

**PROCEEDINGS OF THE REGULAR WYOMING CITY COUNCIL MEETING
HELD AT CITY HALL, NOVEMBER 18, 2019 AT 7:00 P.M.**

The meeting was called to order by Mayor Jack Poll.

The Invocation was given by Pastor Roger Groenboom, Faith Community Christian Reformed Church.

Present: Councilmembers Bolt, Burrill, DeKryger, Postema, Postler, Mayor Poll.

Councilmember Burrill moved, seconded by Councilmember Bolt, to excuse Councilmember Vanderwood from the meeting.

Motion carried: 6 Yeas 0 Nays

The minutes of the November 4, 2019 Regular Meeting, the November 12, 2019 Work Session and the November 12, 2019 Closed Session were approved by unanimous consent.

City Manager Curtis Holt asked that presentations be moved after proclamations.

Councilmember Postler moved, seconded by Councilmember DeKryger, to approve the agenda as amended.

Motion carried: 6 Yeas 0 Nays

PUBLIC HEARINGS

PUBLIC COMMENT ON AGENDA ITEMS

PRESENTATIONS AND PROCLAMATIONS

Mayor Poll and Councilmember Sam Bolt presented Pastor Roger Groenboom of Faith Community Christian Reformed Church with a proclamation recognizing the church's 100th anniversary.

Finance Director Kate Balfourt introduced Rehmann Robson representative Kim Lindsay, who provided an overview of the recent audit.

PETITIONS AND COMMUNICATIONS

REPORTS FROM CITY OFFICERS

BUDGET AMENDMENTS

CONSENT AGENDA

RESOLUTIONS

RESOLUTION NO. 26545

RESOLUTION TO AMEND SECTION 4.03 OF THE CITY COUNCIL POLICY MANUAL TO ADOPT A REVISED PROPERTY TAX POVERTY EXEMPTION POLICY AND GUIDELINES

Councilmember Postema moved, seconded by Councilmember Postler, that the above Resolution be adopted.

Motion carried: 6 Yeas 0 Nays

RESOLUTION NO. 26546

RESOLUTION TO ACCEPT A PROPOSAL FROM MED-1 OCCUPATIONAL HEALTH SERVICES TO PROVIDE HEALTH ASSESSMENT SERVICES AND TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

Councilmember Burrill moved, seconded by Councilmember Bolt, that the above Resolution be adopted.

Motion carried: 6 Yeas 0 Nays

RESOLUTION NO. 26547

RESOLUTION TO ENTER INTO A CONTRACT WITH NATIONAL RESEARCH CENTER, INC., TO ADMINISTER ITS “NATIONAL COMMUNITY SURVEY” WITH SPANISH-LANGUAGE MATERIALS AND CUSTOM BENCHMARKS AND TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT

Councilmember DeKryger moved, seconded by Councilmember Postler, that the above Resolution be adopted.

Motion carried: 6 Yeas 0 Nays

RESOLUTION NO. 26548

RESOLUTION TO ACCEPT A PROPOSAL FROM BLACK & VEATCH LTD. OF MICHIGAN TO COMPLETE THE DESIGN, BID AND CONSTRUCTION PHASES OF THE ULTRAVIOLET (UV) DISINFECTION PROJECT AND TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT

Councilmember Bolt moved, seconded by Councilmember Postema, that the above Resolution be adopted.

Motion carried: 6 Yeas 0 Nays

ORDINANCES

The Clerk introduced Ordinance 17-19:

AN ORDINANCE TO AMEND SECTION 90-32 OF THE CITY CODE BY ADDING SUBSECTION (120) TO REZONE 5160 AND 5190 BYRON CENTER AVE SW FROM B-1 TO PUD-4 (Final Reading)

Councilmember Postler moved, seconded by Councilmember Bolt, that the above Ordinance be adopted and that the Ordinance be published in the Official Newspaper of the City.

Motion FAILED: 3 Yeas 3 Nays (Burrill, DeKryger, Postema)

Councilmember Postema said the project fails to comply with the requirements of the zoning ordinance for a PUD-4 development. More specifically, the following summarizes his reasons for denial:

1. It fails to comply with the future land use assigned to the site in the Master Plan which calls for commercial use of this property, therefore it fails to comply with PUD-4 section 90-512(C).
2. The project seems out of place on this property and will alter the character of the area, therefore it fails to meet the requirements of PUD-4(D).
3. The design and layout of the project is not harmonious with the natural character of the site. After construction, there will be almost nothing left of the character of the site as it will need to be extensively graded and reworked to make the proposed layout work. Therefore, the project fails to meet the requirement of PUD-4 section 90-512(E).
4. The development is not consistent with the other requirements of PUD-4 as required in section 90-512(H). For example, there is no housing variety as required in section 90-417C(E). It also does not fulfill 3 or more purposes of section 90-516(C) as required in 90-417C(B). That section lists purposes (A) through (I) which are not met for the following reasons:
 - A. I do not find that the flexibility of the PUD resulted in a better development for the community or city in general even if it is better for the developer.
 - B. I do not find that the proposed project is more desirable for sustainable than could be achieved in the R-4 development. A R-4 development could achieve the same desirability and sustainability results.
 - C. No comment.
 - D. No employment or shopping opportunities are provided by the proposed development and it seems the same housing opportunities could be provided with conventional R-4 zoning.
 - E. As already discussed, there is no material preservation of natural assets.
 - F. This development does no more to encourage use of open spaces and recreational amenities than any other multi-family development.
 - G. I do not find that the development encourages use of the land in ways that are most in accord with their character.

- H. Some may view higher density as more efficient use of land. I do not find that alone is the intent of the required efficiency here. Density may be economical for the developer, but it provides no benefit to residents and there is nothing unique in terms of streets, building, utilities or land use features in the proposed development. PUD-4 should be a way to create something “creative and imaginative.” In my opinion, it does not.
- I. There is nothing here unachievable with conventional zoning requirements. While conventional R-4 zoning might not always result in some of the enhanced facades or a few other attributes of the project, those same results would nevertheless be achievable if the developer wished to incorporate them.
5. Section 90-512(J) requires a proposed PUD result in a recognizable and substantial benefit to the users of the project and the community that would not be feasible or achievable with conventional zoning. I do not find a substantial benefit to the community exists here that could not be achieved without PUD-4 zoning.

The following is a summary of Councilmember DeKryger’s reasons for denial:

1. The original intent on the land was B-1 to coincide with the Pines PUD-1.
2. If we pass this, we will set precedent for a number of properties in the area, especially the Pines.
3. This rezoning only passed Planning Commission 5-4. Planning Commissioners had concerns as well.
4. Significant traffic will be generated by this development that, given its density is more than would result from conventional zoning.
5. Our residents don’t want a development like this in our area. Ultimately, I sit here because of the residents who put me here and I need to represent what they want.

The following is a summary of Councilmember Burrill’s reasons for denial:

1. Section 90-416(C) is not met, 3 or more required purposes must be met for approval. The purpose of section 90-416(C) is for the benefit of the community as a whole and in the furtherance of the vision and goals of the City of Wyoming Master Plan. The PUD zoning request does not meet the master plan and the project does not satisfy all of the qualifying conditions.
 - a. Development provides flexibility for the developer and users but is not a benefit for surrounding residents. The property could be developed under its current zoning and have less impact on the surrounding neighborhood.
 - b. Other multi-family projects have been developed without the PUD-4 zoning and some are in the surrounding neighborhood.
 - c. The property was clear cut 15 years ago and no natural resources are being saved.
 - d. Housing currently exists in the surrounding neighborhood, both multi-family options and single-family homes. Employment and shopping opportunities would be better served keeping the existing zoning.
 - e. All vegetation occurring after a clear cut of the property nearly 15 years ago, nothing is being preserved.

- f. The open space requirement is open for interpretation. Simply said, setback requirements can not be used in determining open space requirements.
 - g. Property could be developed within the current B-2 zoning allowing for neighborhood friendly type uses and a compliment to the Metro Health campus.
 - h. The property could be developed under conventional zoning standards with projects in the near vicinity that met multi-family zoning.
 - i. Same as h.
2. Section 90-417(C) is itemized below.
- a. Location is met.
 - b. PUD Purpose must demonstrate 3 or more of section 90-416(C) as noted previously and is not met.
 - c. Size requirement is met.
 - d. Residential Density is met per guidelines.
 - e. Housing Variety does not contain a variety of housing types and/or lot sizes. All multi-family housing and does not promote a mixed use.
 - f. Public utility requirement is met.
 - g. Ownership and control requirement is met.
 - h. Recognizable Public Benefit
 - i. There are no significant natural features that would be preserved. The property was clear cut approximately 15 years ago and most trees are fast-growing or otherwise scrub trees.
 - ii. One use and not a complimentary mix of land uses.
 - iii. Open space requirement is open to debate because the property owner needs to show open space requirement beyond that of setbacks that would be required in the R-4 zone. Required setbacks cannot be considered as open space.
 - iv. Connectivity already exists with sidewalks in every direction. Simply put, just because trails and parks are a ½ mile away does not mean that this requirement is met because a small sidewalk is built.
 - v. Property is on a public bus route.
 - vi. Site does not qualify as a redevelopment.
 - vii. Removal or renovation does not apply.
3. Section 90-512 of the Zoning Code states:
In considering a PUD request, the Planning Commission and/or City Council, as applicable, shall find that the proposed development meets “ALL” applicable requirements, as well as the following general standards:
- a. PUD Purpose – This standard is not met.
 - b. The Qualifying Conditions requirement is not met; 3 or more requirements must be met for approval.
 - c. Master Plan - This PUD request is not supportive of the Master Plan.
 - d. Surroundings Uses – The property was originally zoned with neighbors supporting a business/office district that would serve the surrounding properties. Discussions at the time of rezoning did talk about a multi-family option that the surrounding land owners did not support.

- e. Natural Environment – The property isn't being developed with the natural character of the site.
- f. Public Facilities and Service – This standard is met.
- g. Health, Safety and Welfare - A 15 units to the acre multi-family project that was zoned and master planned B-2 commercial could have a harmful impact to surrounding neighborhoods.
- h. Consistent with All Standards and Requirements – Plan to be consistent with all standard requirements.
- i. Final Site Plan – Only the preliminary site plan has been granted.
- j. Recognizable and Substantial Benefits – I believe the original rezoning of the property gave assurances to the neighbors of what type of project would be developed on the corner. 172 dwelling units on less than 12 acres would not satisfy substantial benefit to the community which would not otherwise be feasible or achievable.

The Clerk introduced Ordinance 18-19:

AN ORDINANCE TO AMEND CHAPTER 15 OF THE CITY CODE ENTITLED "SPECIAL EVENTS" AND TO REPEAL CHAPTER 14, ARTICLE V, DIVISION 3, ENTITLED "CARNIVALS," AND CHAPTER 70, ARTICLE II, DIVISION 3, ENTITLED "BLOCK PARTIES" (Final Reading)

Councilmember Postema moved, seconded by Councilmember Postler, that the above Ordinance be adopted and that the Ordinance be published in the Official Newspaper of the City.

Motion carried: 6 Yeas 0 Nays

The Clerk introduced Ordinance 19-19:

AN ORDINANCE TO AMEND THE CITY CODE BY ADDING SUBSECTION (4) TO CHAPTER 30, ARTICLE VI, SECTION 30-203 TO DESCRIBE AN ADDITIONAL AREA FOR WATER WELL RESTRICTIONS (Final Reading)

Councilmember Postema moved, seconded by Councilmember Burrill, that the above Ordinance be adopted and that the Ordinance be published in the Official Newspaper of the City.

Motion carried: 6 Yeas 0 Nays

INFORMATIONAL MATERIAL

ACKNOWLEDGEMENT OF VISITORS

The meeting adjourned at 8:51 p.m.

Kelli A. VandenBerg
City Clerk