

St. Stephen Public Hearing for Land Split Wednesday, May 25, 2016 @ 6:30 p.m.

Members Present: Cindy VanderWeyst, Mayor, Jeff Blenkush, Gene Skaj, Danita Traut, and Thomas J. Vouk **Recorder present:** Julie Jacobs **Also present:** Tom Jovanovich, City Attorney

Cindy VanderWeyst called the hearing to order at 6:30 p.m.

Cindy stated this public hearing is for the rezoning of Rusty Paggen's property. Rusty Paggen explained his plans for his property. Tom Jovanovich presented a map showing track A and B and Rusty explained that track A (1.49 acres) will be rezoned to residential, track B (1.78 acres) will stay zoned as B2. The easement will be extra. Cindy inquired if Tom Jovanovich had any questions. Tom had no questions. Cindy inquired if there were any public comments. Cindy reminded when addressing the City Council state name and address for recording purposes.

Hannah Paggen wished to speak, but was unable due to her emotions. Ben Paggen stated he lived in this town all his life, Rusty and Hannah want to build a new house and put in a driveway on 1.5 acres. Ben doesn't understand what the issues are, septic is right, and it's not land locked. Ben stated that Frank tore out all the marking stakes. Cindy explained City Council needs to follow ordinances. The ordinance states that property zoned B2 is not allowed to build a house on the property. Rusty stated the city won't allow him to secure his property, and now he's had vandalism, stakes pulled out, stealing, harassment, etc. Ben stated he will hire his own attorney. Rusty stated the driveway has been approved, the easement is there. Tom Jovanovich stated there are two easements. An easement for the property owners was placed in 2005, and an easement from the City. Tom stated there is no issue to prevent the use of the easement. Rusty and Hannah explained the harassment they received on Saturday, such as being called drunken fools, uneducated, stakes pulled out that were place by surveyors.

Jodi Specht-Holbrook stated the City Council needs to use the Robert's Rules of Order. Stating that the meeting started before 6:30 p.m., more than one person talking at a time, and asked who the time keeper is. Also stated that the City calendar needs to be kept up. Gave an example of twenty years ago with a problem of her road not being plowed and the meeting lasting until 10:30 p.m. Cindy stated that she runs the meeting so everyone has a chance to speak. Jodi wants to know the five year plan, and what the problem is with Rusty accessing his land. She hears that all this happened at a Planning Commission meeting that put up walls against the Paggens. Jodi stated a lot of people are getting worked up with the gossip and rumors. Cindy stated the City Council cannot control what is being said. Rusty explained again the plan.

Tom Jovanovich stated the City does not following Robert's Rules of Order. These rules are recommended for large corporations. Tom stated the Mayor conducts a meeting that everyone is respectful and treats everyone else respectful. Jodi inquired about a code of conduct. Tom stated that there is no code of conduct, nothing officially. Jodi suggested that the City has one.

Cindy called on Frank. Frank stated that in 2005 his land was surveyed, at his cost, and irons were placed marking his property. He also placed stakes to be more accurate for his own use (planting/cutting trees, etc.) and the iron marking are in place. Frank feels the land needs to be resurveyed by an independent licensed survey company. Much discussion held of who owned the stakes. Cindy stated that the City Council cannot say whose stakes these were.

Mark, no last name or address stated, inquired what the reason was for the road being put in. Cindy clarified it's not a road, it's a driveway. A lot of talking took place at once. Tom Vouk suggested showing a map, a tentative road map, which was designed 10 years ago for a comprehensive plan. Tom Vouk explained and showed the cul-de-sac being discussed. The road easement has been in place for approximately eleven years. Tom stated the plan is for a driveway, not a city road, not a four-lane highway, no extra roads, it's for a house.

More talking at once. Again it was clarified that this meeting is about a rezoning of property. Dan Schultz, Planning Commission Chair, showed the land map and explained tonight's meeting is about splitting a property and rezoning the east side for residential use. No decisions were made at the Planning Commission.

Deb Hall, address 118 4th Street SE, adjacent from the Paggen property. Deb stated that at a Planning Commission meeting there was a request to build a house on land that was zoned B2 for business and that a precedence was set with Randy Paggen. Deb inquired if any proceedings occurred since that meeting and if legal opinion was given. If so, can that be shared publicly? Tom Jovanovich stated that the legal opinion is public record and shared the legal opinion. Tom stated according to the zoning ordinance when land is zoned for business, it cannot be zoned for residential, but there is one exception. A residential building can be placed on the property to protect the business. If a precedence was set with Randy's land, it does not set precedence for Rusty. The City would not keep making the same mistake. The Planning Commission made the recommendation that the best option to rezone the property he wants to build the house and leave the rest of the property zoned for business.

Bob Ferche suggested with future hearings that information is posted in the City Hall board room so residents can come and take a closer look of the plan be proposed. Hopefully this would clear up some questions. Cindy stated she doesn't believe it would have cleared up things with this situation.

Deb Hall stated that the Paggen boundaries have not been clearly marked and is requesting that the property be resurveyed by a mutual party. That property is divided equally, and clearly surveyed. A verbal altercation took place last Saturday. Discussion about the trees only be marked on some of the properties. Stated was that it is not trespassing on an easement. Ben stated that the land has been surveyed. Deb stated it's important for everyone to know where their property lines are and so everyone can be safe. Ben stated that their septic system is on the easement. Cindy stated that wasn't anything they could control.

Tom Jovanovich stated where the driveway is located, is not a City matter and they cannot be involved in this. Tom shared that when people battle about property lines it gets costly. Tom suggests that all go and locate the stakes as a group. If a conclusion cannot be met at that time, then call in a surveyor. The City cannot decide this and litigation is not the way to do it. Everyone would benefit. Tom stated that Rusty will submit a site permit to the city and the city will see that the building is located correctly.

Karen Mahlich inquired what the future business will be. Rusty stated whatever we feel the business will be at the time and fits into that B2 category. Karen also inquired where the access would be to this business. Cindy stated this would be discussed when the rezoning is discussed. Cindy stated that in the future this could be a road, the easement allows for this. This is part of the future road plan. Tom Vouk stated it could be a city road also not just a driveway.

Frank Mahlich stated that there is a city ordinance, 31.01 subdivision 5, that states a roadway cannot exceed 500 feet due to firefighting safety. How wide and how long will this roadway be? Stated several times it is a private driveway.

Tom Jovanovich clarified for Frank that he is reading specifications for a public road, and this is not a public road. Tom explained there are two separate easements. Tom pointed out the property on a map and explained the zoning and access through the easement. One easement is for property owners and the second being a 66 foot easement that was dedicated to the city for a city road. The issue here tonight is to rezone business to residential, that cannot be used for business purposes any more after the rezoning is approved. As for the neighborhood this will reduce intensity of the parcel be rezoning this property.

Frank inquired to who will see that the roadway be done in a proper manner. This is a private easement to access his driveway, it is not a city matter.

Deb Hall inquired when rezoning business to residential, how can alterations be made to the property prior to the ruling being made? Under Minnesota regulations once you've made alterations to the property you cannot apply for a construction loan you need to wait 120 days. Rusty stated no excavating has been done, a couple of trees removed. Questioned why there was an excavator there on May 25. Rusty explained that soil samples were done. A lot of commotion was made. Cindy VanderWeyst halted it and asked Tom to answer this, due to her not being knowledgeable with construction loans. Tom stated he would not answer this, this is not a matter for the city to become involved in, it's between the Paggen's and the bank.

Dan Schultz commented that a lot of miscommunication has been going around the community about this project. We follow the book, whether residents like the book or not, that's not the Planning Commission or City Council's problem. As far as someone digging on their property, he is not aware of any ordinance that would not allow this as long as they are not building or constructing something on their property. Letters that went out are full of lies and half-truths and are misleading. If you want to know what is going on, come to the meetings and listen.

Cindy VanderWeyst requested that the zoning takes place. Tom presented a resolution to the council. Cindy explained the rezoning of the property, taking Track A 1.76 acres for B2 and Track B 1.49 for residential. Any further comments/questions. Mark Hall stated that he and his wife support the Paggen's, but the communication that led to this was poor, especially with those involved. Mark stated he was part of the blame for the miscommunication. Mark understood that the easement was for business purposes not residential purposes. Mark supports the Paggen's with having a residence, it's their property. Others should take some of the blame also. Cindy thanked Mark.

Frank has nothing against them building a house, communication was very poor. Name calling took place and was unnecessary. Frank and Hannah arguing. Cindy asked that we stop. Rusty stated we came to the council months ago to put this driveway in, ahead of the game.

Jodi Specht-Holbrook stated when this information was received she was on her way to Washington DC to see her son, an analyst. There were no updates received, the City Council calendar, the newsletter had nothing on it. Jodi agrees there needs to be better communication, so many tools and tips. This type of behavior is not what we want our kids growing up in. Good luck with resurveying your plots, hers did not match like they should have.

A motion was made by Gene Skaj, seconded by Jeff Blenkush, to close the public hearing. All in favor, motion carried.

Cindy asked for council comments about the B2 traffic. Jeff inquired if traffic is allowed in the B2. Tom Jovanovich stated it's up to the Pagen's how they handle this, but questioned if Randy's property is landlocked, how does he access his land. Stated that he goes through his father's property. With a business he can access the easement on the north of the cul-de-sac. Gene is fine with the split. Tom Vouk inquired if this is creating two parcels. Tom Jovanovich stated it's just rezoning the eastern part (track A) becomes residential and track B remains B2. Access to the west that were not requesting this. Tom Jovanovich there is a distinct owner to a public street. Danita is for the rezoning.

Tom Vouk expressed that he cannot believe that this rezoning has come to this, they are trying to have and be more like their neighbors that are against this rezoning. What the problem is with them wanting residential property. The Planning Commission was trying to help them do it by the book. The City Council is following the ordinances the best we can, just trying to follow it.

Karen inquired to why the septic tank was placed and them not know about the easement. Tom Vouk stated that the property owners should have known where their property lines were. The measurements were done by the county.

A motion was made by Thomas J. Vouk, seconded by Jeff Blenkush, to approve the rezone of Track A and the approval of the resolution. All in favor, motion carried. Hannah Pagen thanked the City Council members.

A motion was made by Jeff Blenkush, seconded by Thomas J. Vouk to adjourn the meeting. All in favor, meeting adjourned at 7:30 p.m.

Respectfully submitted,

Julie Jacobs,
Recording Secretary

Cindy VanderWeyst
Mayor