

ALTOONA PLANNING AND ZONING COMMISSION MEETING

September 26, 2023

Altoona City Hall

Members Present in Person: Dan Narber, Scott Henry, Jill Pudenz, Erin Herbold-Swalwell, Steve Moyna

Members Present Virtually: None

Members Absent: Dan Dove, Steve Chase

Staff: John Shaw, Jenn Naylor, Natalie Jacobson

Guests: Meeting was held in a virtual Zoom format and in-person; In-person and online guests included Alex DuToit, Josh Trygstad, Jennifer Drake, John Schulz, and others not signed in.

Chairperson Jill Pudenz called the meeting to order at 6:32 p.m.

1. Roll Call. Roll call was taken. Five commissioners were present at roll call.

Before the meeting started, Pudenz made modifications to the agenda. She clarified that Item 2 should be the “Altoona Zoning Land Use Map” rather than the “Altoona Comprehensive Plan Land Use Map.” She also stated that the applicants for Item 6 requested to be pulled from the agenda.

Motion by Henry, seconded by Narber, to amend the agenda to change the word “Comprehensive Plan” to “Zoning” in Item 2 and to remove Item 6 from the agenda.

Votes: Yes – Henry, Narber, Pudenz, Herbold-Swalwell, Moyna. No – None. Abstain – None. Motion approved, 5-0-0.

2. Public hearing to consider a request from JDH Investments, LLC and Signature Commercial Real Estate to amend the Altoona Zoning Land Use Map to change the land use of 13.548 acres from A-1 (Agricultural District) to M-1 (Limited Industrial).

Kelsey Scallon (Shive Hattery) presented the request. It is located north of I-80 and east of 34th Avenue NW. The rezoning would make it consistent with most of the parcels surrounding it. There is an unknown user currently. They are trying to make it developable for a future user to make the process quicker for them.

With no questions from Commissioners, Pudenz opened the public hearing. With no public comments, Pudenz closed the public hearing.

Motion by Henry, seconded by Moyna, for recommendation to amend the Altoona Zoning Land Use Map to change the land use of 13.548 acres from A-1 (Agricultural District) to M-1 (Limited Industrial).

Votes: Yes – Henry, Moyna, Narber, Pudenz, Herbold-Swalwell. No – None. Abstain – None. Motion approved, 5-0-0.

3. Public hearing to consider a request from High Pointe Church to amend the Altoona Zoning Land Use Map to change the land use of 5.23 acres from A-1 (Agricultural District) to R-1 (Single-Family Residential).

Alex DuToit (Studio Melee) presented the request. The property has been zoned A-1 since its annexation into Altoona. He explained that churches are allowed as principle uses in either zoning district; however, the church is surrounded by residential developments to the west and south, and the future land surrounding the site is proposed to be residential per the Comprehensive Plan Land Use Map. They are hoping to rezone it to R-1.

Pudenz noted that there were quite a few staff comments. DuToit stated that they are all being addressed, and they were hoping to get them to Staff by the end of the week or early next week. Shaw stated that there were two agenda items regarding High Point Church. With no comments from Commissioners, Pudenz opened the public hearing.

Johnathan Rivas, 405 25th St SE, said he has a direct line of sight to this property and wanted to make sure what kind of housing would be built. He said he wasn't trying to have anyone's property values drop due to low-income housing, so he came to see if that was the plan. Pudenz stated that they want to build a church, and churches are allowed in residential districts. She said there was no intention of houses on that land. With no further public comments, Pudenz closed the public hearing.

Motion by Herbold-Swalwell, seconded by Narber, to amend the Altoona Comprehensive Plan Land Use Map to change the land use of 5.23 acres from A-1 (Agricultural District) to R-1 (Single-Family Residential), subject to deficiencies.

Votes: Yes – Herbold-Swalwell, Narber, Henry, Pudenz, Moyna. No – None. Abstain – None. Motion approved, 5-0-0.

4. Consideration and recommendation of the High Pointe Church Site Plan.

Alex DuToit (Studio Melee) presented the request with nothing further to add. Henry asked about a berm. DuToit stated there will be a landscape buffer of some sort. He said they'll keep lighting to a minimum on that side of the building as well. Henry asked Shaw if there were any water issues. Shaw said no. He said they are doing detention in front of the building, which will discharge to the ditch of Skinner Parkway. He noted they have two phases for parking. The southern two-thirds directly east of the building will be built meeting the minimum parking requirements for a church. They have future expansion laid out in the plan to the north of that. The future expansion part will drain to the northeast. Pudenz asked if 86 stalls will be enough. She asked if it was okay for them to park on the grass until then. Shaw said they are meeting the minimum requirements, but they do plan to expand. He said if an excessive amount of people attend, they can park on-site rather than in the street. Pudenz asked if in the future it would only be right-in, right-out at that location. Shaw said the future connection to the east is to provide additional access to a street right across from the development to the south. Jacobson said that per the Engineering Department, when Skinner becomes a divided two-lane, based on where they had the median section cut out for access, it will only be a right-in, right-out. Pudenz asked if it was something they needed to look at. Shaw mentioned they can work with the eastern property to try to get access back there, such as a possible frontage road.

Pudenz asked for any comments from the audience. Hearing none, Pudenz asked for a motion.

Motion by Herbold-Swalwell, seconded by Narber, for recommendation of the High Pointe Church Site Plan, subject to deficiencies.

Votes: Yes – Herbold-Swalwell, Narber, Henry, Pudenz, Moyna. No – None. Abstain – None. Motion approved, 5-0-0.

5. Consideration and recommendation of the Equipment Share Site Plan.

No one was in the audience or online to present this item. Shaw suggested bumping Item 5 to the end of the agenda, in case the presenter showed up. After Item 8, no one showed up to present Item 5. Shaw added that this item has substantial deficiencies.

Motion by Henry, seconded by Herbold-Swalwell, to defer Item 5.

Votes: Yes – Henry, Herbold-Swalwell, Narber, Pudenz, Moyna. No – None. Abstain – None. Motion approved, 5-0-0.

6. Consideration and recommendation of the Otter Mountain Apartments Site Plan.

Removed from agenda.

7. Consideration and recommendation of the Prairie Crossing Plat 9 Preliminary Plat.

Josh Trygstad (Civil Design Advantage) presented the request. He said he was joined by Jennifer Drake and John Schulz representing Prairie Crossing Investment, the applicant. Trygstad said Prairie Crossing Plat 9 basically consists of the same Prairie Crossing Plat 6 that was approved two to three years ago. They are proposing to increase efficiencies and maximize developable area by replatting one outlot, two lots, and Outlot P used for storm water management. Ultimately Outlot P would be shifted north, with all the same drainage patterns maintained. To demonstrate the efficiencies that will be increased, Trygstad explained that previously the detention lot was 4.72 acres. The new Outlot P would be 3.95 acres. Some of the infrastructure would decrease. It would offer Prairie Crossing Investment the chance to develop Outlot Z for a much larger end user. He said they were in agreement with all of Staff's comments, except a couple. There was an Engineering comment regarding the pond being constructed on the west side. He said they looked at that on behalf of the client, and they would lose 1.5 acres of developable ground. The pond on the east side of Bass Pro Drive would still stay the same, but they still need to provide storm water management for the area on the west side of Bass Pro, so there still would have been another pond there. Trygstad said that the two ponds would be greater than the one pond combined. He said the larger pond on the east side would still require them to place the fill on the west side. He said the ground located at Hubbell and the 65 bypass sits five to six feet below everywhere else. He explained that most of Prairie Crossing is pad-ready, meaning it's been mass graded, and an end user can get out there and proceed with their design and improvements. Ultimately the export that would be on the east side of Bass Pro would still have to be hauled over to the southwest corner of the plat, which would be inefficient.

John Schulz (Prairie Crossing Investment) explained when they did Plat 6, they had a signed end user. They are still in Altoona, just in a different location. There was a lot of strategy to try to make that work. They now have a mid-sized retailer that is interested. He said there's more reasons than just moving it from one side of the street to the other. Shaw asked for clarification regarding that a lot of the work is in anticipation of doing something in Outlot Z. Schulz said there are some efficiencies and inefficiencies in that corner, and the right user in that corner would start that line up. Trygstad handed out the Design Criteria Manual to the commissioners and had them look at pages four and five.

Pudenz said that in order to do this, they need to modify the development plan.

Jennifer Drake (Heart of America Group), the Vice President and Chief Legal Officer, said she had the opportunity to talk to Shaw earlier, and she doesn't understand the basis of the requirement of the amendment to the development plan. She reviewed the C-7 Zoning language and the Design Criteria Manual and stated she will point out several different sections, as they do not agree with that requirement. She said C-7 Zoning language creates a development plan that shall be reviewed and approved by the City Council. A part of that is the creation and cooperation with the City of the City Design Criteria Manual that incorporates a development plan. She noted that there is a procedure in the C-7 Zoning Code by which the Zoning Code gets put into place on different properties, including the Design Criteria Manual. She went on to read the following part of the Ordinance 168.13.1: "*The Commission may approve the plan as submitted.*" She commented that this is while the DCM is being reviewed, approved, and worked on by the parties, and stated the Commission "*may require that the applicant modify, alter, adjust, or amend the plan as the Commission deems necessary to the end that it preserve the intent and purpose of this Zoning Code to promote public health, safety, morals, and general welfare.*" Drake said if you look at the proposed modifications in comparison to the development plan, in the most recent version of the DCM that was approved by City Council on November 15, 2021, there was an anticipated storm water detention

basin. What is happening with the proposed preliminary plat is that it is slightly moving, and she wasn't sure of the direction, but is almost exactly as proposed in the DCM. She said it was noted in the staff report that they were going to be removing two already-platted lots, but as was noted previously, that was in anticipation of a different end user, Texas Roadhouse, that ended up going to a different site. They went back to the drawing table to improve efficiencies. They are also in discussions with another user. Drake also read from Altoona's Comprehensive Plan, under Land Use and Environment: "*Encourage development,*" which she stated was one of the purposes of the Comp Plan, "*that maximizes infrastructure efficiency, prioritizes infill and contiguous growth, is sensitive to environmental features [...]*" which is what she stated they are trying to do. Drake continued that she doesn't believe this in no way, shape, or form should trigger an amendment to the development plan. Slight modifications to a storm water detention basin just isn't something that gives rise to that. For context, in November of 2021, they came back with some requested modifications to the DCM, because of the auto dealer that was going in. That amendment included things such as the allowance of a new auto dealership, asphalt paving, overhead doors to face adjacent properties, trees provided around the perimeter of the site, and others involving islands and screening. There were more significant things when they came before the Commission previously than the slight shifting of a storm water detention basin.

Pudenz asked Shaw where it stated that they needed to have the development plan amended. Shaw said that the development plan lays out the concept how the buildable areas will be developed, including buildable lots, accesses, streets, and public amenities. With this, they are taking an area that was a developable, buildable lot, which prior to Texas Roadhouse was listed as a commercial lot, and now making it detention, and taking an area that was detention and making a commercial lot. Drake said that it is resulting in more buildable area. Shaw stated that is great, but the point is that because this is a planned commercial area, the development plan dictates how things will be laid out there in a thoughtful manner. He said we look at access points, traffic flow, pedestrian flow, so whenever the change is made, the plan needs to be modified. Over time, this property has had many different changes, and he stated that we've tried to be as flexible as possible. That's why they'll come back and make an amendment, like with Honda. Shaw explained there are certain components of the development plan and Design Criteria Manual that are still silent on these undeveloped properties, because they don't have an end use. So instead of them wishing something on paper, and then having to spend all of that effort to get it approved and then changing it later, they try to be flexible, leaving the plan to be silent on some things that can't be addressed, like architectural details or other elements. Buildable areas and detention areas are laid out in the plan. Prior to this plan, in 2017 the location of the detention was introduced. Now their plan is to move that location, and the development plan needs to be updated to reflect that. Shaw further explained that in the location where that detention was, there was also a drive access from the hotel area, for example, across that commercial lot, through there, to the south. With this plan, that will be severed. The property shown in Outlot Z on the corner will not have the physical traffic access to that entrance there just south of the hotels.

Drake said she addressed earlier with Shaw that there is Prairie Crossing Waterfront Entertainment District Plat that goes all along the area with Johnny's. She said that plat is separate and distinct from the rest of the development and satisfies its own parking requirements and ingress/egress as approved by the City of Altoona. She stated that to Shaw's point, there is no impact with this preliminary plat and proposed redesign of the storm water detention facility with regard to traffic flow, access, pedestrian use, et cetera. In fact, it is improving the potential buildable area for Prairie Crossing. Drake asked the Commissioners to look at page five of 65 in the DCM to see the original intent of the City and the developer. She read the following: "*The illustration below is one example of a number of draft concept site development plans for future development of Prairie Crossing. The intent of the drawing is to illustrate one crystal-ball macro vision of future development. The drawing does not entitle or limit any specific site to the site plan design or use shown. The City of Altoona, through the normal processes [...], reserves all rights regarding review and judgment for actual future development.*" She explained this is how they have conducted all business in Prairie Crossing. All site plans and plats go through Planning & Zoning, City Council, et cetera. She also wanted to point out the final page of the DCM. She said that is why they are being asked to amend the development plan and read

the following: *This Design Criteria Manual is a fusion of the vision studies, marketing materials, design criteria manuals, and development documents created following the original ground purchase. The goal of this document is to present a snapshot in time of an amalgamation of previously unreconciled visions, progressed tastes and opinions, market trend analyses, and development projections as of the time frame shown on the cover page. The marketplace has materially and substantially evolved from the first development vision for Prairie Crossing, and that evolution will continue from the moment this document is memorialized. The City of Altoona and the Heart of America Group celebrate that evolutionary process and look forward to the development of Prairie Crossing with great excitement.*” Drake stated she wanted this to be on the record to remind everybody that at one point in time, they were all here to work on this development and to make it the shining star of the city of Altoona. They are still here looking for those opportunities to make that happen. By submitting Preliminary Plat 9, it will satisfy all the storm water detention requirements for Prairie Crossing and, they believe, will remove any and all impediments to that with regard to continuing to position themselves in the marketplace as the place to be.

Pudenz stated to Shaw that that is how she reads it, too, especially how it says that it was just one concept of a number of draft concepts. She said she doesn’t see where it was adopted as a final plan that needs to be modified. Shaw explained that they *shall* have a development plan that lays out buildable lots, streets, pedestrian ways, and it *shall* be approved by City Council. He said if it wasn’t required, they wouldn’t be talking about it. It is required. The plan has been amended multiple times for multiple reasons, because it is in accordance with the Zoning Code. Drake said she thinks what Shaw is asking them to do is sit back down and redesign the development plan that has been in place since 2017, even though they have come back before Planning & Zoning and City Council to amend it several times. They have not been asked to amend the 2017 development plan in the Design Criteria Manual. She stated in order to engage a third party to redesign the development plan, it would take collaboration among their team members and the City of Altoona, to come back before Planning & Zoning, to take it through the City Council process and to what end? It won’t look much different than the one before them. She said it does not seem like the best use of anyone’s time, especially given that the original intent of the C-7 Zoning and the Design Criteria Manual was for everybody to continue to work together and process site plans and plat maps and development as it comes to fruition. She said she doesn’t feel like amending or providing another development plan meets any progressive end.

Shaw said for the record that they are trying to plat a detention basin where buildable lots are supposed to be, and they are trying to provide an outlot for developable land where a detention basin is supposed to be. It is not in accordance with the development plan. He said Staff recommends the development plan be amended/updated if the Planning & Zoning Commission and the City Council desire to follow the Ordinance as written and as they have approved this development plan multiple times.

Drake stated for the record that she absolutely does not agree with Shaw’s analysis of the Ordinance and its intent as she read to the Commission from the C-7 Zoning. Henry said he is more worried about the infrastructure in the ground that he as a taxpayer paid for that they are abandoning. Drake asked which infrastructure. Henry replied the 60” storm sewer and the 42” storm sewer. Drake asked if that was pre-Plat 6. Shaw affirmed. Trygstad confirmed there would be a portion of 60” storm sewer abandoned in place. He said if they put the storm water detention on the other side, and it was utilized, but this was the more long-term solution, it would be prudent to proceed with the more long-term solution. As for the 42” portion, it is 50’ along Bass Pro Drive. Ultimately this would route Bass Pro Drive’s runoff into a pond quicker to provide better treatment of the storm water runoff, which is a benefit for both scenarios. Trygstad showed on a display the locations of the section of 42” pipe that would be abandoned in place and said it was less than approximately 100’. He also showed the section of 60” that would be abandoned. He said it would be left in place because the cost to remove it is not worth disturbing the rest of the parking lot. He also showed the runoff routes through what they call Thunder Bay, the area surrounded by Fairfield Inn & Suites, Burger Shed, Johnny’s, and Hiatt Place. Moyna asked when the original infrastructure went in. Shaw said 2008-2009. Moyna said from a construction standpoint, that is not uncommon. Somebody had a vision back then. Henry said if the developer paid for it, fine. He can do what he wants with it. Moyna said with the way it is now, it can sit there and be developed. Herbold-Swalwell asked if it would

place any additional burden on the City or the taxpayers to install this. Trygstad said that if it isn't conveying runoff, it is no longer needed. In essence it would be vacated and would be existing infrastructure that's in the ground that ultimately Prairie Crossing Investment is taking on. He said it is less infrastructure that the City is maintaining for the 60" pipe. Pudenz stated she didn't have a copy of the C-7 to see how it reads. She asked Shaw where it is stated in the C-7. The Commissioners reviewed the Ordinance. Shaw found the section and read aloud a portion of 168.13.1.A: "*A development plan (also known as a Design Criteria Manual) defining the areas to be developed for buildings, the areas to be developed for parking, the design and location of sidewalks and driveways and the points of ingress and egress, including access streets where required, the location and height [...]*" Drake stated that the development plan was approved by City Council. Pudenz read aloud the last paragraph of 168.13.1 that Drake read aloud earlier: "*The development plan shall be referred to the Planning and Zoning Commission for study and report. The Planning Commission shall review the conformity of the proposed development with the standards of the Comprehensive Plan, and with recognized principles of civic design, land use planning, and landscape architecture. The Commission may approve the plan as submitted or, before approval, may require that the applicant modify, alter, adjust, or amend the plan as the Commission deems necessary to the end that it preserve the intent and purpose of this Zoning Code to promote public health, safety, morals, and general welfare.*" Pudenz stated that to Drake's point, the modifications or adjustments would take place if they were changing the intent that it would change the purpose... Before Pudenz could finish, Drake interjected that the Commission may require at some point that they modify, alter, adjust, or amend as they deem necessary to the end that it preserve the intent of the Zoning Code for the purposes of promoting public health, safety, morals, and general welfare. Shaw stated to the Commission that the applicant has submitted the development plan to them, and they can approve it as submitted, or they can request that changes be made. That doesn't mean they submit a development plan, it is approved once, changes are made, and it is not approved again. Like any other development plan they've ever done, including this, R-5, R-3, any changes that have been made get resubmitted and reapproved. Drake stated to Shaw that this is the development plan that supports C-7 in Prairie Crossing. It's been in place in the DCM since 2017. Shaw affirmed. Drake continued that they have had developments and third-party buyers, and the City hasn't required them to update the site development plan. She said she doesn't understand why modifying something now triggers this. Shaw stated that with site development plan versus DCM, Honda, for example, was silent in this plan. It was modified for Honda regarding site design criteria for that lot. It was already a buildable lot as laid out in the plan. He said what they are doing now is taking a buildable lot and making it detention and taking detention and making it a buildable area. Various details of that can be worked out through the platting. He said that does not comport with the development plan. The development plan requires that when something is rezoned, there shall be a development plan and the City Council shall approve one. This specifies what has to be listed in there. He reiterated that this is a change that is not comporting with the development plan.

Henry stated that he would like to make a motion. He said he doesn't like to see this arguing in either direction, and it should have been handled before they came before the Commission. He is not saying either side is right.

Motion by Henry, seconded by Pudenz, to defer action on this item until Staff and applicant can come to an agreement regarding what needs to be done from here on Prairie Crossing Plat 9 Preliminary Plat.

Votes: Yes – Henry, Pudenz, Narber. No – Herbold-Swalwell. Abstain – Moyna. Motion approved, 3-1-1.

Pudenz asked Shaw if the applicant can still go to City Council. Shaw stated no, that they made a motion to defer action. Henry stated that he would be willing to do a special meeting for them if they get it worked out sooner than the regular October meeting. Pudenz and Herbold-Swalwell agreed.

8. Minutes of the July 25, 2023 meeting.

Motion by Pudenz, seconded by Herbold-Swalwell, to approve the minutes.

Votes: Yes – Pudenz, Herbold-Swalwell, Narber, Moyna. No – None. Abstain – Henry. Motion approved, 4-0-1.

Old/New Business

Henry asked if the City planned to do anything about the dying trees around town. Shaw said there wasn't any discussion at the Council level that he was aware of, and he didn't know about the Parks Department or Parks Board discussion. Moyna said a couple of years ago when he was on the Parks Board, there was a plan.

Henry stated that the detention pond in front of Big-O tires looks like heck. Shaw reminded the Commission that the Hyper Energy Bar will be taking care cleaning out and reshaping of the detention and re-landscaping.

Commissioners discussed the development plan for the C-7. Shaw explained that it has been the applicant's choice to piecemeal it rather than bring it all at one time. They've chosen to have more specific requirements on each individual area. He said there have been major updates to the plan, including the Waterfront Entertainment District area, the Outlets of Des Moines. They've also chosen to show other areas as general uses with a conceptual layout. The City agreed to that because the applicant didn't want to spend a lot of energy laying everything out in detail just to keep changing it. He explained that amendments have been made every time they've built something, as requested by them. They've gone crazy with different drawings. They didn't want to be tied down to that, and everyone understands the idea behind this. He said the City tries to provide them maximum flexibility. At the end of the day, buildable lots are buildable lots and detention lots are detention lots. At some point, if we do not update our plan, in the eyes of the law, we can't require them to update for anything else. If it is not consistently being kept updated or they aren't amending a plan to build to, then the plan is virtually null and void. Pudenz stated that the development plan doesn't show that detention pond at all. Shaw said that was a different component for land uses and the other is more detailed, that it's a lot of information on different pages to comprise one plan. Pudenz said it looks like a discrepancy, since on different pages the other two detention basins are shown. Henry stated that it seems like a small change to him, but agrees it is time for Staff and the applicants to sit back down and re-examine the whole thing. Herbold-Swalwell said they have come back several times and what they want is getting confusing. She said she feels they need to come in and show their new vision is for the changes. Narber added that if we don't follow what we've got in place, then there is nothing to follow, and we have failed. Shaw stated that he will get a written response from the City Attorney regarding the City's position on this. Herbold-Swalwell said she didn't know how to resolve their issue. Henry stated that's why he made the motion. Herbold-Swalwell asked if it would cost the applicants a lot to amend the plan. Shaw said most of their stuff is done in-house with their architect.

Motion by Henry, seconded by Pudenz, to adjourn.

Votes: Yes – Henry, Pudenz, Narber, Herbold-Swalwell, Moyna. No – None. Abstain – Henry. Motion approved, 5-0-0.

Meeting adjourned 7:30 p.m. Next regular meeting is October 31, 2023 at 6:30 p.m.

Respectfully submitted,
Jennifer Naylor
Office Assistant