

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, JUNE 22, 2015 - 8150 BARBARA AVENUE**

CALL TO ORDER/ROLL CALL The City Council of Inver Grove Heights met in regular session on Monday, June 22, 2015, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:00 p.m. Present were Council members Bartholomew, Hark, Mueller and Piekarski Krech; City Administrator Lynch, City Attorney Kuntz, Community Development Director Link, Parks and Recreation Director Carlson, Finance Director Smith, Chief Stanger, Chief Thill, and Recording Secretary Fox

3. PRESENTATIONS:

- A.** Presentation of the American Council of Engineering Companies' National Grand Award for Northwest Area Storm Water Design

Mr. Thureen stated the Northwest Area Storm Water Design project was recognized at the State level and nominated for the National Grand Award. He noted the project was recognized as one of the top 8 in the nation.

Dave Oxley, Executive Director of ACEC Minnesota, stated his organization represented approximately 150 engineering firms in the State. He explained their biggest event of the year was their Engineering Excellence awards competition. He stated there were 30 entries last year, including the Northwest Area Stormwater Design project. He noted 174 projects from across the country were nominated for the ACEC National Grand Award. He added the Northwest Area Stormwater Design project was unique and unusual in comparison to many of the other projects that were entered into the competition.

Brett Emmons, Emmons & Olivier Resources, provided an overview of the history of the Northwest Area Stormwater Design project. He noted the overall goal was to design a zero discharge approach to stormwater management. He presented the National Grand Award to the City.

4. CONSENT AGENDA:

Councilmember Piekarski Krech removed Items 4H and 4J from the Consent Agenda.

- A.** i) Minutes – June 1, 2015 City Council Work Session
ii) Minutes – June 8, 2015 Regular City Council Meeting
- B. Resolution No. 15-99** Approving Disbursements for Period Ending June 16, 2015
- C.** Pay Voucher No. 7 for City Project No. 2014-09D, College Trail Street Reconstruction and Barbara Avenue Partial Street Reconstruction, and City Project No. 2014-06, Blaine Avenue Retaining Wall Replacement Improvements
- D.** Pay Voucher No. 1 for City Project No. 2015-09E, 47th Street Area Reconstruction, and City Project No. 2015-04, 47th Street Area Water and Sewer Improvements and Rehabilitation
- E.** Pay Voucher No. 1 and Change Order No. 1 for the 2015 Capital Improvement Program, City Project No. 2015-10, NWA Trunk Utility Improvements, Argenta District (Alverno to Blackstone Vista Development) and City Project No. 2015-11, NWA 70th Street Lift Station, Argenta District
- F.** Approve Custom Grading, Drainage, and Stormwater Ponding Easement Agreement for 2306 99th Street
- G.** Approve Therapeutic Massage License
- I.** Approve the 2015 Seasonal/Temporary Compensation Plans
- K.** Personnel Actions

Motion by Bartholomew, second by Hark, to approve the Consent Agenda

Ayes: 5

Nays: 0 Motion carried.

H. Approve Replacement of Parks and Recreation Office and Arena Concession Stand Service Counters

Councilmember Piekarski Krech stated she wanted to ensure that the replacement counters were durable and easy to clean.

Mr. Carlson stated staff selected quality materials.

Councilmember Mueller questioned what was wrong with the existing counters.

Mr. Carlson explained neither of the service counters proposed to be replaced currently met ADA standards because they were too tall.

Motion by Piekarski Krech, second by Bartholomew, to approve the replacement of Parks & Recreation office and arena concession stand service counters

Ayes: 5

Nays: 0 Motion carried.

J. Approve Temporary Assignment Pay

Councilmember Piekarski Krech stated she was not clear on the standard protocol related to pay rates and who was eligible to receive additional pay for temporary work assignments.

Mr. Lynch explained in the past temporary assignment pay has been awarded to individuals who have assumed duties of another position, in addition to their own, on an interim basis. He stated the goal was to recognize the individual who had been performing the duties of both HR Coordinator and Deputy City Clerk since the end of March. He noted overtime was not included because the position was exempt.

Councilmember Mueller questioned if the proposed amount was based on a percentage.

Mr. Lynch stated the amount was equivalent to 50% of the difference between the bi-weekly rates of the positions.

Motion by Mueller, second by Bartholomew, to approve temporary assignment pay

Ayes: 4

Nays: 1 (Piekarski Krech) Motion carried.

5. PUBLIC COMMENT:

Gabriel Rojas Cardona, 9716 Benjamin Trail, stated he represented the Inver Grove Heights Heat Soccer Association. He asked the City to help the organization generate additional revenues to support their growing program and keep costs low for families.

Sara Westall, gaming manager, stated the organization would like to add another gambling site at Overboard Bar & Grill. She explained the organization already operated two sites in the City, the maximum currently allowed under City Code regulations. She requested that the Council consider making an exception to allow the organization to operate charitable gambling at an additional site.

Mayor Tourville stated an ordinance amendment would be required. He suggested that Ms. Westall meet with the City Administrator to discuss the process and make a determination as to whether an ordinance amendment would be brought forward for consideration.

Allan Cederberg, 1162 82nd St. E., referenced Item 7A from the May 11, 2015 City Council meeting when the City approved the Comprehensive Annual Financial Report. He questioned why a specific schedule outlined in the CAFR was not included in information that was published in the official City newspaper.

Mr. Lynch stated the City was not required to publish every report that was included in the Comprehensive Annual Financial Report. The City disclosed all information as required by law.

Councilmember Bartholomew stated the CAFR was also published, in its entirety, on the City's website.

Dennis Wolfe, 6742 Argenta Trail, thanked the Council and staff for implementing accessible parking stalls in the front of City Hall.

6. PUBLIC HEARINGS: None.

7. REGULAR AGENDA:

COMMUNITY DEVELOPMENT:

A. GREGORY LEE & DL SCOFIELD: Consider Resolution relating to a Variance to allow a six foot fence along a corner front property line whereas 30 feet is required for property located at 3593 72nd St.

Mr. Link reviewed the location of the property. The request was for a variance to allow construction of a six foot solid fence. He provided an overview of the zoning code requirements that applied to corner lots. The ordinance requires that any fence be set back at least 30 feet, or if the fence is within the 30 foot setback, that it be no taller than 42" and 75% opaque. The reasons for the requirement are to ensure that an open view of homes be maintained for public safety purposes, aesthetics, and to maintain traffic visibility and safety. Planning staff did not support the variance because they could not find anything about the property that was particularly unique, could not identify a practical difficulty, and there was concern with setting a precedent. Planning Commission also recommended denial of the request.

Councilmember Bartholomew clarified that the proposed fence would not be located within the right-of-way or along the curb line. He stated he did not see how the proposed location of the fence would cause a problem for traffic visibility at the intersection.

Mr. Link stated the setback was measured from the edge of the right-of-way.

Councilmember Piekarski Krech questioned if the entire fence would be solid. She noted she also did not see that there would be any sightline or visibility issues at the intersection.

Greg Scofield, 3593 72nd St., stated he was never aware that what he considered to be his backyard was actually by definition a front yard. He explained they use the area as their backyard to exercise their dogs.

Debbie Scofield, 3593 72nd St., stated they requested the variance to replace their existing fence. She opined the fence provided safety and security for their family and their dogs. She noted she was a dog trainer and has seen dogs jump over the existing 42" fence and aggressively approach the fence while her dogs are in the yard. She explained a solid fence would limit the visual contact between the dogs and the increased height would make it more difficult for other dogs to enter her yard uninvited. She stated they wanted to provide a safe and secure area for their animals.

Mr. Scofield opined the proposed fence would not set a precedent as staff admitted that the zoning code had been interpreted differently over the years and there were at least 16 other corner lot fences in their area of the City that were similar to what they had proposed for their property. He stated not all ordinance regulations applied uniformly to every property in the City. He noted the proposed fence would not impact the traffic sight lines.

Councilmember Hark stated he could not identify a practical difficulty in this particular case but felt that the precedent for similar requests had already been set and it would be unfair to deny the request.

Councilmember Bartholomew stated the intent of the regulation was to ensure that visibility was maintained for traffic safety at the intersection.

Councilmember Piekarski Krech stated her biggest concern was that the fence be maintained. She opined that people who live on corner lots should not be penalized and she did not see an issue with the request.

Motion by Piekarski Krech, second by Bartholomew, to receive correspondence

Ayes: 5

Nays: 0

Motion carried.

Motion by Piekarski Krech, second by Bartholomew, to adopt Resolution No. 15-100 approving a Variance to allow a six foot fence along a corner front property line whereas 30 feet is required for property located at 3593 72nd St. because the property owner was being penalized for living on a corner lot and the visibility of the intersection would not be impacted by the fence.

Ayes: 5

Nays: 0 Motion carried.

B. RYLAND HOMES: Consider Resolution approving the Final Plat, Final PUD Development Plan, Development Contract and related agreements for Blackstone Ponds 1st Addition

Mr. Hunting reviewed the location of the property. He explained the first phase of the proposal included 46 townhome units, site grading, stormwater improvements, and construction of the public street. He noted the next phase of the county's Mendota-Lebanon trail would also be completed. He stated the proposal met all of the requirements set forth in the preliminary conditions of approval and the engineering department was satisfied with the plans as presented. A parking plan was also submitted that would allow for parking on one side of the street. He noted the development agreement was amended to eliminate parts 12 and 13 of Exhibit E. Planning staff recommended approval of the final plats and plans for the first phase of Blackstone Ponds.

Motion by Bartholomew, second by Piekarski Krech, to adopt Resolution No. 15-101 approving the Final Plat, Final PUD Development Plan, Development Contract and related agreements for Blackstone Ponds 1st Addition

Ayes: 5

Nays: 0 Motion carried.

C. SPERIDERS REINERS ARCHITECTS: Consider the following Resolutions for property located at 7365 Concord Boulevard

- i) Major Site Plan Review for an approximate 5,000 Square Foot Addition and approval of an Improvement Agreement, Storm Water Maintenance Agreement, and Permanent Five Foot Drainage and Utility Easement
- ii) Variance to allow a 33 Foot Setback from the North Property Line for the Building Expansion whereas 75 Feet is required

Mr. Link reviewed the location of the property. He stated the existing building was approximately 8,400 square feet in size and the applicant proposed an addition of 5,000 square feet. The request included an additional parking lot and access with screening on the north side of the lot. The variance was necessary because the ordinance required a 75 foot setback from residential properties. The City Council previously approved a 30 foot setback for the existing building and the applicant would like to maintain the existing setback with the new addition. Both Planning staff and the Planning Commission recommended approval of the request with the practical difficulty being that the proposed setback was already approved by previous Council action.

Councilmember Hark questioned if staff received any comments from the neighbors.

Mr. Link stated no concerns or objections were raised.

Councilmember Mueller questioned why the existing drainage was being changed.

Mr. Link stated the applicant was adding more impervious coverage that would generate more stormwater.

Eric Reiners, applicant, stated because the site was disturbing more than 5,000 total square feet of ground area, the ordinance required them to meet the drainage requirements of the entire site. In order to do that, the capacity needed to be increased.

Motion by Bartholomew, second by Piekarski Krech, to adopt Resolution No. 15-102 relating to a Major Site Plan Review for an approximate 5,000 Square Foot Addition and approving an Improvement Agreement, Storm Water Maintenance Agreement, and Permanent Five Foot Drainage and Utility Easement and Resolution No. 15-103 approving a Variance to allow a 33 Foot Setback from the North Property Line for the Building Expansion whereas 75 Feet is required

Ayes: 5

Nays: 0 Motion carried.

D. STEVE WATRUD: Consider the following resolutions for property located at 10982 Clark Road:

- i) Major Site Plan Approval to Construct a 22,400 Square Foot Office/Warehouse Building**
- ii) Conditional Use Permit Amendment to allow for a Contractor's Yard and Outdoor Storage**
- iii) Variance to allow Outdoor Storage less than 100 Feet from Agricultural Zoned Property and from Screening Requirements**

Mr. Link reviewed the location of the property. The City Council previously approved a site plan to construct a building on the property. Construction of an additional 22,000 square foot building on the site was proposed. In the industrial zoning district multiple buildings on a property were allowed. The new structure required site plan approval. Council also previously approved an open storage area and the applicant proposed to extend the area to the east, which required two variances for the setback and for screening. He stated Planning staff recommended approval of the requests with slightly different conditions than what the applicant requested. The Planning Commission also recommended approval of the requests with slight variations from what the applicant requested. He explained staff received an email from the applicant's attorney that revised the proposed resolutions and raised several issues.

Mayor Tourville questioned if the issues raised were discussed at the Planning Commission meeting.

Mr. Link stated most of the issues had not been discussed at the Planning Commission meeting. He reviewed the ten issues that were raised by the applicant. He noted that the majority of the issues did not relate to the building itself and staff suggested allowing the building permit to be issued.

Councilmember Piekarski Krech questioned what the setback would be if the neighboring properties were not zoned residential.

Mr. Link replied 10 feet.

Councilmember Piekarski Krech questioned if the proposed landscaping plan was sufficient for the entire site or if each new building would require a separate landscaping plan.

Mr. Link stated the plan was dependent on the perimeter of the property and the number of parking stalls. He noted additional parking stalls beyond what was originally approved for the site were proposed. Ordinance requires screening from the residential properties and the applicant proposed planting trees to provide screening in a location that was different than what was originally shown on the site plan. The applicant also requested that the proposed trees be used to fulfill both the landscaping and screening requirements for the site.

Councilmember Mueller stated the residential properties were not located very close to the parking lot.

Councilmember Piekarski Krech questioned how the revised plan changed the location of the trees.

Steve Watrud, applicant, presented the revised site plan. He explained the Planning Commission determined that it should not matter where the trees were located as long as the total number met the requirements. He stated the trees were moved to provide more area for outdoor storage.

Mayor Tourville stated the tree location could be worked out between the applicant, the neighbors, and staff.

Mr. Watrud noted that the Planning Commission also agreed that the screening trees should be counted

against the total number required on the landscaping plan. He explained that he also wanted to expand the list of items that would be allowed on the I-2 property.

Mr. Link clarified that the original discussion was to allow outdoor storage and a contractor's yard for those who were leasing space on the property.

Mr. Watrud stated he would like the flexibility to rent storage space to his tenants.

Mr. Link explained the resolution prepared for Council stated the conditional use permit did not include and did not allow vehicles for sale, storage of vehicles related to a business, propane tanks, or mini storage. The revised resolution provided by the applicant's attorney removed that language.

Mayor Tourville questioned if the Council was interested in allowing the storage of propane tanks on the property.

The Council replied in the negative.

Councilmember Mueller opined the City may want to allow the storage of vehicles to give the applicant some flexibility.

Mr. Watrud stated he would agree to come back to the City for approval if, at some point in the future, he had wanted to store propane tanks on the property. He clarified that he wanted to be able to maximize the outdoor storage on the property to make it as profitable as possible.

Councilmember Bartholomew questioned if the applicant wanted permission to allow storage on the property by entities that were not necessarily leasing space on the property.

Mr. Watrud stated he did not currently have any tenants on the property and he would like to take advantage of opportunities to rent out storage space. He noted he was not interested in using the space as an impound lot, mini storage, or for the storage of propane tanks and those could be removed from the resolution.

Vance Grannis, Jr., 9249 Barnes Avenue, stated although the applicant did not intend to use the outdoor storage space for a propane farm, there were instances in which he had to store propane on the property. He noted that was why the revised resolution removed the prohibition against propane tanks. He explained the applicant was asking for the City to come up with a plan that would allow for the full development of the property without having to come back to the Council for separate approval of each phase. He added the City Attorney drafted a resolution with sixteen conditions that would allow for that. He stated the engineering department suggested installing utilities now to service future buildings on the property and to avoid having to tear up the street again in the future.

Mr. Kuntz explained if the Council wanted to deal with the potential for future expansion of the buildings, or additional buildings beyond the second building, the resolution that was prepared with the sixteen conditions provides the appropriate framework. He noted the applicant agreed with all sixteen conditions because they eliminated the need to come back to the City for separate approvals on subsequent phases.

The Council agreed they did not have an issue with the sixteen conditions as proposed related to future development on the property.

Mr. Grannis stated the difference between the resolution prepared by staff for the major site plan approval and the revised resolution he provided was the inclusion of the extra 30,000 square feet and the 16 proposed conditions.

Mr. Link stated the application was for a variance for a ten (10) foot setback. Both Planning staff and the Planning Commission recommended a 20 foot setback. The revised version from the applicant reflected a five (5) foot setback.

Mr. Grannis argued that the proposed setback had been five (5) feet since the original proposal was approved.

Mr. Link clarified the setback for parking was five (5) feet, not for open storage.

Mr. Grannis stated his interpretation was that the setback was five (5) feet for both parking and open storage.

Mr. Link explained Council previously approved a 40 foot setback.

Ken Pike, 11025 Courthouse Blvd., stated the proposed plans had changed since the Planning Commission meeting. He noted he would agree to a ten (10) foot setback but would prefer 20 feet.

Mr. Watrud questioned what the difference was between the setback for storage and the setback for parking.

Councilmember Piekarski Krech stated parking was a more fixed use whereas the outdoor storage could be used for many different things.

The Council agreed to a setback of ten (10) feet.

Mr. Link stated there was a discrepancy regarding the location of the trees. He noted the resolution could be worded such that the location of the trees needed to be worked out between the property owner, neighbors, and City staff.

The Council agreed that the location of the trees could be worked out between the neighbors, the property owner, and staff.

Mr. Link stated the City's interpretation was that the applicant would put in a certain number of trees to meet the landscaping requirements and additional trees would be planted for screening. The applicant requested, and Planning Commission supported, that the trees planted for screening count towards the landscaping requirement as well. He noted the difference was 13 trees.

The City Council agreed with the recommendation of the Planning Commission.

Councilmember Piekarski Krech stated the property was in an industrial storage area and the main purpose of the trees was to provide screening of the outdoor storage area.

Mr. Link referenced the conditions related to an engineering escrow and letter of credit, and the City Engineer review of the site plan.

Mr. Thureen explained the City Engineer reviewed and approved the site plan. He stated staff agreed with the language of the conditions as proposed by the applicant.

Mr. Link stated the resolution included in the Council packet required the applicant to provide a photometric plan to detail the brightness of the lighting and determine if the plan meets the code requirements. He noted the applicant proposed removal of the condition.

Mr. Grannis stated the lighting was addressed in the sixteen conditions previously agreed to by the Council.

Mr. Watrud clarified the same lighting that was installed for the first building would be used.

Mr. Link stated the concern was that more lighting was being installed on the site

Mr. Kuntz reviewed the language suggested by Planning staff regarding lighting. The applicant suggested a sentence that read "new lighting shall be substantially similar to existing lighting".

Mr. Link suggested that the brightness of the lighting for the second building be measured in the same manner in which it was measured for the first building.

The Council agreed with Mr. Link's suggestion.

Mr. Link questioned what should be allowed to be stored on the property.

Councilmember Mueller suggested prohibiting an impound lot, propane tank farm, mini storage, and an auto sales lot. He noted everything else would be permissible.

Mr. Watrud agreed with the proposed prohibitions.

Mayor Tourville questioned if a non-tenant would be allowed to store items on the property.

Councilmember Bartholomew stated he would not be opposed to allowing non-tenants to use storage on the property.

Councilmember Hark questioned what the definition was of a non-tenant.

Mr. Kuntz stated there were two provisions contained in the previous Council action for the first building. The first allowed metal storage containers and trailers as part of the outdoor storage provided they were used as part of a business operating out of the main building. The second provision outlined that the conditional use permit did not allow vehicles for sale, the storage of vehicles not related to a business, propane tanks, and mini storage. The provision did allow for landscaping material, vehicles and equipment related to a business and saleable product.

Councilmember Bartholomew reiterated that he was not opposed to the applicant storing items on the property that were not for a tenant.

Councilmember Mueller agreed.

Councilmember Hark opined in the I-2 district it really wouldn't matter that much.

Mr. Link stated Planning staff did not have an opportunity to review the revised site plan. He questioned what changes the applicant proposed.

Mr. Watrud explained the utilities would be brought onto the property on the north side rather than on the south side of the building. He noted there were other minor changes made to accommodate the City Engineer's suggestions.

Mr. Link suggested that the resolution be changed to reflect the revised site plan submitted by the applicant. He explained staff also suggested that the 2014 resolution be voided and replaced by the revised information being considered by the Council.

Mr. Grannis suggested that the 2014 resolution remain in effect except for what was modified by the 2015 resolution.

The Council agreed with the suggestion of Mr. Grannis.

Motion by Bartholomew, second by Hark, to adopt Resolution No. 15-104 related to a Major Site Plan Approval to Construct a 22,400 Square Foot Office/Warehouse Building, Resolution No. 15-105 approving a Conditional Use Permit Amendment to allow for a Contractor's Yard and Outdoor Storage, and Resolution No. 15-106 approving a Variance to allow Outdoor Storage less than 100 Feet from Property Zoned Agricultural and from Screening Requirements with the revisions as proposed and discussed by the Council

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

Motion by Piekarski Krech, second by Mueller, to schedule a special City Council meeting on July 27, 2015 at 5:00 pm in the City Council chambers

Ayes: 5

Nays: 0 Motion carried.

9. EXECUTIVE SESSION:

A. Discuss Appraisals for Easement Acquisitions on Glenlin Properties, LLC Parcel and on Lawrence and Linda Flannery Parcel relating to City Project No. 2015-13

Motion by Piekarski Krech, second by Mueller, to enter Executive Session

Ayes: 5

Nays: 0 Motion carried.

The Council entered Executive Session at 10:10 p.m. to discuss appraisals for easement acquisitions.

10. ADJOURN: Motion by Mueller, second by Hark, to adjourn. The meeting was adjourned by a unanimous vote at 11:00 pm