

**OFFICIAL PROCEEDINGS OF THE
MARQUETTE CITY PLANNING COMMISSION
May 10, 2022**

A regular meeting of the Marquette City Planning Commission was duly called and held at 6:00 p.m. on Tuesday, May 10, 2022, in the Commission Chambers at City Hall.

ROLL CALL

Present: W. Premeau, A. Andres, Vice-Chair M. Larson, Chair J. Cardillo, and N. Frischkorn

Absent: S. Mittlefehldt and N. Williams (both excused)

AGENDA

It was moved by A. Andres, seconded by M. Larson and carried 5-0 to approve the agenda with the removal of the April 19, 2022 minutes.

MINUTES

The minutes of April 12, 2022 were approved by consensus with the following change that J. Cardillo did not attend the City Commission meeting she watched it online after-the-fact.

CONFLICT OF INTEREST and EX-PARTE CONTACT

None was stated.

PUBLIC HEARINGS

A. 01-STR-05-2022 – Request to Vacate a Portion of Center Street

Zoning Official A. Landers stated petitioners have requested the vacation of the 64-ft. wide (approximate) Center Street right-of-way located between lots 1-3 of the Marquette Land Company's Addition No.2 and lots 26 and 27 of Ayer's Addition (see included plat map and photo-maps). She stated this portion of Center St. is the "dead end" that is almost perfectly aligned with the center of the Superior Dome on the NMU athletic campus, and Center St. thus provides a "terminal vista" of the Superior Dome, which is a classical design principal and may have been the reason for the exact build location of the Dome. She also stated in accordance with the procedures developed by the Community Development Department for street vacations, the petition has been circulated to all City departments for review and comment. She stated the petitioners own and manage property (own 1636 & 1700 Presque Isle, 251 Center St., and 201 W. Center Street) that is adjacent to the subject right-of-way. She also stated if vacated, adjoining property owners may take legal action to have the property included with their own property. She stated attached is the petition document, an area map showing water and sewer utilities, site photos, and said that she had not received any correspondence and asked D. Stensaas if he had.

City Planner and Zoning Administrator D. Stensaas stated that he had only received an e-mail message that he forwarded to the Planning Commission, from Jim Thams who was the applicant for NMU, which explained that they don't have any specific plans for that property but that they would probably make it a green space as they are planning to tear the adjacent Carpet Shop building down once the lease is up on that property. He stated that NMU now owns the property on all sides of the dead end of Center Street and their Campus Master Plan has this identified as a mixed-use area, but they don't have any plans for the area according to the message that was forwarded.

Chair Cardillo opened the public hearing.

Brian Harsh, 1635 and 1639 Presque Isle and 1309 Center Street, stated what is going on and what does this mean when they say "vacate the property" and how does this affect the road and the people around there?

No one else wished to comment. Chair Cardillo closed the public hearing.

It was moved by M. Larson, seconded by A. Andres and carried 5-0 to suspend the rules for discussion.

M. Larson stated that he would turn to staff for a brief explanation of street vacations and vacating that brief portion.

D. Stensaas stated that what we have with platted subdivisions is that there was a survey done of all of the parcels, and to the north and south of this right-of-way there are platted subdivision parcels. He stated that the streets in subdivisions are surveyed and laid out on the plat and designated as right-of-way, and the plat is a legal document that is approved through a process that the state oversees, so any right-of-way that was platted and approved by the state when it approves the plat – to terminate the use of it as a right-of-way it must go through this formal process we call street vacation. He stated that if it is vacated it will remain City property until adjacent landowners acquire it through a process established by state law through the courts, and so if it is vacated the City will be responsible for maintaining it until NMU acquires it. He also said that what will probably happen is that once this portion of the street is vacated and acquired by NMU it would be stricken from the plat as a right-of-way and it would be re-monumented as part of NMU's property in that area.

J. Cardillo stated this would still remain property of the City, but when the next step happens that is when it would change ownership.

M. Larson stated that his only other comment is that after reading through the materials it seems like everything is in order with agreements and it makes sense that this would become part of NMU's property since they've acquired all the property adjacent to this part of the street.

A. Andres stated that he agrees.

N. Frischkorn stated that just for clarification - Center Street would end at Presque Isle Ave. instead of nearer to the dome if this is approved. J. Cardillo stated yes.

W. Premeau asked if the alley that ran between Fair Ave. and Wright St., off of Center St., had been vacated. D. Stensaas stated that he isn't aware of it if there was a platted alley where the NMU property is now. W. Premeau stated that he walked that alley many times. He also stated that doesn't see anything wrong with this request.

It was moved by M. Larson, seconded by A. Andres and carried 5-0 that after review of the background information for 01-STR-05-22, the "Portion of Center Street East of Presque Isle Avenue Vacation Request", the Planning Commission finds that the proposed street vacation would not conflict with any intended municipal uses of the right-of-way, and hereby recommends the City Commission approves the street vacation as presented.

B. 02-REZ-05-2022 – Request to Rezone from CR to LDR - PID 0515156

A. Landers stated the Planning Commission is being asked to make a recommendation to the City Commission regarding a request to rezone the property located at Forestville Basin Trail - PIN: 0510156 which is zoned Conservation & Recreation (CR) to be zoned Low Density Residential (LDR). She referenced the staff report and visuals from the agenda packet were shown.

Four items of correspondence received after the agenda was posted were read. The first was from the Marquette Township Planning office on behalf of their Planning Commission; the others were from residents of the Blue Heron Bluffs Condominium projects, with lots in Marquette Township - Kristina and John Orticeili, David and Ryan Staples, and Steven Embree. The correspondence from Mr. Embree included a letter drafted by Adrienne Wolf, the attorney for the applicant, addressed to members of the two homeowner associations (Blue Heron Bluffs and Blue Heron Bluffs II).

Jim Conlin, of Iron Shore Development at 137 W. Michigan St., and representing the applicant, stated that he would like to point out a high-level view to limit future development of the residential lots which were

mentioned for single-family construction within the city boundaries. He stated that that is in the request for the rezoning of the 21 acres and then one residential lot for rezoning which was the 1.5 acre parcel. He stated that it was their humble opinion that approving the requests will benefit the city and neighborhood residences as it would control and limit the development of the property to the aforementioned number of lots and would fit within the low-density residential guidelines. He stated that he would like to reiterate the control and limitations pieces to that, as the current owners intend to have a minimal number of families able to build single-family residences. He stated that in addition, they further intend if the requests are approved, is the donation of land to the north of the township to be donated for no future development. He stated furthermore, that not to be doom and gloom, but there is always the possibility that a current owner offers for sale this entire property and the city and township parcels to an outside buyer. He stated at that point, with current zoning there is no control as to the request of any outside party, whether it be for documented rights or special land use requests in the future. He stated that yes, there would be issues raised about the road access condition in its current state and the potential wear and tear to the roads due to the low density lots. He stated that in future planning, those concerns should be addressed by the private home owners and the public. He stated as to the future low density development housing, the planning will incorporate city guidelines for an access road and that they also need to develop the access points. He thanked the commission members for their time and consideration.

Adrienne Wolf of McDonald & Wolf, LLC, 115 S. Lakeshore Drive #A, attorney for the applicant, stated that this is a unique situation in the sense that this particular parcel borders property and is adjacent to condominium units and uses the same access as the condominium association which is located in Marquette Township. She stated therefore they have Blue Heron Bluffs 2 near the entrance of the development and then Blue Heron Bluffs 1, which is further down Forestville Basin Trail Road and most near to the proposed rezoned area. She stated in Blue Heron Bluffs, also known as BHB 1, which is the association that's closest to the potentially rezoned parcel, there are 18 units, single-family homes and then BHB 2 which is the near the entrance of the development, consisting of 11 units. She stated there are also 5 additional parcels which are single-family parcels, near the entrance to the development that also use Forestville Basin Trail. She stated currently the road Forestville Basin Trail is already used by 34 single family residences. She stated that they are proposing by developing this or rezoning this, they are proposing 8 additional residences to be served by the same road. She stated that the other thing that she thinks is important for the planning commission to recognize is that that particular parcel was listed as a potentially expandable area for both condominium associations. She stated that Blue Heron Bluffs 1 was the first development on Forestville Basin Trail and that it contains 18 units and is most adjacent to the proposed rezoned parcel. She stated that at that time, the property in question was listed as potential property to be added to that condominium. She stated that the time to do that has past, so the property in question cannot be now added to Blue Heron Bluffs 1. She stated that secondly though, it was also listed as an expandable area for Blue Heron Bluffs 2 and in the master deed, when all the owners of Blue Heron Bluffs 2 purchased, it was disclosed to them that if this expandable area is added to Blue Heron Bluffs 2, and there is still time to do that, up to 8 additional single-family lots could be created out of it. She stated that again, this is a condition which was known to all of the purchasers of property in Blue Heron Bluffs 2 and that it was stated in the Master Deed as well as the subdivision plan. She stated that this is a rezoning request, and that the primary focus in her opinion, is that they are requesting that the commission consider the zoning as LDR in order to be consistent with those adjoining areas. And she stated that also the property in question is accessed through the same road that the other two associations are accessed through. She stated that she does believe that LDR is more consistent actually than what the current zoning of CR. She stated that CR currently allows the developer to use the property for things such as forestry and agriculture. And she said and in fact, some of those uses the developers requests from surrounding owners specifically to not use it as it is currently zoned. She stated that they are asking for this rezoning to make it actually consistent with the other adjoining development. She stated that and in an effort to ensure these 8 are in fact compatible with the surrounding uses, that is what has prompted the developer to enter into or to provide the letter of intent that was read to the commission earlier, which according to her understanding has now been approved by Blue Heron Bluffs 1 as an association. She stated that the other factors that she would point out to the commission are to look at the trend of development in that particular area and whether LDR is actually a better use for the property. She stated that both current developments support rezoning as LDR rather than keeping it as CR as set forth in the materials provided to the commission during tonight's meeting. She stated that the most consistent concern that has been raised in correspondence by adjoining land owners as well as the township has

been the state of Forestville Basin Trail and can it handle and additional 8 homes on the road. She stated that again she would point out that there is already 35 single-family residences using it, so they are not incrementally increasing the traffic by very much. She stated secondly, the owners in BHB 1 and BHB 2, the two condominium associations, are actually the ones responsible for maintaining and improving that road. She stated that therefore those who are complaining to the commission about the state of the road in fact have the ability and the power to actually improve and maintain their road. She stated that both condominium associations have the authority to assessments as necessary to maintain and improve Forestville Basin Trail. She stated that in fact one of the conditions they agreed to as stated in their letter of intent is that the 8 parcels, once created, would also be required to pay assessments to maintain and improve the road, just as Blue Heron Bluffs 1 is. She stated that therefore if that association determines that it is appropriate to pave the road or widen the road, the proposed new 8 units would also be bound by any particular assessment issued for that purpose. She stated therefore, that would add an additional 8 homes that are actually contributing to maintaining and improving the road, hopefully alleviating some of those concerns. She stated that there are a number of trails in the particular area in question which are maintained by MTM. She stated that the developer has been in discussions with MTM to continue to allow access to the MTMs. She stated that they accept that that has been a concern that has been raised by correspondence and that it was always with by grace of the landowner as most trails are and that it is less than fair to use that grace now against the developer. She stated that additionally the township has approved both of the condominium developments previously; BHB 1 and BHB 2. And she stated that she has also heard about the township expressing concerns about the state of Forestville Basin Trail and she stated that she believe that those comments focused primarily of the Forestville Basin Trail Road the goes through BHB 1, because it was prior to a requirement that the road to county specifications. She stated that the road in BHB 2 which is closer to the intersection with Forestville Road was in fact built to county specifications according to the township ordinance at the time which it was developed. She thanked the commissioners for their time.

Chair Cardillo opened the public hearing.

John Fagan and Donna Fagan, 585 Forestville, stated and he and his wife were in the Blue Heron Bluff Condo Association. Donna Fagan stated that they support the rezoning.

Steven Embree, 395 Forestville Basin, stated that he was a Blue Heron Bluff Condo Association as well. He stated that the condo association has met as a group and voted to support the rezoning application. He stated they had a minority of the group that does not support the rezoning application, but that the majority of the participants and members do support the rezoning application. He stated that one of the big considerations they have is certainly with development in that area. He stated that they have been blessed with not a whole lot of development for years and years and years. He stated that he much would rather have residential property on the property in question than any other type of development. Therefore, he is supporting the rezoning application for residential because it is beneficial to their members and the association supports that. He stated that the second piece is the initial 40 acres that had been referred to that the developer plans to basically give them, which adjacent to their property, in the township, so it cannot be developed. S. Embree went on to say that one of the big considerations they have is if that property goes to someone else, due to the current zoning classification they could end up with a camp site in there, campers. He added traffic on the road and the wear and tear on the road could be much worse than just 8 residential lots. He stated that they do understand the condition of the road and the need for improvement of the road, but they also understand that the developers want to give them money for such development and the 40 acres for nondevelopment; therefore, it will not be improved, nobody else will be back there and that would be the extent of the development in that area. S. Embree thanked the commission.

Tom Sundko, 475 Forestville Basin, stated that he and his wife Karen Sundko have lived at this address for 32 years. He stated they enjoy that environment and that they are not necessarily wanting to see more development; however, they definitely do support the approval and the rezoning request that's being asked of the committee. T. Sundko then thanked the commission.

Patricia Olson, 435 Forestville Basin, stated that she supports the proposed rezoning. She said as S. Embree mentioned, the trail systems out there are heavily used by them and all the members of the local

community and that she feels that preserving the 40 acres and just developing the targeted 8 lots preserves some of that for not only the residents but the larger community which also uses the trails that current exist. She stated that she thinks the other benefit of looking at this proposed development versus others which will be inevitable is with the residential home builds, she thinks the development would be more of a staged development. She stated that they would not be selling 8 lots in one year, so she thinks that the impact on the road would be incremental and that it will given a chance to recover from those builds, get it repairs and have a few more builds happen. She stated that that would preclude any other large development that might come in and really wreak havoc on their road. She stated that she does think that residential is more consistent with what they already have out there and that from a self-preservation perspective, everyone has made a large investment in their homes out there. She thinks that some of other potential uses could negatively impact their property value. She stated that placing other residential property out there would help to stabilize and perhaps improve their property values and that some of the other uses would work to the detriment of the people who have put significant investments in their properties out there.

No one else wished to comment. Chair Cardillo closed the public hearing.

It was moved by N. Frischkorn, seconded by M. Larson and carried 5-0 to suspend the rules for discussion.

N. Frischkorn stated that he would start by addressing several of the things that were in the correspondence prior to the agenda. There was raised some issue of master deed, he stated that he does not think that that is something that they could address there in their session. He stated that that seems more of a contract issue between the parties than anything that the Planning Commission could consider. He stated that he also wanted to clarify that he does not believe that we can add any conditions to their decision, because this was not a conditional rezoning request, so they cannot add any conditions, they can only approve or deny.

J. Cardillo asked if N. Frischkorn was referring to the correspondence that was read earlier.

N. Frischkorn stated yes, he does not think that the issue of the master deed could be included and asked to be corrected if he was wrong about this fact.

D. Stensaas stated that he had that discussion with the City Attorney and that she would concur with that, that those are not issues. Those are issues between the homeowner's association and the developer.

J. Cardillo stated that they would be taking this at face value only and any conditions that the homeowner's association the wish to make among themselves has no pertinence to what they are doing.

N. Frischkorn stated that if it was a conditional zoning request then that would be a different matter. But as submitted, he does not feel they can attach conditions. He stated that there was a number of concerns that he had, the biggest one is that he does not feel that this request is consistent with the Master Plan. It is zoned Conservation & Recreation and it's marked CR on the Future Land Use Map. So he stated to him, the biggest thing is the fact that this is inconsistent with what's in the Master Plan. He stated also just kind of going through the factors, factor number three, the street system. He stated that they have heard testimony, they have had a letter from the township that the street is substandard and does not meet specifications. He stated that factor number four is utilities and services and there is no utilities or services in that area. There is electricity from the BLP, but that's about it. Factor number eight, he stated, also gives him concern, the increase on septic treatment and possible nuisances, noise, traffic level and those types of things. He stated that he does not about their relationship with the surrounding zoning districts which, at least in-city, the BLP and the Board of Conservation & Recreation. He stated that rezoning the area as LDR would be consistent with the surrounding zoning districts. He stated and then he thought there could be an argument made on factor 12 as well, that they might be creating an encapsulated or incompatible zone if they approve the rezoning request. He stated that he knows that in the township, it's Scenic Residential. He stated that as far as city property goes, this would certainly be an isolated zone. He stated those were his concerns with the rezoning request as it is before them at that time.

M. Larson stated that he had a question for staff and that it relates to the township zoning as Scenic Residential and their relationship with the township and essential kind of planning principles as far as when their district is immediately adjacent to Scenic Residential. He asked how should that be kind of thinking about that. He stated that it is one thing to think about it in relation to the city's zoning and whether that creates an isolated zone, but what considerations as far as immediately adjacent to another municipal body's zoning.

W. Premeau stated that yes, in terms of the development standards, it is something to be considered. It's worthy in your consideration and your decision-making what their standards are. He stated it doesn't matter so much if there is concerns about the impacts, where those come from as much as the standards that are in place in that district and the Scenic Residential he said he thinks they explained that that's a got a 5-acre minimum lot size unless there are certain conditions met through a Special Land Use Permit that the lots can be as small as 40,000 square feet, he believes.

J. Cardillo clarified that it is just under an acre.

W. Premeau stated that he agreed and as far as other development standards, as they pointed out, there are no standards for utility services or street, the street map kind of a thing. He stated that this is rural development.

N. Frischkorn stated that as a follow-up question to that, and just kind of thinking about this as a unique or potentially unique parcel, he stated that the reason for Conservation & Recreation, was that partially just due to the remote location of it and it being outside of any of the City of Marquette's utility and street corridors that they may have. And so, he asked, did it get zones CR just because it had limited access?

W. Premeau stated that he could not answer that question authoritatively. He stated that this is not the BLP's property, this is really on the fringe of the city. He stated it's not owned by the BLP and he think that's a fair, as good as any other theory. He stated it's not easily accessible, it's forested property and not easily accessible. He states that developments which they've seen in that area and that the BLP's property, of course, has some specified uses and that it abuts that property and if the BLP owned it, it would be BLP zoning. So he stated that he thought that that was as good of a theory as any, that for a long time that has been out there not owned by anybody particular with any development proposals.

M. Larson stated his other thoughts when thinking through this. He stated that he knows the intent from the development or from the request was that this would be for only single-family homes. However, he said, the Low Density Residential Zoning District does allow for many more permitted uses other than just, you know, single family. He stated these included adult foster care, child daycare, dwelling, single-family detached, food production, foster family home, home occupation, home office, home stays, vacation homes, and residential limited animal keeping. He stated that then is also has a variety of special land uses as well that are permitted that include child care center, day care, accessory dwelling unit, foster family group home, recreations, religious institutions, schools, primary and secondary. He stated that right now just considering from a rezoning piece, it could be any of those uses could come to be. Now that is without any deed restrictions or anything that might be common land. He stated that as of right now, if they were just to change it there at the commission meeting and without any binding agreements in place, he said he thought that in theory he guessed the owner could change gears and put in some other multi-family dwelling that might be in there, duplex or otherwise. He stated that that is just something that they could think about while they are talking about this.

N. Frischkorn stated that another point that he would like to make is the developer on behalf of the applicant said that if it is sold there is no control over the future development. He stated that he just wanted to clarify that that is not accurate because it would still be zoned Conservation & Recreation and would only be for those permitted uses that are currently in that zoning.

J. Cardillo stated that she thinks that that is an interesting point and she guessed it sort of clarified to her that she thinks the people are always more concerned about that 40 acre parcel. She stated she did just want to clarify that that parcel was zoned for Scenic Residential. She asked if that was correct. It was

clarified to her that it was not and she asked would it be classified as agricultural.

M. Landers clarified that that would be horse stables, poultry sales, Christmas tree sales and such types of purposes including forestry both commercial and non-commercial, firewood sales, equipment storage, offices, yard work decking areas and emergency services centers, state or county recreation buildings, horse stables, marinas and other such uses.

J. Cardillo asked for the 40 acres to be clarified on the map.

M. Landers stated that as the City of Marquette that would not be something that would not have control over. He clarified that the 27 acre parcel even if sold could only be used for things in the CR district. He stated that the 40 acre parcel is in the township so it is not anything they would ever have control over.

J. Cardillo acknowledged this response.

W. Premeau stated that there are always so-called deals, such as with the 40 acres and all that, but resolving this has nothing to do with any of that stuff. He stated that that's the resident's problem to make sure that that is actually going to happen. He stated that if they rezone that piece of property, all other conditions that we're talking about do not have anything to do with them. He stated that if say, the owner stated that I'm not going to give you the 40 acres and I'm not going to do this or that, the only other problem's he's got is, how does the road go in there (addressing D. Stensaas).

D. Stensaas asked what W. Premeau meant.

W. Premeau stated that there has to be access to that road, the Forestville Basin Trail road.

D. Stensaas stated that yes, the Forestville Basin Trail road intersects.

W. Premeau asked if it was 180 feet. He stated that they have got to have a turn-around or the buyer's won't come. He stated that also they are supposed to improve the road, in theory. He stated that it still have to have a turn-around unless it goes out somewhere. He asked if that comes out to another intersection.

Ms. Wolf stated that the city and the township work together is their intention, and it is her guess that probably the township would be apt to improve these parcels than the city, because they township will take that road, but that the city might go up and do that, too. However, she said, they want to get there faster.

W. Premeau stated that rezoning the parcel would not necessarily mean that all of the other factors would automatically fall into place.

J. Cardillo asked about rezoning as it applied to the Master Plan.

W. Premeau stated that he thought that was in there, too, he thought.

N. Frischkorn stated that was correct and he guessed that to him the emergency falls under category four, also. It would be utilities and services. And he stated that services include things like police, fire, and access seems complicated at best.

M. Larson asked would he be correct to assume that once the rezoning is approved, those would be additional factors that would come into being which he assumed that fire department and such has not necessarily weighed in on a rezoning right now but once the site plans and things like that are submitted, they may have additional requirements or suggestions as conditions for those site plans move because those issues would still come before them.

A. Landers stated that if they become part of the site of the condominium, that would have to be reviewed by all the different departments and that is probably where the fire department would have comments.

J. Cardillo asked if this would be something that be suitable for PUD.

A. Landers stated that you cannot request a PUD when you are currently zoned Conservation & Recreation. It is the only zoning district that you can't.

J. Cardillo asked for a clarification from the applicant. She stated that she knows that this was stated earlier, but that it was really confusing. She asked if this were to be rezoned and be developed, would this be a part of either BHB 2 or BHB 1's covenant or whatever the language is. She asked if the applicant could just clarify that one more time.

Ms. Wolf stated that maybe is the answer. She stated that it is listed in BHB 2's Master Deed as a potentially expandable area.

J. Cardillo asked for the clarification of the location of BHB 2 on the map.

Ms. Wolf stated that location of BHB 1 and stated that it was developed first and that BHB 1 is the one most adjacent to the property in question.

J. Cardillo asked for clarification if BHB 2 was the one that come off the road first.

Ms. Wolf stated yes, that is correct.

J. Cardillo asked if this property in question would be part of BHB 1.

Ms. Wolf stated it would be part of BHB 2, because the problem is BHB 1 was developed so long ago, this was listed as an expandable area, but by law you only have six years to add anything after you record the Master Deed. Ms. Wolf stated that that time period has expired. She stated however, they still have that time left for BHB 2. She stated that they disclosed to all of the owners in BHB 2 and they thought hey, this is an expandable area and we can create up to 8 other units here.

J. Cardillo asked if that was the people who come straight off the road and so this property would be associated with the initial piece when you come off the road.

Ms. Wolf stated that yes, that was correct.

J. Cardillo asked if they would be governed by the same rules and conditions.

Ms. Wolf stated that yes, they would be subject to the same assessments and subject to the same restrictions.

J. Cardillo asked if it has to be part of that condominium or could the developer just develop it independent of it.

Ms. Wolf stated that yes, he has the ability and that there are divisions available here. She stated that therefore if they went through a site plan review and they divided the property into separate lots, they can do that. She stated that that was part of that Letter of Intent which, of course, you cannot enforce. She stated however that these lots would be pay assessments to BHB 1 because that is who they are adjacent to. She stated that therefore as part of this overall development, there are actually between four to six parcels. She stated that when you first go off of Forestville Road and you turn onto Forestville Basin Trail, there are four to six lots that are not part of either condominium association. She stated that those that have been sold off, and she thinks they are at four now, maybe five, those that have been sold off have restrictive covenants recorded against them where those lots pay assessments to BHB 2, because that's who they're next to. She said that in a similar type of arrangement, there would be for these 8 parcels. These eight would be adjacent to BHB 1, so they would have restrictive covenants. She stated that again, there is not a condition necessarily that you can put on this, but the intent is that those 8 would pay to BHB 1 because that is who they are adjacent to. So if BHB 1 decided to issue a special assessment for pavement of the road, those 8 would pay to it whether or not they were part of the condo association.

J. Cardillo asked for clarification that the choice to be part of the condo is not compulsory and that the property could be separate from the condo.

Ms. Wolf stated that that was correct.

J. Cardillo thanked Ms. Wolf and that that was what she was trying to understand.

M. Larson stated he thinks this is a unique situation that maybe Conservation & Recreation originally, whether that's on the future land use map or currently, only because of it's relatively rural nature and disconnect or kind of disconnection from the city. He stated that however, as far as rezoning goes it is clear that there is support for it but a very narrow support. He stated that it seems to him that maybe he would be more comfortable if there were a conditional rezoning request. He stated that again, he knows that that is not what this is, but it would make him more comfortable if it was a conditional rezoning request where you could strike essentially everything off of the proposed zoning for the LDR and only essential limit it to single-family residential and so you're having kind of a very narrow focus of what it is, and that ends the agreement. He stated again, that's not what they have come to the committee for and that he knows right now that that's not worth considering, but that's possible future action that could be done if this does not work out.

A. Andres stated that he concurs with M. Larson in that fact that it works out as a conditional use, but unfortunately that's not what they're there for. So he thinks for those reason he does not think that the commission can approve it, based on all of those factors that they do not know, in his opinion.

N. Frischkorn stated that he would like to echo that if it was a conditional rezoning request that he would feel like he could be more comfortable with it and that there would be more room to address some of these considerations. He stated however, that as Commissioners Larson and Andres have stated, he does not feel that he could support a rezoning request as it has been presented to them.

Ms. Wolf asked for permission to speak of the Chair, which was granted. Ms. Wolf then inquired if the ordinance would permit them to voluntarily make this a conditional rezoning request.

J. Cardillo stated that they would not be able to do it that very night, and that they would have to reapply.

Ms. Wolf acknowledged the answer.

D. Stensaas stated that the conditional rezoning has to have an agreement presented with it that specifies what the conditions you're offering are. He stated just to be clear, the Planning Commission can't add conditions once somebody proposes a conditional rezoning. You cannot negotiate those conditions if you're only going to be able to vote on the conditional rezoning. He stated that the city has only had conditional zoning as an option in the planned development program since 2019. He stated that the first time they did this, they let the applicant not present the agreement, because the way the program had said it could be presented at some point in the process. He stated so then they let it go to the city commission level and it wasn't presented there, and they voted to approve it without understanding that that agreement had to be there. He stated that therefore it ended up having to be approved through another process where they came back to the city commission later and it was just a mess. He stated that they want to make sure that, and he thinks they amended the code line, to stay that it has to be approved at the planning commission level.

A. Landers stated that it does say that such conditions, referring to conditional rezoning, may be proposed at the time the application for rezoning is filed or at a subsequent point in the process review of the proposed rezoning.

D. Stensaas stated that he agreed. He stated that the city attorney and he discussed that and they agreed that the planning commission should see that agreement and that it shouldn't be something that the planning commission passes on, because it is an important part of the process. He stated that it can be a simple statement of two or three conditions, but in some cases it is going to be multiple, perhaps 10 or 12

conditions depending on how complex the proposal is.

J. Cardillo asked if in the conditional rezoning, is it just a question of crossing out things or could they add different additional things like limit the lot size.

D. Stensaas stated that that was a good question. He stated that it would be really, he thinks, valuable at this state to state what you think conditions should reflect and what a good presentation of conditions should include. He stated that this is because yes, the number one thing is which land uses are you proposing to include and to exclude, so cross out all those conditions that aren't going to be ever considered and that would be part of the agreement, so you're limited to a certain set of land uses that are allowed in that district.

J. Cardillo asked if it could go beyond that.

D. Stensaas stated it could go very specifically beyond to lot size, usage and that kind of thing.

N. Frischkorn stated that he had two questions. The first question was is the applicant able to amend the application or would they have to submit a new conditional rezoning application. He asked if they could amend their rezoning application to a conditional rezoning or they have to resubmit entirely.

A. Landers stated that according to what she was looking at, it says they could amend because its says 'or at a subsequent point in the process.' So they could amend an application.

J. Cardillo asked if that could be done at tonight's meeting.

A. Landers stated that it was just a matter of if they have to put notices back out.

N. Frischkorn asked if the commission were to take action at tonight's meeting, if they would still be able to amend it.

A. Landers stated no, that would not be possible, depending on what their action is. A. Landers stated that if they were making a recommendation to deny then the City Commission may kind of close out the rezoning.

N. Frischkorn acknowledged this response. He stated that his other question was if they could submit as part of the conditional rezoning application, the table from Section 54.307 with things stricken out and could also submit the Letter of Intent as part of an agreement, and that package could be a conditional zoning request.

A. Landers stated that that might be in the land development regulations and things like that. She stated it spells out everything that needs to be shown in the agreement in that ordinance.

J. Cardillo asked if that is something that N. Frischkorn would be more included towards.

N. Frischkorn stated that yes, he thought that that would be more appropriate and something that would be more consistent. He stated that he thinks that Commission Larson said it very well, if the City Planning Commission rezones this, then any use in LDR can go there, any of those uses. He stated that he does think that in consistency with the Master Plan that there would still things that would need to be addressed such as utilities and services and the street system which would need to be addressed. He stated also he thinks that if there were to be an additional rezoning application in front of him, he would say with certain uses stricken out, with that kind of Letter of Intent that there was an agreement, he stated he thinks that that would be something that he would be a lot more likely to be able to support than what is currently in front of them. He stated that he also does not want to make a motion to deny that will prevent them from amending their application.

M. Larson stated that he guesses that the question would be, because this is a recommendation to the City Commission, are they able to able to recommend to allow to stop the process to allow an amendment.

J. Cardillo asked what would be the process. Would they postpone and they amend?

D. Stensaas stated that he believed that they could make a motion to postpone a decision on an amendment if the applicant wanted to resubmit this as a rezoning with conditions.

J. Cardillo acknowledged his response and asked that if it was correct that theoretically what they should do is what he stated, but they should also clarify what they would like to see that would make them feel comfortable going along with that.

Ms. Wolf stated that she would like to throw it out there that the commission would not be giving conditions but rather only making recommendation. She stated that if the applicant does not wish to do a conditional rezoning then they would not have to.

J. Cardillo agreed that yes, they would not have to do anything. She stated that for herself, the concerns that she had are the density. She said she would really like that if they rezone this land as LDR, it would be the highest zoning with that area and that makes her very uncomfortable. She stated that therefore if she felt confident that the density was going to fit the neighborhood, she would feel a lot more comfortable. She stated that she would love to know that there is some kind of organized thought to how the road is going to be maintained that is more than just intention. And she stated that she also would like to understand if it is going to be part of this condominium or is it not. She stated that those two things are the things that really impact the board and some of the other items do not, but those two things would make her feel a lot better as well as excluding it to residential only.

W. Premeau asked a question addressed to D. Stensaas. He asked once it is rezoned to residential if the owner could do whatever he wants.

D. Stensaas stated that he can do whatever is listed as a permitted use in the zoning district.

J. Cardillo explained that that was why they were considering the rezoning with conditions.

W. Premeau he stated that the point he was clarifying that all the other things that were promised, once it is rezoned that is not part of rezoning that would be something else that would have to be dealt with by the owners.

J. Cardillo stated that again, that is what she was saying, they need to discuss what matters to them as the City Planning Commission and not the other things that are going on between the condominium and the property owners. She stated that they are concerned with the welfare of the City of Marquette.

N. Frischkorn stated that the things that he would like to see is not only plans to maintain the road, but actually to improve the road and bring it up to standard. He stated that he would also want to see a plan for how utilities and services are going to be addressed and delivered before considering a conditional rezoning request. And he stated that the other thing that he would also want to see is something like the Table from 54.307 with what uses will actually be permitted if this is conditionally rezoned and what other special land uses are prohibited.

M. Larson stated that even though he knows the road is a concern, he stated whether or not that is a concern of the rezoning or not is what he is a little bit on the fence about. He stated that is because he thinks that will come into play once site plans are coming into being and it gets reviewed by additional parties at that point in time. He stated that even though he knows that the road is a bone of contention and sounds like it needs some improvement, he said it might be nice to understand what those might be. He stated that he does not know if it comes into play from his perspective, for this, the rezoning portion of it.

N. Frischkorn stated that his response to that would just be that factor three is the street system. He stated so he thought that that would be something that would need to be addressed and at least have a plan put in place. He said maybe his clarification there is if it is a private road or a public road, he does not know how those or if they fall under that same standard and maybe that would be a question for staff. He asked that

as far as standard three, how the interaction with the road system, do they hold it to the same standards for a private road versus a canal [ph].

D. Stensaas stated that he thinks it's too messy to specify road standards in another jurisdiction. He stated that he does not think the Planning Commission should go there. He stated that he does not know if that would be something that they could reasonably expect to be followed. He stated that it is not in their jurisdiction, so whatever standards they decide the road is acceptable. He stated that even though they are saying parts of that road are substandard now, that is their issue.

W. Premeau stated there would be a portion of the road in the city, not in the township.

D. Stensaas stated that also the city's road standards, one of the things in the current LDC amendments are going to the City Commission at the end of the month and it has to do with that very issue of how far from a city street system a road has to be to have to be developed under the city's standards, the city's street standards. He stated that that draft amendment extends that to quite a extension.

A. Landers stated that her believe was that it was 1,500 feet.

D. Stensaas reiterated 1,500 feet. He stated that therefore, that particular issue is one that he would recommend avoiding. He also stated that his concern with this process at this point is their noticing of this and how if the commission is suggesting that so far they are not comfortable with the recommending approval of the zoning, and that is what he is hearing, he stated recommended that recommending another process is okay, but the Planning Commission's decision is to approve this or deny it and he thinks that they need to do one or the other. He stated that if it is to deny, you could add to your decision that you are not comfortable with all the potential uses of the property. He stated if they delay the decision on the issue, the noticing requirement for this changes, unless you're going to approve it or deny it as a rezoning request not as a rezoning request with conditions.

J. Cardillo stated that she thinks that the process would be cleaner if they deny it with the intent for them to come back as a conditional rezoning and then they just reapply separately for a conditional rezoning.

D. Stensaas stated that he thinks it's okay to discuss wanting another process, but that their decision is going to be to approve or deny this rezoning request, and he is concerned that to put anything about wanting certain conditions in your motion or postponing for conditions to be presented could be construed as requiring that from the applicant and you can't do that. He also stated that he has due process concerns, about whether they would be following the process correctly. He also stated that it is something for discussion after the meeting, but if this request is denied and the City Attorney finds that the applicant can – as the Code suggests – submit an [Conditional Rezoning] Agreement to the City Commission and they agree to schedule a public hearing, then the City Commission could possibly consider it as a Conditional Rezoning request at that point because the Code says the Agreement may be submitted with the application or at a subsequent point in the process. He said that his take on it is that would be okay for that to happen.

J. Cardillo stated that she wonders where they are at with the things that make them uncomfortable with the rezoning request in the state that it is. She said they've talked about the density. She stated that she honestly feels that because of number three feel like the road, whether or not it is something that is spelled out or just address in some way, she says she still personally feels that she has an issue with it. But if the applicant could come up with something that addresses that in a coordinated way it would be helpful. She asked if anybody else has anything regarding being uncomfortable. She stated that she would be comfortable with the issue of the street system as well as the Master Plan in terms of addressing the density in that area and the fact that in its current status, the LDR would be the densest zoning in the region and if there was some way to address that it would be good.

A. Andres stated that after what they've just heard, it would seem like it would be more apt for them to deny and have them come back than for them to postpone and go with some haphazard way.

J. Cardillo stated she agreed with that statement and that she just wants to be very clear about what things

are sticking points for them. She stated that therefore she would like everybody to just kind of speak to that, not that they are trying to tell the applicant what to do, but just so they understand clearly what are the sticking points for the Planning Commission as to why they don't want approve it at this time. She asked if that made sense.

M. Larson stated his biggest sticking point is the large number of permitted principle uses without any pretty clear agreement to Wayne's point saying that if the applicant were to say they were not bound by anything and that if it were rezoned to LDR it is open to all those uses at that time. He stated that however if it were to come back and very narrowly state that it would be such as single-family dwellings that would make more sense to him.

J. Cardillo asked staff if their motion to deny should state the reasons they are denying should be outlined.

D. Stensaas said stated that since it is being put in the record and in the minutes, he did not express an opinion at that point.

A. Landers stated that in their motion they need to state the reasons why it is being denied and why it feel like it does not meet the requirements that you are holden to.

D. Stensaas stated that that does not necessarily address all the sticking points that you're talking about.

A. Andres stated that he thinks they have covered the sticking points in their minutes.

J. Cardillo stated that she just wants the motion to be clear and that is it not just a denial with no clarification.

N. Frischkorn stated that he was ready to make a motion if there is no more discussion.

It was moved by N. Frischkorn, seconded by A. Andres and carried 5-0 that after conducting a public hearing and review of the application and Staff Report for 02-REZ-05-22, the Planning Commission finds that the proposed rezoning is not consistent with the Community Master Plan and does not meet the requirements of the Land Development Code, Section 54.1405, and hereby recommends that the City Commission deny 02-REZ-05-22 for the following reasons:

- 1. It is inconsistent with the Community Master Plan and the Future Land Use map; and*
- 2. The street system is inadequate; and*
- 3. The utilities and services as provided are inadequate; and*
- 4. The proposed rezoning could have negative impacts to surrounding land uses, specifically because of the density that could be allowed if this were to be rezoned.*

C. 03-REZ-05-2022 – Request to Rezone from CR to LDR - PID 1170101

A. Landers stated The Planning Commission is being asked to make a recommendation to the City Commission regarding a request to rezone the property located at 595 Forestville Basin Trail which is zoned Conservation & Recreation (CR) to be zoned Low Density Residential (LDR). She referenced the staff report and visuals from the agenda packet were shown.

Correspondence was read that was received after the agenda was posted from Mary Bordeau, Steven Embree, Marquette Township, and David Staples.

Adrienne Wolf, attorney for the applicant, stated that in this particular application, this property is different because it is already a plot or a unit in Blue Heron Bluffs 1. She stated that this particular parcel, a 1.5 acre parcel, is already submit to the Master Dee of Blue Heron Bluffs 1. She stated that BHB 1 was initially developed without any property in the city. She stated that this property was then later added to it and specifically the parts that they are asking to be rezoned as LDR was added to Unit 1. She stated, however, that it is important for the Planning Commission's purposes because of two issues. She stated that much of

the correspondence talked about the subdivision of Unit 1 and dividing Unit 1 into two separate units. She stated that that not the issue for the Planning Commission and that whether or not that requires an amendment of the Master Deed is something frankly that the condominium association and the applicant will need to figure out. She stated however, they do acknowledge and certainly have to acknowledge that this particular parcel is subject to the restrictions in the Master Deed, including the fact that in the Master Deed it states 'no condominium unit shall be used other than establishing and operating a single-family residence.' She stated that therefore they already have a restriction on what that particular person may use it for. She stated that therefore that unit, Unit 1, is in the township and a large portion of it is actually in the city which was later added. She stated that the portion in the township already has a home on it and is owned Scenic Residential, as part of this condominium. She stated that therefore they are simply asking that they take the city parcel that is adjacent and already part of Unit 1 and zone it similarly, which in the city the comparable zoning is LDR.

J. Cardillo asked about the location of the property as per the map and asked if that is where the house is now.

A. Wolf agreed that that is where the house is now and it is in the township portion.

J. Cardillo asked if so then they would just take those lines and extend them into the lake.

A. Wolf stated that that was exactly right. She stated that when this condominium was originally approved in 2002 by the township, it only included the township portion. She stated that it was later revealed that city property was intended to be added to it and then the property was deeded then to Longyear which is why she believes it to be currently zones as CR because that whole section was previously owned by Longyear before it was deeded to the developer and in this case Blue Heron Bluffs. She stated that therefore what that are asking is that 595 in the city, this application just makes it consistent with 595 in the township. A. Wolf thanked the commission members.

Chair Cardillo opened the public hearing.

Mary Bordeau, 565 Forestville Basin Trail, stated that she has concerns that zoning comes first and then you can decide to split. She stated that they have in their Consolidated Master Deed, restrictions on expansion of that particular parcel and that seems to be a lot of confusion right now and she is not sure that can be answered. She stated that it is going to be up to their panel and perhaps the next step to decide. She explained that that is why she is not for rezoning that particular parcel because there are so many unanswered questions. She stated that it would help if her concerns landed where they belong with someone that can make the decision. She stated that that's all she had and thanked the commission.

No one else wished to comment. Chair Cardillo closed the public hearing.

It was moved by N. Frischkorn, seconded by M. Larson and carried 4-1 that after conducting a public hearing and review of the application and Staff Report for 03-REZ-05-22, the Planning Commission finds that the proposed rezoning is consistent with the Community Master Plan and meets the requirements of the Land Development Code Section 54.1405 and hereby recommends that the City Commission approve 03-REZ-05-22 as presented.

Yes: Vice-Chair M. Larson, N. Williams, N. Frischkorn A. Andres, J. Cardillo

No: W. Premeau

NEW BUSINESS

A. Resolution of Approval for Community Master Plan Amendment approved 4-12-22

D. Stensaas stated this Resolution should have been presented at the April 12, 2022 meeting, at which the Planning Commission held a public hearing and then voted to approve the Community Master Plan (CMP) amendments presented at the hearing. He said that it was an oversight that the Resolution was not prepared, staff simply forgot that it was a necessary part of the process to amend the CMP, but the

document states when the hearing was held and approving this now is going to formalize the PC's approval of the amendments that they voted on already.

J. Cardillo asked if we need to have a vote to approve the Resolution. A. Landers stated yes.

It was moved by M. Larson, seconded by N. Frischkorn, and carried 5-0 to adopt the Community Master Plan -Amendment, Resolution of Adoption as Amended.

B. Review of the Draft Municipal Property Inventory and Map

A. Landers stated the Planning Commission is being asked review the Draft City Municipal Property Inventory Book and Map. She stated the last property inventory book and map was approved in 2015. She also stated staff has made many changes from the previous book and map, which includes removing property that is not owned by the City anymore, adding new property owned by the City, and changing the map code numbers to accommodate those changes. She stated we have also made the document more interactive with the spreadsheets hyperlinked to bring you to the map location when you select the map code number. Visuals of the agenda packet were shown.

The Planning Commission and staff briefly discussed staff comments and the Planning Commission asked for this to be placed on the agenda for the May 17, 2022 meeting to give them more time for review before making any decisions.

TRAINING

A. Article: *Herriges Rezoned: "Why Are Developers Only Building Luxury Housing?"*

D. Stensaas stated that the articles provided for training are up to the members to read and that he thought this article made some good points that we don't discuss often.

A. Andres asked if the training in June that was mentioned in email online or in-person. D. Stensaas stated that it was online.

N. Frischkorn stated that is was a good read.

COMMISSION AND STAFF COMMENTS

A. Andres stated that it was a good meeting and he was glad it went well.

W. Premeau stated that Center Street went down and there were company houses all the way to Wright St. and he lived back there, and he asked about the alley because there was water back there and NMU built a speed skating oval back there that was only used once. He said that they are working on a project now that shows the alley was vacated on the plan. He said the alley ran from Fair Ave. near the Palestra and went behind the houses on the west side of the street.

D. Stensaas stated that he would discuss the rezoning decisions tomorrow and he hopes that he is right about them being able to submit a Conditional Rezoning Agreement to the City Commission if they want to without going back to the start with a new application to the Planning Commission.

ADJOURNMENT

The meeting was adjourned by Chair J. Cardillo at 8:17 p.m.

Prepared by:

David Stensaas

David Stensaas, City Planner and Zoning Administrator
Planning Commission Staff Liaison
Transcribed by iMedat/Edited by D. Stensaas