

CITY OF BURTON
SPECIAL COUNCIL MEETING MINUTES
MARCH 18, 2002, 6:30 P.M., BURTON SENIOR CITIZENS CENTER

Council President Larry Brawner called the Special Meeting to order at 6:30 P.M.

MEMBERS PRESENT: Bement, Brawner, Centilli, Cross, Martinbianco, Tinnin and Wells.

MEMBERS ABSENT: None.

OTHERS PRESENT: Mayor Charles Smiley; J. Major, DPW Director; R. LaDuke, Assistant DPW Director; R. Hamilton, City Attorney and C. Ladd, Deputy City Clerk.

PURPOSE OF THE MEETING: Second Public Hearing for Zoning Case #268 to rezone property from SE to R-1B for the purpose of single family development (Blake Rizzo, 5273 Empress Drive, Grand Blanc, MI 48439).

PRESENTATION:

Mayor Smiley said two weeks ago he distributed information to the Council and made the information available to the public for anyone interested about this development and what the revenues would mean to the city. With 483 homes in this development we would see approximately \$281,000 of new revenue to our general fund. If the numbers of homes were reduced to 400 homes, we would receive about \$50,000 less in revenue from this development. The Mayor said Forest City has contacted him in regards to all of the development that has been done in our city. They are interested in the average home price and they were faxed the information, along with our new bond rating. This should help them when they try to bring in more business for the city.

The Mayor said he also has information about how much it costs per day to live in the City of Burton. Copies are available if anyone is interested in obtaining one. By increasing our residential development and population, it would have a positive affect and offset the burden on the residents.

Mr. Major said he would defer comments until after the developer has made his presentation.

Jim Sporer, CHMP, said he is the landscape architect and has been working with Mr. Rizzo for a number of years in several other cities and townships. He explained they are asking for R-1B zoning of 195 acres in Section 25, located between Atherton Road on the north, Vassar Road on the east and Bristol Road on the South. The property does have access on all three roads. The property has some regulated wetlands on site and some topographic relief, which gives us some limitations, as well as opportunities for different types of layouts. In some cases, we set aside a certain percentage of the property and call it open space. The project we are proposing does not have open space per se, but we have designated and set aside areas that we feel should be preserved. Wetlands and the area surrounding the wetlands is what we consider sensitive. We also need to set aside retention on the site. Due to these limitations and the uniqueness and shape of the property, we feel that R-1B is an appropriate zoning classification. It gives us the opportunity to create something a little different than a grid layout that you would normally see. Mr. Sporer said the drawing on the easel is a conceptual plan for the property and it shows the topographical and detention areas. By the virtue of this layout, there are a number of lots that exceed the minimum requirement for R-1B zoning. This proposal meets your recently adopted master plan calling for low-density residential development in this area. He said the plan calls for 483 lots for a 2.48 units per acre density. In surrounding areas, that would be considered a very low-density residential yield. Mr. Sporer reviewed some low-density statistics from several of the surrounding areas. Mr. Sporer noted that all of the utilities are available to be extended by the developer at his cost. Whether it is developed as R-1B or R-1A, the infrastructure is the same. The linear feet of roadway is the same, but R-1B offers a little more of the spreading out of the infrastructure by spreading it over the additional lots. The cost for the sewer and water has recently increased for an additional tap fee of over \$1,000 for water and sewer. The starting cost of the homes would be about \$150,000 to \$160,000. Mr. Rizzo has demonstrated several projects in the area with award-winning homes and the home prices are determined more on the size of the home and quality of the home rather than lot size. The property is conducive to R-1B in that section with the R-1B zoning that is currently surrounding it and it is compatible with the master plan and meets the low-density requirements.

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AUDIENCE PARTICIPATION:

Randall McDonald, 4231 Red Arrow Road, said he is in favor of the project. It is a worthwhile project and would generate tax revenue and stimulate the economy.

Gary Isham, 3443 Saxon, spoke concerning progressive development and how it affects educational opportunities and jobs for the area. He said regardless of whom the developer is, building a new subdivision produces a tremendous amount of wealth and has a ripple affect through the City. He spoke concerning the impact this development would have on the tradesmen and said this is an economic stimulus package. He urged the Council to approve the project.

Roger Sumner, 6306 E. Bristol Rd., said he has lived in this area for over 50 years and has raised llamas for the past 17 plus years. He said he is concerned about all of the development moving in around his home. He said many residents like the idea of living in the City and yet having the uniqueness of having a rural atmosphere. Although he supports bringing revenue into the City, he also thinks it can be overdone. He asked the Council to keep in mind that too much too fast a growth is not best for the City. Also, there are times when government officials must set aside their own personal agendas and remember that they are there to serve the people. He asked that the Council listen to the citizens of Burton.

James Delano, 5349 E. Maple, asked that the Council listen to the residents concerning this development. He said he lives near Mr. Rizzo's development on Maple Road and has concerns about the noise, kids and traffic. The residents' voices should be heard.

September Misener, 3328 S. Vassar Rd., said the developer has not shown a demonstrated need for this development. She said what is being proposed is not compatible with the surrounding community. The 70' lots are very small. She said nothing has changed with the proposal since the last public hearing. Mrs. Misener presented a protest etition to the Clerk.

Ann McDonald, 4400 Meadows Ave., said she hasn't lived in her subdivision very long but she doesn't want the taxes increased. She is in favor of the development.

Pauline Dargel, 6119 Hugh St., spoke concerning reasons for a change in the zoning ordinance, the applicant not providing a traffic study, no market study to demonstrate the need for the development and the proposal not being compatible with the surrounding area. She also commented about the developments made in other communities by Mr. Rizzo. She questioned how many of the lots would be used for building and who they belong to.

Ian Hohloch, 4422 Hedgethorn Ct., said he is a resident as well as a member of the Planning Commission. He said he recommended approval of this zoning case because the project has long ingress and egress roads and that is where the majority of the lots are located that would be zoned R-1B. He said the applicant demonstrated that a substantial percentage of the lots would be R-1A. The developer does what he says and he builds quality developments, which is what this city needs. For those reasons he voted in favor of the development.

Linda Hammon, 3240 Eastgate St., said there are many lots in the city that are zoned R-1B and many surround her property. She said she thinks the people who own the land have a right to develop it. She supports the development and thinks it would be good for the City of Burton.

Ralph Misener, 3328 S. Vassar Rd., spoke concerning the size of the lots and said on his property he has a house, garage, utility shed, camper that sits along the side of the property line. This all fits on my property which is larger than a 70' lot. He spoke concerning the long egresses and ingresses being a danger to the children. He also inquired about the land being for sale.

Rick Tidwell, 6245 E. Bristol Rd., has concerns about one of the main entrances being next to his home by a small swamp; his family's life style being changed and the loss of wildlife in the area. He questioned the number of acres that would be buildable and if it included the wetland area. He is also concerned about flooding.

Pat Miller, 1468 N. Belsay Rd., said he supports the development, as it will help the economy.

Pam Kiefer, 3090 S. Belsay Rd., is concerned about what could be built on the property once the zoning is changed.

Robert Davis, 3052 Coin St., said he is not opposed to the development. He said the quality of life brought many people to Burton and this should be a primary issue. He said the development could be done, but the surrounding residents quality of life should also be considered.

Yolanda Ferguson, 2085 E. Boatfield, questioned whether the lot sizes are the problem or the developer who is involved. The city needs new revenues and an increase in the tax base is a good start. Should this zoning be denied, how would the Council propose to recover the lost revenues? If we continue to deny reputable developers reasonable requests, who taxes would be affected? She asked that the Council keep in mind what would be beneficial to the city as a whole and not just that particular neighborhood.

Linda Burris-Croley, 6223 Crabtree, commented that this is a zoning issue, not a financial issue. She spoke about the surplus in the city and a 40-year PILOT Ordinance for Blackberry Creek. She said nothing has changed since the previous zoning request and she opposes the development.

Mr. Sporer addressed several of the issues including drainage, the compatibility of the R-1B zoning to the neighborhood. Mr. Sporer said the For Sale signs on the property are for the benefit of the builders and helps to identify the property for the surveyors and buyers. He said the wetlands on Bristol Road would be protected and preserved and would meet the DEQ requirements. The homes should increase the property value of the other homes in the area.

Mr. Major said from the DPW standpoint, we could give many reasons why the project should not be denied. The property does conform to the city's master plan and is consistent and conforms to the surrounding area. The property does exceed the R-1B zoning with 30% of the lots being zoned R-1A. There are probably many other lots that exceed the R-1B zoning. On the proposal they range anywhere from 70 feet up to 84 foot classification because R-1A doesn't take place until 85 feet. We have had some concerns about the two-lane road system. The two-lane roads are not up to capacity today, but with this development all three entrances being about a mile apart, it's questionable if we would reach capacity. Mr. LaDuke would address this issue. Mr. Rizzo is trying to follow the intent of the city's master plan with the open space. The plan complies with the city's sanitary sewer master plan. The water main is available in the area and was built to handle this size of development. Mr. Major addressed the types of homes that would be built on the property. He discussed the 5 mills on which the city operates and noted that there are about 29,500 other residents in the city that we haven't heard from on this issue. Other areas of the city have had major developments and we haven't seen this type of fallout with those developments. Atherton Schools desperately needs the additional students. The local businesses will receive a benefit from this development.

Mayor Smiley commented that this property does not belong to us, but to someone else. He said he agrees that we need to keep the government land safe. He said there shouldn't be an adverse affect on Mr. Sumner's llamas. The Mayor addressed the issue of the \$1.9 Million surplus and said this money would only last for about a five-month period. He spoke concerning how the City runs from the revenue sharing monies and the recent cuts in the revenue sharing by the Governor. Mayor Smiley addressed the issue of businesses being boarded up when he took office and how many of these problems have been resolved. We must consider the best interest of all the residents who live in Burton. This proposed development would help save tax dollars and bring in revenue. Residential development is the backbone of the community.

Mr. LaDuke complimented the audience in the way they presented their objections to the project. He said the development would be an asset to the entire city and would boost the declining enrollment in the Atherton School District. Based on the number of lots in the Atherton School District, this could mean as many as 140 additional students and provide an additional \$1 Million, plus or minus, in additional revenue to the district each year. This is important to the schools when they are struggling to succeed. Jobs would also be created and many of the small businesses are vital to our community. Mr. LaDuke addressed the question of over burdening the roads. He said a traffic study was done and it does not go over the limit of what a two-lane highway should accommodate, according to the Genesee County Planning Commission. He gave some statistics on the amount of traffic the roadways would handle in this area.

COUNCIL DISCUSSION:

Mr. Bement said he voted for this project when the vote was taken last year. The area around that development is zoned R-1B and several other areas are R-1A. He said out of the 483 lots, 114 of these lots are zoned R-1A and some of the lots are bigger than what is required by both the R-1B and R-1A zoning. He said he believes the owner has made some compromises on the property. Mr. Bement also addressed the traffic issue. We have a population of more than 30,000 and the Council is elected to service all of the citizens of Burton, not one particular area over another. One of the key points to remember is that this issue is not about Blake Rizzo, but about the use of the property on Vassar Road. Residents in that area did not want a mobile home park, and Mr. Rizzo, as owner of the property, has put together a single-family development and has the right to use that property. Mr. Bement said he hasn't heard enough solid reasons not to support the project and would be voting in the affirmative.

Mrs. Tinnin said she previously voted against the project and has listened to the arguments presented this evening, both pro and against. She spoke in regards to R-1B zoning being in several other subdivisions throughout the City. Many of the subdivisions where there are 70' lots, are beginning to deteriorate. She said development is very important but needs to be paced. The elected body needs to assess what type of growth and base a development would bring to the City. Mrs. Tinnin referred to problems with 70' lots in Genesee Township. She said if there is a demonstrated need for this type of development, then why hasn't the development known as The Orchards been completed. In regards to revenue, Mrs. Tinnin said this would bring revenue into the area, but it could also cost taxpayers money with an increase in fees. She said she doesn't think the residents in the Vassar Road area are totally against development, but would like to maintain a certain lot size so they may be assured there is going to be room for quality families to enjoy their homes in that area. She said she would be considering the demonstrated need for this project and would be voting against the development.

Mayor Smiley commented that one of the subdivisions, Hidden Trails, was never rezoned as it was already zoned R-1B. He said per Mr. Major, The Orchards Subdivision has been sold. The Mayor said he doesn't believe the residents who live in the newer subdivisions are requesting variances from the Zoning Board of Appeals. The Mayor addressed the issue of increased fees and said enterprise funds, such as water and sewer funds are used for improvements. That is part of the fee structure, which was put in place many years previous to this Council. There has been no increase to the residents who pay for water because of development. We are not subsidizing the development.

Mrs. Tinnin spoke in reference to using surplus funds for the Associates Drive Industrial area. She said several of the businesses have moved out and there are three new ones that have now moved in. Mrs. Tinnin also referenced the 1999 Series Bond revenues that were used to put in waterlines for Lapeer Heights. She said Council hasn't had a report on this issue. When these funds are used and we don't get the expected return on them, then it costs everyone in the end. This is also something that needs to be reviewed when going after development.

Mr. Cross said he was a member of the Zoning Board of Appeals for the past two years and during that time, there may have been one or two cases that requested a variance from all the new development. However, as their families grow, they may have to request a variance or non-conforming uses. Many of our ZBA cases consist of non-conforming uses. He said he approves of Mr. Rizzo building on this property because it is his property and everyone has the right to build on their own property as long as the use fits the area and doesn't hurt the City. Mr. Cross said he is not, however, in favor of R-1B zoning. He said he would agree with R-1A zoning because that size lot would provide adequate room for moving recreational vehicles to the back yard. He said he is in favor of controlled growth.

Mr. Martinbianco read a letter into the record from Mr. Robert Bessac, 3377 S. Vassar Rd., Davison, MI. (A copy is on file in the Clerk's Office). Mr. Martinbianco stated that people view low-density in different ways. As a City Council we have been very progressive and proactive in several of the previous zoning requests. He addressed the issue of consolidating the school districts in Burton. Quality of life issues go beyond the number of homes that may be put in an area. Speaking as a businessman, more families mean more local business and more local trades. Mr. Martinbianco spoke in regards to the land use plan and agreed that most of the surrounding areas are zoned R-1B. However, most of the R-1B is zoned this for different reasons and mostly because of the frontage. He gave a brief history of the platting of those lots many years ago. Mr. Martinbianco said although we have a land use plan, we don't have a requisite zoning map and his concern from that standpoint, is that developers would dictate how the zoning map shall look before the City Council and Planning Commission has a chance to review those issues. We need to be driven not only by what someone desires, but what the demand is in the future so we can keep the quality of life, as we know it.

Mr. Wells asked how many developers have been refused their rezoning requests in the past five or six years. He was advised only two.

Mr. Wells said prior to moving to his current residence, he raised two sons on a small lot. He said he is concerned with the infrastructure in the community because of the development going on. He said he had an open field behind his home and that is now for sale. The only thing that is consistent in this day and age is change. Mr. Wells commented that he is a businessman and he is not making a political decision on this issue, but a business decision. He has reviewed minutes from the past ten years and there were so many political decisions made that cost people and the city money. He said he has driven through Burton to see exactly what the difference between R-1A and R-1B zoning is. Most people couldn't tell one zoning from another. The newer subdivisions are engineered to fit and look nice and yet allow for space. By cutting 80 lots out of the development, it would cost the city revenue and people. This would then affect the census count and that is something that needs to be taken into consideration. Mr. Wells referred to the PILOT Ordinance that was granted to Blackberry Creek Apartments and said they would be paying taxes. We are elected to make tough decisions and try to drive businesses into the area and although the decision to approve the apartments was difficult, it was done to open up the Center Road corridor. He said he would be supporting the R-1B zoning.

Mr. Cross explained that the people from Blackberry Creek would not be paying taxes, but would be paying a fee in lieu of taxes as long as the PILOT Ordinance is in place. He said this apartment complex is very much needed.

Mr. Wells thanked Mr. Cross from correcting the tax issue for Blackberry Creek.

Mr. Centilli said since the previous zoning request by Mr. Rizzo, the project has been revised. There are many roadways in the subdivision with no lots on either side because Mr. Rizzo had to go around the wetlands. There is a large area of unused land due to the wetlands and the developer will lose approximately 46 lots by developing the roads. At the cost of about \$18,000 per lot for development and it will cost Mr. Rizzo approximately \$830,000.00 and he won't have use of the lots. In the proposed project he is asking for two-thirds of the subdivision to be zoned R-1B and one-third to be zoned R-1A. He said he does support R-1A lots, just as other Council members do. This project will be built in phases. The City has to grow to stay financially stable and eventually this property would be built on. Although he sympathizes with the residents in this area, the City is not in the position to turn down a subdivision of this magnitude because he doesn't believe there will be that many more proposed to us.

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Mr. Centilli said although we have \$1.9 Million in the General Fund, that might last one disaster and we would be drained. He inquired about the exact definition of the Protest Petition. The City has to grow to stay financially stable; if it doesn't it will die.

Attorney Hamilton explained that if a property is proposed to be rezoned and a petition is filed with the City that is signed by the owners of 20% of the area within 100 feet of the property, then in order for the amendment of the Zoning Ordinance to be enacted, it requires 2/3's majority vote of the City Council or five affirmative votes rather than a majority vote, to affect the adoption of an ordinance amending the zoning ordinance. We have the petition filed and we will have to determine if it qualifies as a protest petition by being signed by the appropriate number of persons who own 20% of the property within 100 feet of the boundaries. It is a timely process. The areas involved need to be determined and then the petition would have to be reviewed to determine what persons who have signed the petition own property in that area.

Mr. Centilli reemphasized that there would be another meeting in regards to this zoning case.

Mr. Martinbianco asked if the petition would be researched prior to the April 2nd meeting.

Attorney Hamilton said he is anticipating that this would be done prior to that date.

COUNCIL ACTION:

Wells moved and Bement seconded the following motion:

1. Approve and authorize the second public hearing for Zoning Case #268 to rezone property from SE to R-1B for the purpose of single-family development (Blake Rizzo, 5273 Empress Drive, Grand Blanc, MI 48439).

Motion carried 4-3 with Cross, Martinbianco and Tinnin voting no.

Meeting Adjourned at 7:40 P.M.

Cheryl M. Ladd, CMC
Deputy City Clerk

CML