1) (nay, Gould, Bowers; abstain, Converse)

ZONING TEXT AMENDMENT FOR THE ENVIRONMENTALLY SENSITIVE AREA OVERLAY (O-E), CHATER 29 OF THE AMES MUNICIPAL CODE

Charlie Kuester, Planner, stated that the proposed zoning text amendments attempt to address the review of projects located within the Environmentally Sensitive Area Overlay (O-E). Mr. Kuester outlined when the review is required. Mr. Diekmann stated that staff needs to add a statement in the final ordinance on Preliminary Plat (which includes a grading plan) approval.

Mr. Diekmann outlined the requirements and criteria. He stated that the Commission needs to consider the criteria that need to be met in order to make an informed decision for approval of a major site development plan. Mr. Diekmann stated that no additional standards have been added.

Public Hearing was opened at 8:56 p.m.

Scott Renaud, FOX Engineering Associates, stated that he reiterates his earlier objections. He stated that he also feels that the Commission needs to add that anything that is built under the City's Storm Water Quality Ordinance, Ordinance 5b, is also exempt. Mr. Renaud stated that he is also concerned that this proposal does not have a grandfather exemption for projects that have already been approved.

Julie Gould asked Mr. Diekmann to address the grandfathering issue. Mr. Diekmann explained that if a site plan were approved today then you would be able to get an approved building permit based on the standards in force at the time of approval. Ms. Lee asked how

changes/alterations to an approved site plan would be handled. Mr. Diekmann stated that if it was altered and related to a standard that was affected you might not be able to make the change to an approved site plan.

Ms. Gould asked if an applicant can maintain and repair a parking lot. Mr. Diekmann stated that maintenance is a permitted use/activity that does not trigger a major site plan review. He said that if it was torn out and replaced it would not be approved.

Mr. Renaud stated that he was calling a point of personal order that is allowed under the Rules of Parliamentary Procedure that states that when something is stated in error that gives him the right to challenge the statement. He stated that he feels that tearing up a parking lot is maintenance and should be allowed. Mr. Diekmann stated that according to the City of Ames Municipal Code, the City does not consider that a maintenance issue.

Mr. Diekmann stated that Ordinance 5b is a storm water permitting process that includes standards. He stated that it is not an entitlement to build a project; but, it is a component of a project. Mr. Diekmann stated that there are performance requirements. He stated that there is a waiver process.

Discussion was held on grandfathering standards.

MOTION: (Gould/Tillo) that the Planning & Zoning Commission requests that the Public Hearing be continued until the next Planning & Zoning Commission meeting which will be held on February 17, 2016 in order to allow staff time to draft language addressing Preliminary Plats and their inclusion in this section and to provide information to the Commission regarding the reference of this item to Ordinance 5b.

MOTION PASSED: (6 - 0)

ZONING TEXT AMENDMENT FOR FLOODWAY REGULATIONS AND CONDITIONAL USE PERMIT REQUIREMENTS, CHAPTER 9 OF THE AMES MUNICIPAL CODE

Charlie Kuester, Planner, outlined the proposed changes to Chapter 9 of the City of Ames Municipal Code that staff has recommended. He stated that the City participates in the National Flood Insurance Program. Mr. Kuester stated that national standards for the federal register need to be met. He stated that the Iowa Department of Natural Resources (IDNR) is responsible for implementing the Federal Emergency Management Agency (FEMA) standards. Mr. Kuester stated that the IDNR has drafted a model ordinance and statutory requirements that are greater than what FEMA requires. He stated that any changes that the City of Ames makes to Chapter 9 needs to be approved by the IDNR. Mr. Kuester outlined changes to the City of Ames Flood Plain Ordinance that occurred in 2009. He outlined the proposed changes to the permitted and development uses. Mr. Kuester outlined various structures that are allowed in the floodway. He reviewed the requirements regarding grading. Mr. Kuester asked the Commission to consider continuing the Public Hearing until the February 17, 2016, Planning & Zoning Commission meeting. He stated that the IDNR is requesting additional clarification regarding the proposed changes.

Public Hearing was opened at 9:25 p.m.

Lee Ballard, 500 South 4th Street, stated that he represents the Haunted Forest. He asked how the proposed changes would affect their business. Mr. Ballard stated that they do not have any buildings on the property or paved surface. Mr. Kuester outlined the property on the map. Mr. Ballard stated that cars are parked on the grass lot. He stated that they have been operating a Haunted Forest in the timber along Squaw Creek. Mr. Diekmann stated that if he is operating consistent with his prior approved conditional use permit then it would not change. He stated that he would like to set up a meeting to discuss this with Mr. Ballard.

Discussion was held on the conditional use permit approval process.

Wayne Hauber, 3337 Southdale Drive, reviewed various conditions occurring in a drainage area near his property. He stated that a neighbor has allowed timber to grow in the floodway. Mr. Hauber stated that he feels that the Commission should also consider timber growth in the Environmentally Sensitive area. He also expressed his concern about city street drainage that has been directed through his yard.

Scott Renaud, FOX Engineering Associates, feels that this ordinance pertains to parking in the floodway. He stated that he feels that this proposal is an attempt to eliminate this parking. Mr. Renaud listed reasons why he does not like the grandfathering discussion. He stated that he does not like the major site development plan review process. Mr. Renaud stated that driveways, trails, sidewalks, and fire accesses/aisles should be allowed. He stated that he feels that borrow pits and storm water detention/retention areas should be an allowed use. Mr. Renaud stated that he feels that if you borrow soil from one area of a site (the floodway) and use it in another area of the site (the floodway fringe) it should be allowed.

Mr. Diekmann asked Mr. Renaud for his thoughts about the proposed grading requirements. Mr. Renaud shared his thoughts with the Commission.

Mr. Diekmann stated that staff did discuss vegetation requirements but chose not to add this to the proposed amendments. He stated that if the Commission feels that it is important this could be added. Ms. Lee stated that it appears that the vegetation issues in the Southdale Drive area are from an earlier approved project that has not received subsequent follow-up. Mr. Diekmann stated that this particular storm water maintenance issue is not a part of the proposed change to this ordinance. Ms. Gould asked if there is anything in the proposed changes that addresses enforcement and follow-up. Mr. Diekmann explained the process and the penalties for violating the City of Ames Municipal Code.

Discussion was held on the process for addressing and monitoring vegetation concerns in the floodway and floodway fringe areas.

Marjorie Howe, 811 So Duff Avenue, asked if they would need to remove the trees located on this property by the creek. Mr. Diekmann stated that they would not need to remove the trees. He stated that the proposed changes to the ordinance to do not address tree removal.

Mr. Bowers asked if the Commission members feel that they need to have additional information on the taking of parking. Mr. Diekmann stated that he feels that this would be an issue where the City Attorney would give an opinion to the City Council and not something that would involve the Planning & Zoning Commission.

Discussion was held on the various items that the Commission would like to see included in the proposed changes to the ordinance or on which they would like to have additional information.

MOTION: (Gould/Wannemuehler) that the Planning & Zoning Commission continue the Public Hearing to the February 17, 2016 meeting in order to allow staff time to work with the Iowa Department of Natural Resources on the proposed language changes and an opportunity to prepare a visual aid table on Permitted Uses and Development Uses.

MOTION PASSED: (6 - 0)

COMMISSION COMMENTS: None

STAFF COMMENTS:

Kelly Diekmann stated that a consultant has been hired to work on the Lincoln Way Corridor Study. He stated that staff will report back to the Planning & Zoning Commission throughout the process.

Mr. Diekmann stated that a developer outreach meeting will be held next Thursday regarding revisions to the landscape ordinance. He stated that a landscape architect from Des Moines has been hired to look at the ordinance.

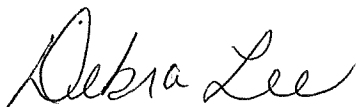
Mr. Diekmann stated that the February 3, 2016 Planning & Zoning Commission meeting has been canceled due to lack of agenda items.

MOTION TO ADJOURN:

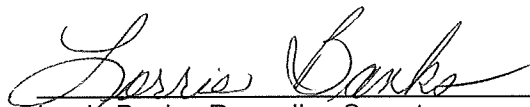
MOTION: (Wannemuehler/Gould) to adjourn the meeting.

MOTION PASSED: (6 - 0)

The meeting adjourned at 9:59 p.m.



Debra Lee, Chairperson
Planning & Zoning Commission



Lorrie Banks, Recording Secretary
Department of Planning & Housing