Dec 09, 1975  
Kalamazoo Gazette  
By Peter Maas

Zoning Issue Near Kleinstuck Preserve Remains Unresolved

A public hearing on a rezoning proposal devoured about 90 minutes of a four-hour Kalamazoo City Commission meeting Monday — to no conclusion.

After skepticism was expressed by a group of persons neighboring the 3.5-acre parcel in question, the commission voted to continue the hearing at a later date.

The land lies on the southeast corner of the intersection of Hudson and Peeler streets. It is just east of the Kleinstuck Preserve and a block south of W. Maple Street.

The owner is Extendicare of Kalamazoo Inc., a subsidiary of a Louisville, Ky., firm.

Now zoned for apartments (Zone 7), the application asks for a change to professional office (Zone 5A) and one-family residential (Zone 8) zoning.

Kalamazoo attorney V.T. (Jack) Early, who filed the request in behalf of Extendicare, said the company had planned to build a nursing home on the property, a use allowed in Zone 7.

But the market changed, Early said, and the company divested itself of 68 nursing homes and has gone in other directions.

Early told commissioners of an agreement between the company and a private party. He had been unaware of the agreement, he said, at the time of the Nov. 6 Planning Commission hearing.

Extendicare's parent company, Early said, had entered an agreement with John Upjohn that the company would "cooperate" in having Hudson Street extended southward to the southeast corner of Hudson and Forest Glen.

The streets are undeveloped at that point and there is a question over whether Hudson is even legally dedicated to the city as a public street.

Early and City Atty. James Bishop feel that Hudson is a city street.

Attorney John La Parle, of 916 Sunset Lane, a neighbor and a leader of about 30 area residents who came to Monday's hearing, isn't sure whether it's a public street.

The city's planning staff has recommended that Hudson not be extended south to Inklester Avenue and that Forest Glen not be improved westward from Bronson Boulevard.

It is these two possibilities of which the neighboring residents are fearful.

The slight southward extension of Hudson to the Upjohn property would join the Hudson and Forest Glen rights-of-way, if that is what they are.

Early said the agreement with Upjohn was only to "cooperate" in obtaining access to his property, not to provide a through street.

La Parle said the situation "could result in opening up undeveloped land."

In disagreeing with Early's contention that the rights-of-way were properly the city's, La Parle said there is "considerable doubt" about Hudson.

Although a 1922 deed shows the intention of the then-owners of offering a 33-foot strip for road use, there is no record of the city's acceptance, La Parle said.

Gary Niemeeck, the city's current-planning director, said the city apparently does not hold deeds to the streets.

La Parle acknowledged that maps have shown Hudson for "many, many years," that the city has not assessed the property and that the city has "exercised control" of it.

Bishop said he would recommend that the streets be treated a public right-of-way and that a decision to the contrary would "have to be determined in a court of law."

If Hudson Street "were put through," it would damage "a delightful little garden spot of nature," La Parle said.

John W. Allen, another attorney and neighborhood resident, asked that the matter be sent back to the planning commission for further study in light of the agreement with Upjohn.

Enumerating the uses allowed under 5A zoning, Allen speke of a threat of beauty schools, hotels, art studios and broadcasting stations.

Allen said such a "spot zone" amidst residential and institutional zones could result in a kind of domino effect in which the city legally would be unable to turn down requests for business-type zones on adjacent lands.

Revelation of the Upjohn agreement, said La Parle, means that the ball game has changed.

Early, who himself lives nearby at 2444 Bronson, said he would join "in a petition to close" the right-of-way on Hudson, if that is necessary, but that the company wouldn't renge on the Upjohn agreement to help provide access.

Planning Division Director Michael Conlisk said there was a misunderstanding, that there was no reason to send the question back to the Planning Commission and the only problem is whether Hudson and Forest Glen are legally city streets.

On the motion of Com. Edwin Walters, the commission voted to adjourn the public hearing so that the problems can be researched more thoroughly.

The hearing will reconvene with two weeks' notice, according to the motion.

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