



MAYOR AND COUNCIL COMMUNICATION

DATE: 12/20/2016

REGULAR

ITEM #: 21

AGENDA ITEM: Zoning Map Amendment – Diedrich Property
SUBMITTED BY: Stephen Wensman, Planning Director
THROUGH: Kristina Handt, City Administrator
REVIEWED BY: Emily Becker, City Planner

BACKGROUND:

The City has received a request for a Zoning Map Amendment related to the Diedrich Property Preliminary Plat. The property received approval for a Comprehensive Plan Amendment to re-guide the property to Urban Medium Density in 2013, and Preliminary Plat approval was granted for development in 2015. The property has not yet been appropriately rezoned, however, and the applicant is requesting to rezone the property in a manner consistent with the Comprehensive Plan and Preliminary Plat approval. The applicant previously asked for two Preliminary Plat extensions, and so the applicant has until December of 2017 to either file for Final Plat or ask for an additional extension.

ISSUE BEFORE COUNCIL:

The Council is respectfully requested to consider the request for a Zoning Map Amendment for the property known as Diedrich Property Preliminary Plat to Urban Medium Density Residential zoning.

PROPOSAL DETAILS/ANALYSIS:

Re-Zoning Process. In a typical subdivision process, applicants will usually request a rezoning action along with a Preliminary Plat application. It is unclear to current Staff why this was not done, however. The Preliminary Plat staff report stated that the rezoning would occur prior to Final Plat, and its review was based on Medium Density Residential zoning. According to the applicant, because the property is not correctly zoned to accommodate the Preliminary Plat density, it has been difficult to attract and retain potential developers for the project.

Density. The approved Preliminary Plat is consistent with the medium density land use category, which is at 4-7.49 units/acre, as the proposed density is very close to 4 units per acre. The Preliminary Plat shows a net density of 3.71 acres, but it should be kept in mind that right-of-way will increase and the number of lots will decrease from 48 to 46, as the site plan was reconfigured due to Staff concerns over how the City will maintain its sewer and water infrastructure with private roads. It is expected that with the additional right-of-way, the density will be closer to four units per acre.

Lot Size/Width. All of the lots in the approved Preliminary Plat meet the City's minimum area requirement of 4,000 square feet per single-family attached unit in the MDR zoning district. The proposed subdivision lots averaged 8,782 square feet in size, with the smallest proposed lot at 5,527 square feet. The minimum lot width proposed is 40 feet, which exceeds the minimum requirements for the MDR district of 25 feet. The townhouses will need to meet all required setbacks for the MDR district.

Preliminary Plat Status. The deadline to file for Final Plat for the property will expire December 1, 2016. It was granted a 12-month extension on December 15, 2015. The applicant applied for and was granted an additional 12-month extension to allow for additional time to prepare for financing and other planning activities. If approved, the applicant will need to file for Final Plat or request an additional extension by December 1, 2017.

Outlot D of Hunters Crossing. The approved Preliminary Plat included Outlot D of Hunters Crossing. Therefore, this outlot should also be rezoned. CalAtlantic Group, Inc. has provided a letter stating it has no objection to the re-zoning of this outlot.

FISCAL IMPACT:

The applicant has stated that it has been difficult to attract and retain potential developers for the project due to it not being properly zoned for the density the Preliminary Plat requires. Rezoning the property will potentially aid the progress of the property's development. The development would have the following financial impacts on the City:

- **5th Street.** The City will require that the applicant enter into a developer's agreement with the City to specify the financial responsibilities for various aspects of the subdivision and related public improvements. It is expected that the project will include the construction of the northern half of the segment of 5th Street to the east of Lake Elmo.
- **Municipal services and property taxes.** The developer is expected to pay the Water Availability Charge for the entire development at the time a final plat (\$138,000 per unit) and Sewer Accessibility Charge (\$138,000) similar to other developments that are connecting to the Municipal services. In addition, at the time of building permit issuance, water and sewer connection charges will be collected in the amount of \$2,000/unit (\$92,000). When fully developed, the property taxes will produce roughly $(\$350,000 \times 46) \times .002 = \$32,200$ in increased revenue per year.

Request for Waiving of Fees. The applicant has also requested that the fees associated with the Zoning Map Amendment be waived due to approval of the Comprehensive Plan Amendment for the property to Urban Medium Density. Generally, a property would be re-zoned simultaneously with Preliminary Plat approval, but, for a reason unbeknownst to current Staff, this did not happen, and the developer, as previously mentioned, has had difficulty attracting and retaining potential developers due to the zoning inconsistency with the approved Preliminary Plat. The costs associated with a Zoning Map Amendment include a \$1245.00 application fee and a \$2500.00 escrow. The applicant has submitted checks for these two amounts, both of which have been held in escrow until a decision has been determined by Council.

During a discussion regarding this land use application during a Staff meeting, Staff wanted to note that in 2013, the City vacated easements for which it paid the property owners of the subject property (PID# # 36.029.21.32.0002) \$16,141.75 for Public Utility Easement and Agreement as well as a Temporary Construction Easement and Agreement. These property owners were originally to pay back the amount considered for the easements, but ultimately the Council moved to ratify a 50% Reimbursement Agreement to Vacate the Permanent Public Utility Easement in December of 2014 at a total of \$8070.86 for past access considerations and future development potential including the land owner construction of 5th Street.

Staff also would like to note that while rezoning is usually done simultaneously with Preliminary Plat, Staff has found that in the past, the City has initiated Zoning Map Amendment requests in conjunction with specific

development proposals. Specifically, in 2014, perfecting amendments to the Zoning Map were initiated and approved by the City to rezone the following properties: 11210 50th St N; 5 parcels west of Lake Elmo Ave and north of 43rd Street; 3 parcels west of Lake Elmo Avenue and south of 43rd Street; parcel immediately north of Village Preserve and east of Lake Elmo Avenue; 3280, 3150, and 3000 Klondike Avenue; 11580 & 11520 30th Street North; 3040, 3080 and 3075 Lisbon Avenue North; Hammes Estates; NW quadrant of I-94 and Keats Avenue; Hunters Crossing; and Air Lake Development. These applicants were not required to pay the land use application fees associated with these Zoning Map Amendments. In 2015, similar Zoning Map perfecting amendments were adopted that rezoned Village Preserve, Village Park Preserve, and Easton Village from Rural Development Transitional to Limited Density Residential.

PLANNING COMMISSION/PUBLIC HEARING:

A public hearing was held on the proposed Zoning Map Amendment at the December 12, 2016 Planning Commission meeting. The meeting minutes are attached to this report. No one from the public spoke at the meeting. The Commission recommended approval with an affirmative vote of 7 to 0.

OPTIONS:

The Council may:

- Approve the Zoning Map Amendment request
- Deny the Zoning Map Amendment request

RECOMMENDATION:

Staff and the Planning Commission respectfully recommend that the Council approve the request made by Gerhard Rieder for a Zoning Map Amendment for the property referred to as Diedrich Property Preliminary Plat with the following motion:

“Move to approve Ordinance 08-159 approving a Zoning Map Amendment for the property known as Diedrich Property Preliminary Plat, PID# 36.029.21.32.0002 from Rural Development Transitional to Urban Medium Density Residential and PID# 36.029.21.32.0034 from Urban Limited Density Residential to Urban Medium Density Residential.”

If the Council approves the request by the applicant to waive the application fee associated with the Zoning Map Amendment, the Council may do so by the following motion:

“Move to approve waiving the application fee for the Zoning Map Amendment request by Gary Rieder for the rezoning of the property known as Diedrich Property Preliminary Plat.”

If the Council does not approve the request to waive the associated fee, the Council need not take further action.

ATTACHMENTS:

1. Ordinance 08-159 Approving Zoning Map Amendment
2. Zoning Map Amendment application
3. Current and Prosed Zoning Exhibit
4. Comprehensive Plan – Planned Land Use Map
5. Approved Preliminary Plat
6. Resolution Approving Comprehensive Plan Amendment
7. Planning Commission Meeting Minutes 12/12/16