

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, July 5, 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
Victoria Elsmore
Armando Lissarrague
Paul Hark

Commissioners Absent: Mike Schaeffer
Harold Gooch

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

APPROVAL OF MINUTES

The minutes from the June 21, 2011 meeting were adopted as corrected.

XPAND INC – CASE NO. 11-16IUP

Reading of Notice

Commissioner Simon read the public hearing notice to consider an interim use permit to construct an agricultural building on a residential lot in the Northwest Area for the property located at 1400 – 70th Street. 6 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 to construct a 1,728 square foot agricultural building on his property which is in the Northwest Area (NWA). The NWA allows agricultural buildings via an Interim Use Permit (IUP). The intent of the IUP is to allow agricultural buildings but also to establish a time frame by which they must be removed as the NWA is expected to develop at urban density over the next 20 or more years. This is the first application for an IUP in the NWA and no policies or guidelines have been established so far to address the termination and removal of the building. She advised that the proposed structure has been purposely designed to be easily removed when development occurs. Staff recommends approval of the request with the conditions listed in the report, and they are asking for guidance from the Planning Commission regarding a time limit for removal of the structure for Condition 4.

Commissioner Simon asked if staff heard from any of the neighbors, to which Ms. Botten replied they did not.

Opening of Public Hearing

Jesse Moody, Shakopee, Minnesota, advised he was the contractor for the project and was available to answer any questions.

Chair Bartholomew asked what the property owner's thoughts were regarding when the building should be removed.

Mr. Moody stated he understood the property was located in the Northwest Area and was okay with the conditions with the understanding that he could come in for a one time extension if they so chose.

Commissioner Simon asked if the applicant would be charged fees if they applied for the one-time extension, to which Ms. Botten replied in the affirmative.

Commissioner Lissarrague asked how the IUP would be documented in the event of a transfer of ownership.

Ms. Botten replied that a new owner would be made aware of the IUP as it would be recorded with the property.

Chair Bartholomew asked if the property owner was in agreement with the conditions listed in the report, to which Mr. Moody replied he believed he was.

Planning Commission Discussion

In regards to Condition 4, Chair Bartholomew recommended granting the applicant 15 years use total.

Commissioner Elsmore stated she would be inclined to make it a shorter period of time if there was a triggering event.

Chair Bartholomew recommended not filling in the blanks for Condition 4a, 4b, and 4c and instead allowing the property owner full use of his property for 15 years total.

Commissioner Hark asked what staff's recommendation of a 1-3 year timeframe for removal was based on.

Ms. Botten replied that staff felt 1-3 years would be an adequate amount of time for the property owner to prepare their site should one of the three events occur. She stated the City's ultimate goal is for this site to be low density urban development.

Commissioner Hark asked if the City had done any similar approvals in the past.

Ms. Botten advised that Sure Lock Storage on Highway 52 was given an IUP with similar criteria.

Commissioner Hark asked what those timeframes were.

Ms. Botten replied that she believed the timelines were similar to this request, with the total years before removal being 10 years.

Tom Link, Community Development Director, stated the intent of having a timeframe was to prevent conflicting land uses and to avoid hindering development.

Commissioner Hark stated the landowner was fully aware of the conditions and potential for development and would prefer a 3-4 year removal time after a triggering event.

Planning Commission Recommendation

Motion by Commissioner Hark, second by Commissioner Simon, to approve the request for an Interim Use Permit to construct an agricultural building on a residential lot in the Northwest Area **with the addition of a 3 year time limit on Conditions 4a, 4b, and 4c**, for the property located at

1400 – 70th Street.

Motion carried (7/0). This item goes to the City Council on July 11, 2011.

LEONARD LOUIS HEALTHCARE (WOODLYN HEIGHTS) – CASE NO. 11-17CA

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a conditional use permit to add an addition to the main entrance and to expand the parking lot for the property located at 2060 Upper 55th Street East. 16 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the original structure was built on the property in 1974 and is being used as a senior living facility, which is a conditional use in the Public/Institutional District. Staff was unable to locate an existing CUP for the property, therefore to bring the property into conformance a CUP is being requested to add a 532 square foot lobby addition with a canopy and a parking lot expansion. The applicant is also adding a canopy expansion to the rear entry. The applicant has been working with the City Engineering Department on stormwater and grading requirements. She noted that staff received a few general inquiries from the public and no concerns were raised. Staff recommends approval of the request with the eight conditions listed in the report.

Commissioner Simon asked for clarification of 1) whether the proposed canopy should have been included in the public notice and 2) what was required for the replacement of the existing monument sign.

Ms. Botten replied that the request for a canopy did not need to be included in the public notice, and the sign replacement required a building permit.

Commissioner Simon stated it was difficult to determine the location of the proposed additions from the site plan in the packet.

Ms. Botten apologized, stating she forgot to highlight the specific locations on the site plan.

Opening of Public Hearing

Jill Krance, Elness Swenson Graham Architects, stated she was available to answer any questions.

Chair Bartholomew asked if the applicant was agreeable with the eight conditions listed in the report.

Ms. Krance requested to review the conditions.

Commissioner Simon asked if the applicant was still in the process of working on the stormwater treatment plan, to which Ms. Botten replied in the affirmative.

Commissioner Simon asked if the applicants planned to include rain gardens as part of the stormwater plan.

Pat Koehnen, Van Sickle Allen & Associates, replied they were proposing a rain garden between the parking lot expansion and the existing parking lot and will meet all City requirements.

Ms. Krance advised that she read the eight conditions of approval and was agreeable with them.

Commissioner Elsmore asked if the parking lots were primarily for staff or visiting families, to which Ms. Krance replied both.

Commissioner Elsmore asked how many parking stalls were currently on site.

Mr. Koehnen advised there were 77 existing parking stalls, 27 being proposed, for a total of 104.

Planning Commission Discussion

Chair Bartholomew stated he supported the request.

Planning Commission Recommendation

Motion by Commissioner Wippermann, second by Commissioner Scales, to approve the request for a conditional use permit for a senior living facility to add an addition to the main entrance of the existing building and a parking lot expansion, for the property located at 2060 Upper 55th Street, with the eight conditions listed in the report.

Motion carried (7/0). This item goes to the City Council on July 25, 2011.

CITY OF INVER GROVE HEIGHTS – CASE NO. 11-14Z

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a conditional use permit to place over 1,000 cubic yards of fill on the property located within the Flood Fringe District of the Floodplain for environmental remediation for the property located at 4301 – 63rd Street. 5 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the City recently purchased this specific property, known as the McPhillips property, and as part of that purchase process the City hired a consultant to conduct soil sample studies. It was determined there was some contamination and therefore the City is proposing to follow MPCA guidelines by placing four feet of fill over the site and also on some adjacent City-owned parcels in order to match grades in the area. The subject property is located within the Flood Fringe of the Floodplain and therefore a conditional use permit is required. Staff recommends approval of the request with the condition listed in the report.

Steve Dodge, Assistant City Engineer, advised this is a continuation of the capping of contaminated soils in the future Heritage Village Park area. The clean fill material would come from the South Grove Reconstruction Project Area #6.

Chair Bartholomew asked where the fill came from for the capping project which occurred about a year ago for the property further to the north.

Mr. Dodge replied that it came from Bolander and Sons when they were working on the Eagan Post Office site. He stated that process was similar to this in that Braun Intertec would be required to observe the fill going in and probably test it as well to ensure it was clean fill.

Chair Bartholomew asked if there was a barrier installed between the existing soils and the capping material, to which Mr. Dodge replied there was not.

Commissioner Wippermann asked what the nature of the contamination was and if there were ever structures on the property.

Mr. Link replied that the soil borings showed that the actual soil contamination was minimal. The larger concern was the existing debris. He advised that the property used to be a salvage yard and the MPCA required four feet of fill primarily because of the considerable amount of debris (concrete, tires, etc.). As far as the previous use, there was a small house on the southern end of the property which burned down 5-10 years ago and was buried on site. Prior to that the property was used for a variety of commercial activities, including a garbage hauling business and salvage yard. Since the house burned down it has been basically a vacant lot.

Commissioner Lissarrague asked if applying the four feet of topsoil would remediate the problem or if the contamination would have to be dealt with again at a later date.

Mr. Link replied that according to MPCA guidelines the addition of soil was all that was necessary. Once that was complete, as well as a couple other items on the site, the City would request a No Further Action letter from the MPCA declaring it a clean site. He noted that the City also needs to look for a possible abandoned well on the property and properly seal it if found, and also install a stormwater pipe in the ground connecting the two lowland areas.

Chair Bartholomew asked if the Environmental Commission had any specific concerns regarding the application.

Ms. Botten replied that they asked questions similar to those from the Planning Commission and did not add any additional conditions or modify the existing one.

Chair Bartholomew asked if there was any discussion regarding monitoring the site by installing test wells around the perimeter.

Mr. Dodge stated that monitoring wells were not an MPCA requirement. The MPCA requires that the property be capped or that the debris and contaminated material be removed. He advised that the capping could occur at little or no cost to the City whereas removal would be very costly and risky.

Chair Bartholomew asked if the proposed stormwater pipe would allow the current drainage to continue, to which Mr. Dodge replied in the affirmative.

Commissioner Hark stated he was concerned about the possibility of flooding the properties south of the subject site because of the additional four feet of soil.

Mr. Dodge replied that the area to be filled would not impact the overall flooding of the Mississippi River because the volume of fill was miniscule compared to the entire volume of the river in that cross section. He stated that to his knowledge the area had not flooded since 1965. The berm that was put in place after that would contain the 1965 flood.

Chair Bartholomew asked for clarification that if four feet of soil was placed on the subject site it would not increase flooding to the property south of it were the river rose to rise to the 1965 high water mark, to which Mr. Dodge replied in the affirmative.

Commissioner Simon pointed out an error in the Analysis section of the report which referred to 'cubic **feet**' rather than 'cubic **yards**' and questioned whether that error was carried over to the plans on file, to which Mr. Dodge replied that the plans correctly referred to 'cubic **yards**'.

Opening of Public Hearing

Tom Lind, Castaways Marina, 6140 Doffing Avenue, stated he adamantly opposed the hauling of any fill to this area. He advised that the dirt and dust from a previous project in the Heritage Village Park area covered the marina's canopies in dirt. He displayed photographs of the canopies, stating that they spoke with the City's insurance company, the League of MN Cities, and were told the City was not negligent so they would not cover the damage. He stated that although the City may not have been negligent, they would like them to take care of the problem that they caused. He advised that they received a bid of \$8,100 to clean the canopies and they would like the City to bear that expense.

John Remington, Castaways Marina, 6140 Doffing Avenue, stated that although there may be debris in the southern end of the subject parcel, the northern portion adjacent to Castaways Marina was a nice area with grass and trees. Any filling would result in the loss of the existing trees and shrubs. He was also concerned that the additional fill would create a drainage problem, causing the stormwater to run into their parking lot rather than the pond. He stated there does not seem to be significant contamination on the subject property and he would prefer that it be removed rather than covered.

Chair Bartholomew asked what caused the damage to the marina slip covers, to which Mr. Lind replied the dust collecting on the canvas.

Mr. Remington advised that the analysis they had done determined that the material was soil and dirt; not residue from the refinery.

Chair Bartholomew asked who did the analysis, to which Mr. Remington replied that he did not recall the name of the firm.

Chair Bartholomew asked if they had shared the analysis results with the City.

Mr. Remington replied they had not, stating they filed a claim with the City, who then referred it to their insurer, the League of MN Cities. The insurer determined they were not negligent; however, Mr. Remington felt the dirt on the canopies was the issue rather than negligence.

Commissioner Lissarrague asked if this was an ongoing problem.

Mr. Lind replied that the canopies began gathering dirt as they were hauling the fill into the park site which caused clouds of dust to blow onto their property. He advised that the 17 year old canopies were recently replaced because they were wearing out; not because they were dirty. In 2-3 years the new canopies are now covered in dirt.

Commissioner Elsmore asked for clarification of whether the canopies were damaged or just dirty, to which Mr. Remington replied they were just dirty.

Commissioner Elsmore asked if the \$8,100 quote was for someone to clean the canopies covering all the marina slips, to which Mr. Lind replied in the affirmative.

Chair Bartholomew asked if they raised this issue at the Environmental Commission meeting, to which Mr. Remington replied they had not as they were not notified of that meeting and were not aware of the additional fill being proposed.

Commissioner Hark asked if the site would be designed in such a way as to continue the natural drainage to the pond rather than the marina parking lot.

Mr. Dodge stated he would have to research it further as he could not answer the question without looking at the grading beyond the boundary shown on the plan in the report.

Commissioner Hark stated it should be designed as such to continue the existing drainage pattern.

Commissioner Elsmore noted that Note 2 on the grading plan stated that 'grading shall progress so as to maintain drainage patterns at all times'.

Mr. Dodge stated he would have to review further where the drainage would go once it got to the edge of the site.

Commissioner Lissarrague asked if there was an alternative to capping the parcel.

Mr. Link replied that the City was required to do remediation because it was a contaminated site. The two options were to put four feet of fill on the site or to dig out the debris. Staff chose the first option as it was less expensive and would not disturb the contamination in existing soils. He noted that either option would generate dust.

Mr. Lind stated much of the property had no contamination and would not have to be filled in.

Commissioner Lissarrague asked if the marina would prefer that the City remove the debris rather than putting in additional fill.

Mr. Remington stated if the debris was only on the southern portion of the site the City could cap just that area and not the property directly west of the marina.

Mr. Link stated there were two properties being discussed tonight. One is the Henderson property which was determined to be a clean site with no environmental contamination. The investigation of the McPhillips property to the west, however, indicated contamination throughout the property therefore the entire parcel would need to be capped.

Chair Bartholomew asked if the Henderson property was required to be capped.

Mr. Link replied it was not, however, they would like to match the grades rather than having a four foot drop off.

Chair Bartholomew asked if the property could be graded so as to direct any drainage to the lake versus the marina parking lot.

Mr. Link replied in the affirmative. He added that the Brown Caulking property (south of the Henderson property) already had four feet of fill added to it because of soil contamination; the fill being proposed tonight would result in all three properties being at the same grade.

Commissioner Lissarrague asked if filling in the minimal amount necessary and helping the marina with some of the clean-up costs would cost less than removing the debris.

Mr. Link stated that the issue of the filling of the park site's impact on the marina canopies would be an appropriate issue for the City Council to consider.

Commissioner Elsmore asked if there would be dust and debris whether the City put fill in or took debris out, to which Mr. Link replied in the affirmative.

Commissioner Elsmore asked how quickly the vegetation would be replanted once the filling was

complete.

Mr. Dodge replied that the current plan was to plant grass. No trees or shrubs would be planted until such time as the Heritage Village Park Master Plan got underway. He stated that neither he nor Tom Link were aware of the marina's claim to the League of MN Cities, but he cautioned against adding further conditions as apparently the situation had already been addressed with the insurer.

Ms. Botten advised that Castaways Marina removed several trees along the northeast side of the pond and expanded their parking area a few years back using Class 5-type dirt material.

Mr. Remington agreed that they had removed a number of trees; however, they replanted a number of trees as well. He stated they continue to have a problem with runoff and erosion on the north end of their property due to the City raising the level 3-4 feet and ending the fill at the marina property line.

Chair Bartholomew asked if the marina's claim with the League of MN Cities was still open, to which Mr. Lind replied that it was denied due to the absence of negligence. He then read the letter from the League explaining their findings.

Chair Bartholomew asked if the marina had any contact with the contractor, to which Mr. Lind and Mr. Remington replied they did not.

Mr. Remington stated they brought the claim informally to the City who then advised them to pursue the claim with the League.

Commissioner Elsmore asked when the letter from the League of MN Cities was dated, to which Mr. Lind replied October 13, 2010.

Planning Commission Discussion

Chair Bartholomew suggested adding a recommendation that the grading be designed as such to prevent runoff from being directed to the marina property.

Mr. Dodge suggested wording it to state that 'the grading activities will not adversely impact the Castaways Marina property'.

Chair Bartholomew stated the Planning Commission did not have the purview to address the marina's existing claim with the League.

Mr. Remington stated they were just concerned that it not happen again.

Chair Bartholomew stated he supported the request with a recommendation that the drainage be addressed and with an acknowledgment of the marina's concern regarding the dust and dirt.

Commissioner Scales questioned whether they could add conditions because the MPCA was requiring the City to either remove the debris or cap it.

Chair Bartholomew urged the marina representatives to attend the City Council meeting and address their concerns.

Commissioner Elsmore stated the letter from the League said one of their concerns was that the first time they heard of the dust issue it was too late. She advised Mr. Lind and Mr. Remington that in this case they will have the minutes from the Planning Commission and City Council meetings so

they could show that they had come forward and stated there was an issue if there were to be further action.

Planning Commission Recommendation

Motion by Commissioner Simon to approve the request for a conditional use permit to allow filling within the Flood Fringe District of the Floodplain for environmental remediation, with the condition listed in the report and **an additional condition that grading does not adversely affect drainage to the Castaways Marina property**, for the property located at 4301 – 63rd Street.

Second by Commissioner Scales.

Motion carried (7/0). This item goes to the City Council on July 11, 2011.

OTHER BUSINESS

Chair Bartholomew adjourned the meeting at 8:24 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary