

PLANNING AND ZONING COMMISSION MEETING – APRIL 14, 2009

The Regular Bi-Monthly Meeting of the Andover Planning and Zoning Commission was called to order by Chairperson Daninger on April 14, 2009, 7:00 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

Commissioners present: Chairperson Daninger, Commissioners Tim Kirchoff, Michael Casey, Valerie Holthus, Devon Walton, Douglas Falk and Dennis Cleveland.

Commissioners absent: There were none.

Also present: City Planner, Courtney Bednarz
Associate Planner, Angie Perera
Others

APPROVAL OF MINUTES.

March 10, 2009

Motion by Kirchoff, seconded by Casey, to approve the minutes as presented. Motion carried on a 7-ayes, 0-nays, 0-present, 0-absent vote.

PUBLIC HEARING: VARIANCE (09-01) TO VARY FROM CITY CODE 12-6 TO ALLOW MORE THAN THE MAXIMUM ACCESSORY STRUCTURE SQUARE FOOTAGE FOR PROPERTY LOCATED AT 3443 135TH AVENUE NW.

Ms. Perera noted the applicant is seeking approval for a variance to allow an existing shed to exceed the maximum square footage area allowed by 144 square feet for the combination of existing accessory structures.

Ms. Perera reviewed the staff report with the Commission.

Motion by Walton, seconded by Falk, to open the public hearing. Motion carried on a 7-ayes, 0-nays, 0-present, 0-absent vote.

Mr. Tim Christianson, 3443 135th Avenue NW, stated there is no other avenue for him to get to this point. When he got a permit for the garage he asked if he could get a variance to keep the shed and was told no but he kept the shed until the City came out and gave him a letter. He thought he could shave off part of the shed and rebuilt it to make it conform but he would rather not do that. The yard looks nice with the shed on it and does not seem to bother anyone. He did not see that the shed is detrimental to Andover.

Commissioner Holthus asked if the City gave him a reason why he was not allowed to apply for a variance. Mr. Christianson stated they did not. He stated he did call when he was ready to build the shed to see if he needed a permit. He stated that the City asked if the shed would have a cement slab and he told them it would not and was informed by the city that he did not need a permit.

Chairman Daninger asked if Mr. Christianson was notified that the shed needed to be removed when he came in to build the two car garage. Mr. Christianson indicated that he was informed that the shed had to be removed when he applied for the detached garage. Then he found out afterwards that he could file a variance to keep the shed which is what he did. He stated the shed is being used for building materials, lawn supplies and not vehicles.

Commissioner Kirchoff asked what the requirements are for needing a building permit. Ms. Perera explained the requirements to the Commission.

Mr. Christianson stated he would not object to having the shed inspected and he would change what needed to be corrected, if need be.

Motion by Walton, seconded by Cleveland, to close the public hearing. Motion carried on a 7-ayes, 0-nays, 0-present, 0-absent vote.

Commissioner Cleveland stated many of the homes in the neighborhood have accessory structures similar to this shed and he thought the issue was that there is more garage and shed than house and he thought that was the intent of the City Code. He thought the City's interest was in maintaining the property as a residence and not as a storage area.

Chairman Daninger stated part of his concern is that there is a rule in place and has been established. The two car garage could have been 144 square feet less at the time it was built and then both could stay. It was also his understanding that when he received the permit to build the detached garage, the applicant was told that the shed needed to be removed and was agreed to and the shed was never removed, so he did not see a hardship.

Commissioner Falk concurred. He stated there are certain rules they have to follow and he cannot find a hardship with this at all. Commissioner Kirchoff stated he agreed. He stated there is no hardship here and does not fit the criteria for a hardship.

Motion by Walton, seconded by Falk, to recommend to the City Council approval of Resolution No. _____, to deny the variance resulting in either removal of the shed or reduction by 144 square feet so it will comply with the ordinance. Motion carried on a 7-ayes, 0-nays, 0-absent vote.

Ms. Perera stated that this item would be before the Council at the April 21, 2009 City Council meeting.

PUBLIC HEARING: PRELIMINARY PLAT OF WOODLAND CROSSING 2ND ADDITION TO MODIFY THE WOODLAND CROSSINGS PRELIMINARY PLAT AND PLANNED UNIT DEVELOPMENT TO ALLOW SIX DETACHED TOWNHOUSE LOTS TO REPLACE FIVE SINGLE FAMILY LOTS.

Mr. Bednarz explained the preliminary plat follows from the sketch plan previously reviewed by the Planning Commission and Council.

Mr. Bednarz reviewed the information with the Commission.

Commissioner Kirchoff stated when they had a sketch plan this was what they agreed to after that process. Mr. Bednarz indicated it was. Chairman Daninger thought the Council added some things also.

Motion by Falk, seconded by Casey, to open the public hearing. Motion carried on a 7-ayes, 0-nays, 0-present, 0-absent vote.

There was no public input.

Motion by Kirchoff, seconded by Falk, to close the public hearing. Motion carried on a 7-ayes, 0-nays, 0-present, 0-absent vote.

Motion by Walton, seconded by Falk, to recommend approval of the preliminary plat based on the applicant's proposal.

Commissioner Holthus stated on the map, page 6, in the description of the item it was mentioned there would be additional plantings in the backyards of evergreen trees and in the landscaping plan there was no indication of this. She wondered where those fit.

Mr. Byron Westlund, Woodland Development, stated that was not added in time for the Planning Commission packets. He showed a new map to the Commission indicating where the trees will be located at in the development.

Commissioner Holthus stated she was under the impression the trees were to be added for screening and it did not look enough were added to create a barrier. Mr. Westlund asked

if she had a number in mind for trees. He stated he would have no problem working with staff on this.

Commissioner Holthus stated on page 3, under association documents, she wondered where the current association townhomes are located. Mr. Westlund explained where the townhomes are located and indicated wording will be added to the documents to add the six units to the association.

Chairman Daninger stated he was going to vote against this because he voted against it at the sketch plan. He stated he was not in favor of townhomes in that area.

Motion carried on a 5-ayes, 0-nays, 0-present, 2-absent (Daninger, Holthus) vote.

Mr. Bednarz stated that this item would be before the Council at the April 21, 2009 City Council meeting.

PUBLIC HEARING: CONDITIONAL USE PERMIT (09-03) TO ALLOW PUBLIC UTILITY IMPROVEMENTS AT 15920 7TH AVENUE NW AND 14361 7TH AVENUE NW.

Mr. Bednarz explained Northern Natural Gas will be installing equipment to allow inline inspection of the integrity of the natural gas pipeline between the two properties as required by the Federal Government. This project is similar to the one that was constructed near Prairie Knoll Park in 2004. The improvements will allow Northern Natural Gas to send equipment between the sites verify the integrity of the natural gas pipeline on an ongoing basis.

Commissioner Falk asked how many of these sites are in the City. Mr. Bednarz stated there is a facility on Prairie Road and these two sites. He was not sure if Northern has any other facilities in Andover.

Commissioner Falk wondered if the station on Prairie Road could handle the equipment. Mr. Bednarz stated that was already in place.

Mr. Bednarz stated he received a voicemail today from a neighbor that lives to the north of the southerly site expressing two concerns. One was noise emanating from the site and the other was the trees around the southerly site have not fared very well.

Commissioner Cleveland stated there is also an issue of repainting one of the buildings on the site. Mr. Bednarz stated the applicant is agreeing to do that.

Chairperson Daninger stated the way he is seeing this, the fence will be expanded twenty-five feet to the north. Mr. Bednarz indicated on the northerly site it is twenty-five feet

from where the existing fence is to the north. They are also proposing to pave an additional area for access of their vehicles.

Chairperson Daninger asked if the Commission could request additional trees be placed for more screening. Mr. Bednarz stated they could add reasonable conditions to mitigate adverse impacts.

Commissioner Cleveland stated on the northern site as they approach there are some meters on 8x8 poles, a few are on the inside of the fence and one is on the outside, when they change this will it all be contained within the fence.

Commissioner Holthus asked if there were any issues with Prairie Knoll since that was installed. Mr. Bednarz stated there have not been any issues.

Motion by Casey, seconded by Cleveland, to open the public hearing. Motion carried on a 7-ayes, 0-nays, 0-present, 0-absent vote.

Mr. Bob Whitcraft, 16002 Valley Drive, stated his interest would be the northern most site. He asked what the buffer around the site meant. Mr. Bednarz stated the buffer was the mailing area for the public hearing.

Mr. Whitcraft asked if there would be any additional operational activities being done at this site. Chairperson Daninger thought the applicant could answer this.

Mr. Whitcraft asked if there were any City plans or conditions put on the facilities in regards to vandalism or terroristic threats because they are close to residential homes. Mr. Bednarz stated there are not specific plans put on these facilities by the City. The Fire Department does go there periodically on calls.

Mr. Mike McNabb, 4320 144th Lane NW, stated his property is adjoining the Northern Gas Company and he is on the edge of the buffer zone. His concern was the cosmetic look of it. He stated the trees that were originally placed on the property, at least fifty percent have died and the others look really bad. The intention was to buffer some of the sound for the neighbors. He stated there is terrible hissing coming from it at all times. He would like them to try to muffle the sound and put up more trees. He also wanted to know how this affects the property because there are some trees in there that are rough looking but did not want them to cut out more trees because it is a sound barrier for them. He stated there is a fence around the structure right now and his recommendation would be to weave some stuff in the fence so it is less noticeable to everyone. He also wanted to know if there will be any additional noise added with the changes.

Mr. James McClain, 4360 144th Lane, stated his concern was pretty much the same as Mr. McNabb's. He suggested they plant evergreen trees and screen the fence for noise abatement as well.

Mr. Hal Wilsie, Northern Natural Gas representative, stated he could answer questions for the Commission.

Chairperson Daninger asked if the meter on the outside of the fence remain where it is located. Mr. Wilson stated it would.

Chairperson Daninger asked if the noise will change. Mr. Wilsie stated the noise should not change at all. He explained how the equipment works and why there is noise at the site and he stated that at the northern end is where they inject the odor into the pipeline. This is not a natural gas leak it is an odorant leak and happens every time it is filled. He stated on the southern end he did not think any trees will need to be cut. He stated due to the volume of gas that moves through the pipeline at certain times there is not anything that can be done about the hissing sound at the site. He stated he visited the site before the meeting and no noise was audible at that time. He stated the launchers and receivers do not make noise.

Chairperson Daninger asked if some slats could be placed in the fence so it is screened. Mr. Wilsie stated they could do that. Chairperson Daninger stated trees were requested and would they be opposed to putting more screening there to reduce the noise. Mr. Wilsie asked when the trees were installed that died. Chairperson Daninger indicated he did not know but thought more trees could be added for screening and as an additional sound barrier. Mr. Wilsie stated anything outside of the fence is not owned by Northern Natural Gas, it is owned by Center Pointe Energy and they would have to work with them on that.

Mr. Whitcraft stated on the northern site, what is going to change as a result of the additions. Chairperson Daninger stated it is only the safety equipment being inserted into the pipeline.

Mr. Whitcraft asked if there will be more traffic onsite or is this a one time deal. Mr. Wilsie stated there will be tests done to begin with and fix any flaws that are discovered and then they will need to inspect at a minimum every three years but could be longer. He stated this is safety equipment being installed which is good.

Motion by Falk, seconded by Casey, to close the public hearing. Motion carried on a 7-eyes, 0-nays, 0-present, 0-absent vote.

Commissioner Casey thought it was pretty essential to put an amendment on this to have Center Pointe add landscaping for noise and screening of the site. The applicant stated they would be willing to install slats in the fence.

Motion by Casey, seconded by Holthus, to recommend approval of the proposed Conditional Use Permit with two additional amendments to add trees for buffering all around the site and to install slats in the fence that is characteristic of the neighborhood as

determined by staff for both sites. Motion carried on a 7-ayes, 0-nays, 0-present, 0-absent vote.

Mr. Bednarz stated that this item would be before the Council at the April 21, 2009 City Council meeting.

PUBLIC HEARING: CITY CODE AMENDMENT TO CONSIDER CHANGES TO CITY CODE 12-2-2 DEFINITIONS, 12-8-6 CONDITIONAL USE PERMIT FOR EXTERIOR STORAGE, 12-12 TABLE OF PERMITTED, CONDITIONAL & PROHIBITED USES, 12-13-3 EXTERIOR STORAGE, AND 12-13-5 SCREENING.

Ms. Perera explained after discussing enforcement action pertaining to exterior storage on properties with the City Attorney, staff has discovered inadequacies in the ordinance. Staff is recommending the following amendments to the City Code pertaining to exterior storage. The proposed amendments do not change the intent of the current ordinance as they are currently written and are mainly suggested for clarification purposes of when and where exterior storage is allowed as outlined below:

- Add the following definitions: “Outdoor display, storage, and sales”, “Lumberyard”, and “Building materials”
- Exclude the Residential District from the option to obtain a CUP for exterior storage. Staff has historically interpreted the ordinance this way.
- Remove “building materials” from the Table of Permitted, Conditional & Prohibited Uses since it is not needed with the addition of the definition which states where and when it would be allowed.

Staff has made suggestions related to screening of exterior storage that may differ from historical practice. Staff has clarified that screening should be visible “at ground level” in relation to exterior storage. The intent being that a property would be considered to be in compliance when the exterior storage is adequately screened from a neighboring property and from a public street both visible at ground level. The City attorney has suggested the need to clarify where screening is visible (“at ground level”) to be added for practicality purposes and from a safety perspective for code enforcement staff.

Ms. Perera discussed the staff report with the Commission.

Commissioner Cleveland wondered if it was ok to park vehicles in the front yard that do not run. Ms. Perera stated they cannot and that the property owner would need to store the vehicles either on the driveway if operable with current tabs or in a garage if inoperable or expired tabs. Commissioner Cleveland asked who determines a driveway. Ms. Perera stated there is language in the ordinance pertaining to driveways.

Motion by Cleveland, seconded by Falk, to open the public hearing. Motion carried on a 7-ayes, 0-nays, 0-present, 0-absent vote.

There was no public input.

Motion by Casey, seconded by Kirchoff, to close the public hearing. Motion carried on a 7-ayes, 0-nays, 0-present, 0-absent vote.

Motion by Kirchoff, seconded by Casey, to recommend to the City Council the changes outlined in the staff report as presented. Motion carried on a 7-ayes, 0-nays, 0-present, 0-absent vote.

Ms. Perera stated that this item would be before the Council at the April 21, 2009 City Council meeting.

PUBLIC HEARING: CITY CODE AMENDMENT TO CONSIDER CHANGES TO CITY CODE 4-2 GARBAGE, RECYCLABLES AND REFUSE, AND CITY CODE 4-4 WEEDS, GRASSES, AND OTHER HARMFUL VEGETATION PERTAINING TO THE ABATEMENT PROCESS WITHIN EACH CHAPTER.

Ms. Perera stated that staff continues to work with the City Attorney on reviewing the abatement process within Title 4: Public Health and Safety. The City Attorney has communicated that there may be additional edits to other sections within Title 4 that have not been identified in the recent public hearing notice. Due to the additional work and advertisement that is needed, it is recommended that the full draft ordinance amendment be brought up for review at the next Planning and Zoning Commission meeting on May 12, 2009.

Ms. Perera explained that the public hearing would need to be opened up and then continued to the next Planning and Zoning Commission meeting.

Motion by Falk, seconded by Casey, to open the public hearing. Motion carried on a 7-ayes, 0-nays, 0-present, 0-absent vote.

There was no public input.

Motion by Cleveland, seconded by Casey, to continue the public hearing to the May 12, 2009 Planning and Zoning Commission meeting. Motion carried on a 7-ayes, 0-nays, 0-present, 0-absent vote.

OTHER BUSINESS.

Mr. Bednarz updated the Planning Commission on related items.

ADJOURNMENT.

Motion by Falk, seconded by Casey, to adjourn the meeting at 8:17 p.m. Motion carried on a 7-ayes, 0-nays, 0-absent vote.

Respectfully Submitted,

Sue Osbeck, Recording Secretary
TimeSaver Off Site Secretarial, Inc.