

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, June 7, 2011 – 7:00 p.m.
City Hall Chambers - 8150 Barbara Avenue

Chair Bartholomew called the Planning Commission meeting to order at 7:00 p.m.

Commissioners Present: Tom Bartholomew
Pat Simon
Tony Scales
Dennis Wippermann
Mike Schaeffer
Harold Gooch
Victoria Elsmore
Armando Lissarrague

Commissioners Absent: Paul Hark (excused)

Others Present: Tom Link, Community Development Director
Allan Hunting, City Planner
Heather Botten, Associate Planner

Chair Bartholomew welcomed new Commissioners Victoria Elsmore and Armando Lissarrague. He also thanked former Commissioners Christine Koch and Damon Roth for their service on the Planning Commission.

APPROVAL OF MINUTES

The minutes from the May 17, 2011 meeting were approved as submitted.

SAYYAD HUSSAIN – CASE NO. 11-10Z

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a rezoning of the property from B-1, Limited Business to B-3, General Business, and a Comprehensive Plan Amendment to change the land use from NC, Neighborhood Commercial to CC, Community Commercial, for the property located at 5465 Babcock Trail. 49 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the property is currently a gas station and convenience store. The owner would like to add a small-scale auto sales lot on the east side of the property. The B-1 zoning does not allow for auto sales, however, so the applicant is requesting a rezoning to B-3, a district in which auto sales is allowed by conditional use. The existing Comprehensive Plan designation would also have to be changed to a higher intensity designation to be consistent with a B-3 zoning. He advised that the B-3 zoning designation allows other more intensive commercial uses that may not be appropriate in this area. He added that the City Council has a history of trying to limit car sales to what is known as the 'Iron Triangle' in the Highway 3/Highway 110 area, as well as a few used car lots along Concord Boulevard. Allowing car sales on the subject property would be inconsistent with the direction that Council has been heading. Staff recommends denial of the request.

Commissioner Simon asked if the applicant was planning to close the store and operate solely as a used car sales lot.

Mr. Hunting replied that the applicant is proposing to keep the gas station and convenience store open but supplement his income by adding auto sales.

Commissioner Simon asked if the zoning still had to be changed if they were adding only a small sales lot to their existing use, to which Mr. Hunting replied in the affirmative, stating automobile sales is not allowed at all in the B-1 district.

Opening of Public Hearing

The applicant, Sayyad Hussain, 5465 Babcock Trail, stated he was requesting to add a small auto sales lot on his property as he needed the additional income to remain in business.

Chair Bartholomew stated that while he appreciated Mr. Hussain's attempt to supplement his business, the Planning Commission was going to have a difficult time recommending approval of the request as this particular area was not conducive to auto sales.

Mr. Hussain stated the additional sales lot would not a minimal impact as it would only bring in a few additional customers each day whereas the existing gas station/convenience store served 400-500 people each day. He stated he has 10 parking spaces in front of the store for his gas station customers, but has 25 parking spaces on the east side sitting vacant. He noted that he has allowed neighbors to successfully sell their vehicles in his lot, and he stated he would be agreeable to the City putting a limit on the number of cars he could sell.

Chair Bartholomew stated that approving this request would set a precedent and make it difficult for the City to deny future requests for automobile sales.

Commissioner Simon stated this would have long-term implications as once the zoning was changed the applicant could sell the property and the next owner would be able to incorporate any of the uses allowed in the B-3, many of which would not be desirable in this neighborhood.

Commissioner Lissarrague asked for clarification of who was asking to sell their vehicles in the applicant's lot, stating that he spoke with some of the neighbors and they were not in favor of the request.

Mr. Hussain replied that the neighbors asked to park their vehicles in his parking lot to sell their used cars as individuals. He stated that he has worked hard to improve the property, including resurfacing the parking lot.

Gordon Anderson, 5447 Babcock Trail, agreed that Mr. Hussain has improved the property since purchasing it, however, he thought that most of his neighbors at Cedarwood Condominiums would not be in favor of the request as an auto sales lot could make it more difficult for them to sell their homes. He stated he was concerned as well about the potential for a more intense use if the property was sold.

Planning Commission Discussion

Commissioner Simon asked if staff heard from any neighbors other than the emails included in the report.

Mr. Hunting replied that he received a couple other phone calls from neighbors who raised some concerns and had general inquiries, however, they did not give their names.

Chair Bartholomew asked for clarification of the difference between automobile sales and parking a vehicle in a lot with a for sale sign.

Mr. Hunting stated he did not know the exact ordinance language offhand, but the City's intent was not to have vehicles for sale parked in any commercial area regardless of the zoning.

Chair Bartholomew noted that he has seen for sale signs in vehicles all over the City and asked if perhaps the trigger was if they were parked overnight.

Mr. Hunting stated that while this was likely occurring in the City, it was not allowed. If someone were to bring a violation to the attention of the City, they would inform a Code Enforcement Officer.

Commissioner Schaeffer stated that while he appreciated Mr. Hussain's attempt to expand his business, he felt the long-term implications of a zoning change on this specific property would be detrimental to the area.

Planning Commission Recommendation

Motion by Commissioner Schaeffer, second by Commissioner Wippermann, to deny the request for a rezoning of a property from B-1, Limited Business to B-3, General Business, and a Comprehensive Plan Amendment to change the land use from NB, Neighborhood Business to CC, Community Commercial, with the five conditions listed in the report, for the property located at 5465 Babcock Trail.

Commissioner Wippermann asked if he could make a friendly amendment to **change the language in Condition 1 to read 'is' not appropriate as opposed to 'may not be' appropriate.**

Commissioner Schaeffer agreed to amend his motion as recommended by Commissioner Wippermann.

Motion carried (8/0). This item goes to the City Council on June 13, 2011.

MICHIAL MULARONI (HEPPNERS AUTO BODY) – CASE NO. 11-13V

Reading of Request

Commissioner Simon read the public hearing notice to consider the request for a variance to construct an addition onto an existing building that is located within the side yard setback for the property located at 6042 Claude Way. 4 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the property abuts the South St. Paul Airport on the east and is surrounded by industrial uses to the north, west and south. The original building and addition were constructed 30' from the property line which was the required side yard setback at the time. In 2002, however, the setback was amended from 30' to 40'. The applicants are now proposing to construct a 48' x 60' addition and are requesting a variance from side yard setback as the proposed addition would be 30' feet from the property line whereas 40' is required. Due to the property's proximity to the runway the property owner would also have to file all required FAA forms prior to construction. To meet the City's planting requirements, three trees are required to be planted on the site; staff is recommending that those be planted along the western property line. She advised that this is the first variance public hearing that has been brought before the Planning Commission since the Governor signed into law the new variance language. She explained that variances may now be granted when the applicant establishes that there are practical difficulties in complying with the official control as well as fulfilling the other variance criteria. The request complies with that criteria and staff recommends approval of the request with the five conditions listed in the report.

Commissioner Simon asked if the form(s) referred to in Condition 2 had to be signed off on by the FAA, to which Ms. Botten replied in the affirmative.

Commissioner Simon asked if the City's approval would be precluded if the FAA denied the application, to which Ms. Botten replied in the affirmative.

Commissioner Elsmore asked if the applicants received FAA approval in 2007 when they received their first variance approval, and asked why the building addition was not completed at that time.

Ms. Botten stated the FAA approval was not a condition of approval from the City but the addition would have still been required to obtain any FAA approvals. She recommended that the question as to the building's completion be referred on to the applicant.

Commissioner Wippermann asked if staff heard from any of the neighboring property owners, to which Ms. Botten replied they had not with the exception of the South St. Paul Airport Manager.

Public Hearing

The applicant, Michial Mularoni, 6191 Crackleberry Trail, Woodbury, advised he was available to answer any questions.

Chair Bartholomew asked if the applicant was in agreement with the five conditions listed in the report, particularly Conditions 2 and 5.

In regards to Condition 2, Mr. Mularoni stated he believed the statute did not apply to their situation and he would contact the FAA to clarify whether they were exempted from this requirement. He stated FAA approval was not required with their original construction, their first addition, or their 2007 variance request. In response to Commissioner Elsmore's earlier question, Mr. Mularoni advised that the second addition was not built after their 2007 approval because of a business decision by the owner.

Chair Bartholomew advised that whether FAA approval was required or not would need to be resolved. He stated that he supported the request.

Planning Commission Recommendation

Motion by Commissioner Gooch, second by Commissioners Scales and Schaeffer, to approve the request for a variance to construct an addition onto an existing building that is located within the side yard setback, for the property located at 6042 Claude Way, with the five conditions listed in the report.

Motion carried (8/0). This item goes to the City Council on June 13, 2011.

STEPHEN WEBB – CASE NO. 11-11C

Reading of Notice

Commissioner Simon read the public hearing notice to consider a request for a conditional use permit to allow an amateur radio tower in excess of height allowed in a residential district, and a variance to exceed structure height in the Critical Area Overlay District, for the property located at 10115 Cloman Path. 12 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicant has requested a CUP for a 65 foot tall amateur radio tower to be erected in the southwest corner of the 2.5 acre property. He advised that a variance is also being requested to exceed the 35 foot maximum structure height in the Critical Area Overlay District whereas 65 feet is being proposed. The applicant is proposing the tower to be setback 70 feet from west and south property lines. This would put the fall zone of the tower entirely on the subject property. Staff submitted an application to the DNR as a courtesy; their comment is not required. He advised that there is a high tree canopy in the area and the tower would not be visible from the river. In staff's opinion the request satisfies the variance criteria and they recommend approval of the request with the conditions listed in the report.

Chair Bartholomew referred to a previous request on Upper 55th Street where height was an issue and asked if the subject site was too far away from the airport for height to be a concern.

Mr. Hunting replied that the tower would have to be 200 feet above the airport elevation for it to become an issue.

Commissioner Simon asked if staff received any comments from the DNR, to which Mr. Hunting replied they had not.

Commissioner Simon asked if staff received any comments from the neighbors.

Mr. Hunting replied that he received one phone call with a general inquiry and another from the property owner just south of the subject property who raised some concerns about the height of the proposed tower.

Commissioner Wippermann referred to mention in the report of the potential for television interference and questioned why the tower was not moved further away from the house to the south.

Mr. Hunting recommended that the applicant answer the question about tower location. He noted that most people use cable so the impact on television reception was likely minimal and he added that the taller antennae would help minimize any television interference as well.

Opening of Public Hearing

The applicant, Stephen Webb, 10115 Cloman Avenue, advised he was available to answer any questions.

Chair Bartholomew asked if the applicant agreed with the three conditions listed in the report, to which Mr. Webb replied in the affirmative.

In response to Commissioner Wippermann's question regarding the location of the tower, Mr. Webb agreed that a better location might be further north while remaining 70 feet from the property lines. He stated his main concern was minimizing the antennae visibility from the property owner to the south, and he would like the flexibility to move the tower from the location shown on the site plan.

Commissioner Wippermann asked if the entire back of the lot was wooded, to which Mr. Webb replied in the affirmative.

Commissioner Elsmore asked if the applicant had ever installed a 35 foot or shorter tower on the property.

Mr. Webb stated he currently had a shorter temporary antennae set up for doing antennae tests, and distant stations were unable to hear him which is a result of antennae height. He advised that if 55 feet is adequate he will not add the extra ten feet. He advised that all receivers must be FCC compliant and with the improvements in receiver circuitry and with cable being the primary source of television and radio, there is virtually no problem with interference. He advised that raising the antennae height reduces any RF radiation as well.

Commissioner Schaeffer asked if the neighbors would potentially see any effects on their cell phone strength, to which Mr. Webb replied there would be no interference with phone service.

Commissioner Simon asked if Condition 1 could be reworded to allow the applicant the flexibility to move the tower a little further north while still maintaining a 70 foot setback, to which Mr. Hunting replied in the affirmative.

Planning Commission Discussion

Chair Bartholomew stated the language could be modified to read that 'prior to a building permit, the applicant has the option of moving the location of the tower providing it remains 70 feet from the property line'.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Elmore, to approve the request for a conditional use permit to allow an amateur radio tower in excess of height allowed in a residential district, and a variance to exceed structure height in the Critical Area Overlay District, for the property located at 10115 Cloman Path, with the three conditions listed with the report with an amendment to Condition 1 to read **"The radio tower shall be constructed on the property at least 70 feet from all property lines. Any alteration from the location shown on the site plan dated 5/6/2011 shall require City approval prior to issuance of building permits."**

Motion carried (8/0). This item goes to the City Council on June 27, 2011.

LUTHER NISSAN KIA – CASE NO. 11-12CA

Reading of Request

Commissioner Simon read the public hearing notice to consider the request for a conditional use permit amendment to add an addition to the existing auto sales building, increase the size of the parking lot, and allow two temporary sales trailers on the northern storage lot, for the property located at 1470 – 50th Street. 7 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant is requesting a conditional use permit amendment to add a 20,200 square foot building addition, a 43,100 square foot parking lot expansion, and a temporary location for two sales trailers to be located on the northern storage lot. Staff has not heard from any neighboring property owners. She advised that the proposed improvements meet or exceed all review criteria. Therefore, staff recommends approval of the request with the 20 conditions listed in the report.

Commissioner Simon asked if staff received any comments from the Fire Marshal, to which Ms. Botten replied they had not.

Commissioner Simon asked if there were any impacts to the shoreland due to the northeastern tip of the parking lot in the southern parcel being in the Shoreland Overlay District.

Ms. Botten replied that the parking lot was existing and the proposed addition would have no impact to that shoreland. The City's Engineering Department is working with the applicants to ensure that the stormwater runoff does not impact the MNDOT pond.

Opening of Public Hearing

Jonathan Baker, 150 S. 5th Street, the architect for the project, clarified that although the planning report states that no fencing was requested, the applicants intend to install a four foot chain link fence on the top of the proposed retaining wall in the southern portion of the site. He advised that the report states the two temporary trailers would be located on the northern portion of the site. The applicants, however, are considering placing one on the north lot and one on the south lot. He advised that the trailers will be exclusively for use during construction and will be removed once the building is completed.

Chair Bartholomew asked if the applicant was in agreement with the conditions listed in the report, in particular Condition 15 which requires that the temporary trailers be removed by June 1, 2012.

Ms. Botten advised that the date would be addressed during the development meeting and would perhaps be modified.

Chair Bartholomew asked if the applicant was agreeable with Condition 19, to which Mr. Baker replied in the affirmative.

Chair Bartholomew asked if staff had any issue with the proposed fence or moving one of the temporary trailers from the north lot to the south lot, to which Ms. Botten replied they did not.

Chair Bartholomew asked if the expansion would include an increased labor force for the dealership.

Linda McGinty, Luther Companies, stated it could result in the hiring of 10-12 new employees.

Planning Commission Recommendation

Motion by Commissioner Schaeffer, second by Commissioner Scales, to approve the request for a conditional use permit amendment to add a 20,200 square foot building addition and a 43,100 square foot parking lot addition to the existing site along with two temporary sales trailers for the property located at 1470 – 50th Street.

Chair Bartholomew reiterated that he would like the removal date of the temporary trailers clarified.

Motion carried (8/0). This item goes to the City Council on June 27, 2011.

OTHER BUSINESS

Chair Bartholomew asked if the Planning Commission would receive clarification on the new variance language, to which Mr. Hunting replied in the affirmative, stating the City Attorney would provide information to that regard at the next Planning Commission meeting.

Chair Bartholomew adjourned the meeting at 8:09 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary