

MINUTES OF THE
AUSTIN CITY PLANNING COMMISSION REGULAR MEETING
TUESDAY, JULY 9, 2002

MEMBERS PRESENT: Jack Rosenberg, Sue Grove, Brian Johnson, Gordy Kuehne, Glenn Mair, and Rich Bergstrom

MEMBERS ABSENT: Roger Stratton, Janet Anderson, and Sue Howard

OTHERS PRESENT: Community Development Director Craig Hoium and City Attorney Craig Byram

Commission Member Johnson called the meeting to order at 5:30 p.m., July 9, 2002, in the Austin City Council Chambers located at 500 4th Avenue NE, Austin, MN.

Commission Member Johnson explained to the Commission that there was a second page to the agenda that was handed out at the meeting that was not in the original packet.

Motion to approve the June 11, 2002 minutes was made by Commission Member Kuehne. Motion was seconded by Commission Member Rosenberg. Unanimous Ayes. Motion passed.

- 1) **OPEN PUBLIC HEARING: Consider a request from Keystone Developers, LLC, 609 West Oakland Avenue, for a conditional use permit for proposed development of twin homes in an "R-1", Single-Family Residence. This development is on the 1900 Block of 15th Street SW.**

Mr. Hoium reviewed the request. There is a correction as to where the proposed location is. The actual location will be the 1800 and 1900 blocks of 14th Street SW. Mr. Hoium familiarized the Planning Commission and citizens present, of the proposed location of these twin homes. The lots would be directly west of the Faith Free Church development site and southwest of the Casey's General Store. In the backup material, there is a code section, 11.30, Subd. 3(f) that identifies this type of land use as a conditional use in a "R-1" District. Mr. Hoium stated that there were specific conditions when applying, referencing this section, that must be met for the development of twin homes. More specifically, in the development area, they would involve Lots 2, 3, 4, 5, and 6. There is somewhat of a history behind this development. Prior to the church development on the adjacent lot, this was actually platted as an outlot of South Pointe Addition and if you look at the map, there is an area that does show the proposed 17th Avenue SW public right-of-way was to connect 12th Street and 14th Street and there were also other parcels that were platted on north of that public right-of-way. With the development of the church property, this public right-of-way was vacated and the lots in the northern portion of what is now Lot 1 were also replatted to accommodate the church development site with Lots 2-6 somewhat realigned to accommodate future residential development. In the backup material, Mr. Hoium referenced legal descriptions and surveys for what is being proposed here. If you look at the adjacent twin home development, or the 0-lot line home development north of this area, this development is somewhat unique where the developer, in looking at the layout of these units, every unit is not exactly the same as the other one. They have different floor plans and when looking at this type of layout, it's very difficult to establish the exact location of the property line before the units are constructed. If you look at the survey, just for an example to you, it shows here how this type of development was applied to 17th Avenue SW which is just north of the

proposed area. The dotted lines show previous property corners and previous platted lot lines and the tract 5 and tract 4 are actually footprints of the twin home units that are already in place and the solid lines identify the newly established property lines. Just to clarify, that is what Mr. Hoium is referring to in the backup material in regards to new legal descriptions. If you look at the type of development that Keystone Developers are looking at continuing down along the east side of 14th Street SW, it is not going to be exactly like this, but the general design concept would be similar to what is shown. Mailings went out to adjacent property owners and the Planning Office did not receive any calls speaking neither for nor against this requested conditional use permit. Again, as far as the conditions go that are listed in our City ordinance, when you consider these as a conditional use, those have to be met so there isn't a question, all of these conditions must be met for this to be approved as a conditional use.

Commission Member Rosenberg asked what the average size twin home, how many square feet? Mr. Hoium stated that there was a representative present from Keystone Developers here this evening. Mr. Hoium stated that he didn't know if there is an average size for a twin home. There may be some square footage ranges that he is planning on, but you can have a 1200 square foot twin home, or you could have a 4000 square foot twin home. If you want to direct that specially toward this development, Mr. Fawver is here. At this point there were no other questions from the Planning Commission?

Charlie Fawver introduced himself and stated his address was 609 West Oakland Avenue. He stated that the size is not defined until such time as they would build and sell the units. The units that they have built so far range in size from 1400 square feet to 1830 square feet. A lot of those 1800 ones have 1200 to 1500 square feet finished in the lower level also which makes them over 3000 feet of space, but Mr. Fawver thinks the smallest one was 1440 feet. They will continue in the range of what they have been doing.

Commission Member Rosenberg asked if they would be the same kind. Charlie Fawver stated that the plan is to add them to the town home association that is there and the architecture and the exterior materials will be basically the same. The style, again, there are no two that have the same floor plan out there. Every unit is separate, every unit is individual. Mr. Fawver said that there is one building that the two floor plans are close to one another, but not the same exactly. The rest of them are all very individual.

Commission Member Johnson stated that this was a conditional use permit request so the Planning Commission either grants or denies these requests. It is not a recommendation. He called for a motion.

Commission Member Kuehne made a motion to approve the request of Keystone Developers for the 10-unit twin home development in the 1800 and 1900 block of 14th Street SW. Commission Member Mair seconded the motion. Commission Member Kuehne included the 2 recommendations that were listed by the staff, those being the similar landscape and the legal descriptions be revised after the units have been developed. Commission Member Mair reiterated his second. Unanimous Ayes. Motion carries. This is an approval and not a recommendation of the Council, so unless there is an appeal within 15 days, the request is granted.

- 2) Open Public Hearing:: To consider a request from Randy Miller, 2206 16th Street SE, for a conditional use permit for development of a proposed auto body shop in a "B-2" Community Business District. This proposed business would take place on the property located at 1410 21st Avenue NW. This conditional use request is pursuant to Section 11.41, Subd. 3, which these conditional uses, a lot of these uses are relative to automotive sales and repairs and it specifically lists in there as a body fender

shop or paint shops as long as they are 50 feet from the residential district.

Mr. Hoium reviewed the request. He stated that the proposed site is located just northeast of the intersection of 21st Avenue NW and Highway 218, directly north of the K-Mart Store. Earlier this year, this issue was in front of the Planning Commission and the City Council for a subdivision review currently described as Bustad 2nd Subdivision. The surrounding land uses for the most part, to the north, south and east are of a "B-2" District which is a business district, and to the west, which would be on the west side of Highway 218, that is agricultural land and is located in Lansing Township. A more detailed look at the proposed development was reviewed by Mr. Hoium including off-street parking area and a conceptual landscape plan. Mr. Hoium noted to the Planning Commission that we do have specific ordinances that regulate off-street parking and there are specific factors as far as number of off-street stalls that must be provided. Building construction type as shown on the elevation is to be of a pre-cast concrete construction, very similar to the new ice arena facility. The floor plan was described by Mr. Hoium. Mr. Hoium stated that he wanted to list a couple of issues that were identified on the back up material relating to hard-surfacing and that a landscape plan should be provided to Mr. Hoium for review and approval and that any automotive parts, fenders, accessories shall be stored within a screening and screening provided shall be a minimum of a solid wall fence of 6' high with automotive parts not exceeding that height.

Commission Member Rosenberg asked Mr. Hoium why he underlined "paint shops". Mr. Hoium stated that that was the main focus of this proposed business.

Commission Member Johnson asked if there were other questions. There was no further speaking on this matter. Commission Member Johnson called for a motion. This is a conditional use permit request and the Commission will either approve or deny and there are also some recommended conditions to consider. Commission Member Grove made motion to approve the request for the conditional use permit while taking into consideration all of the code specifications, especially the points in the staff report about the hard-surface material for the driveway, parking area, the landscaping plan and the fence. Commission Member Bergstrom seconded the motion. Unanimous Ayes. Motion carried. This is an approval of the Planning Commission and unless there is an appeal, this will be the final action.

- 3) **Open Public Hearing: To consider a request from the City of Austin, and Midwest Real Estate Services Inc., Woodbury, MN, for a conditional use permit for the proposed construction of a 150-foot high monopole telecommunications tower in an "I-2" Industrial District. This would be located at the Wastewater Treatment Plant, 1205 South Main Street.**

Mr. Hoium stated that there were a couple of code sections that he listed that he wanted to clarify that the Section 1151, Subd. 3 is actually what is being reviewed. This type of land-use is a conditional use in an "I-2" District. The sections that were listed in 11.56 and 11.82 actually lists the development standards for towers in that district. They are not items for the Planning Commission to consider altering for these standards. The proposed location at 1205 South Main, the Municipal Wastewater Treatment Plant and Maintenance Warehouse property, surrounding land uses, to the south we have some undeveloped area with the Austin Township, to the east and west we have residential, "R-1" Districts, and to the north, a combination of maintenance garage and wastewater treatment plant and also the Marcusen Baseball Park. Mr. Hoium went into a detailed description of the location of the tower. The design was discussed. A "monopole" meaning that it is just a singular pole, there is not any guide wires that go off to the sides and that the antenna would be located on the upper part of the pole. Two of the critical things that Mr. Hoium explained that needed to be looked at is that we don't want a pole here that will create any type of interference to the adjacent properties in the area. Another question would be if there has been any discussion with the City in regards to painting the tower, not only

for maintenance reasons, but the Planning Commission might want to discuss the color so that it blends in. Mr. Hoium stated that mailings had went out on this public hearing and he did not receive any calls neither in favor or against the tower.

Commission Member Johnson asked Mr. Hoium if the setback requirements are a "given" and the Planning Commission does not have to deal with those. He noted that Subd. 5(a) refers to a distance equal to two times the height of the tower from the nearest residential and that the back up material talks about being 150 feet which is 1 times the tower, so that is something to look at. It would seem that they would need 300 feet for that.

Mr. Hoium stated that if you look at the approximate location of the tower, you can see where it refers to "R" Districts, there should be no problems with meeting the setbacks. Just to give you an idea, what is shown as the main street public right-of-way, that's at least, just that in itself is 66 feet wide. So when meeting that setback, that should not create a problem.

Commission Member Jack Rosenberg asked if this was suppose to be a cell tower for cellular service.

Chris Fraser from Midwest Real Estate Services, introduced himself and stated that he was there to represent Voice Stream Communications. Midwest Real Estate was hired by Voice Stream to locate a communications tower just south of Austin. This process started back in January. He stopped by Craig Hoium's office and told Craig basically what he was looking for and then took a look at other structures in the area. He then talked to Jon Erichson, Public Works Director, to see if he would be willing to have this structure placed on City owned property for a "win - win" situation where the money would go back into the community. This tower is for cell phone communication. Commission Member Rosenberg asked if there would be any other users on this tower. Mr. Fraser stated that the agreement was structured in such a fashion that any additional locators on that tower would also generate revenue to the City itself, so this tower would be designed to handle two additional co-locators (or two additional carriers), at slots just below Voice Stream. This would be a mutual discretion, they'll have to fit inside the compound and if the slot is available, typically they require a 10 foot vertical separation between each carrier. Commission Member Rosenberg asked if there would be a strobe light on the tower. The answer was "no", there will not. According to Mr. Fraser, any structure over 200 feet will be required to be lit according to the FCC. This structure is only 150 feet and they will be filing for FCC approval, but it will not come back as required to be lit. Commission Member Rosenberg asked if there would be any AM/FM ramifications. Mr. Fraser stated that there would not be any. He stated that Voice Stream's frequency was here in town already. Voice Stream is on a tower just north of I90 right across the road and basically all they are trying to do is provide better coverage to the southern portion of the City of Austin. The whole point of this tower is to try and get "in building" coverage for the southern portion of Austin. Commissioner Member Rosenberg stated that occasionally he has break up on his cell phone and wanted to know if it would help him. Mr. Fraser stated that it depended on who he had cell phone coverage with. If he had cell phone service with Midwest Wireless or someone other than Voice Stream, it would not benefit him. Each carrier has its own frequency issued to them by the FCC. Commission Member Rosenberg asked if this would interfere with any of the other channels, example Rochester. The answer was "no". The FCC issues everyone their own frequency in which they have to operate and maintain within, therefore, it will not interfere with any of the other frequencies used by TV stations, radio stations, etc. Commission Member Johnson stated that he happened to notice in Exhibit E the site description, it stated under comment that the water tower at 147th Street and Highway 116 is favorable. Did Voice Stream decide not to use that? Mr. Fraser stated that he had submitted this location as another possible candidate in this area along with another private owner of property. There were three candidates that were submitted to Voice Stream, one being the water tower as a primary candidate because it was an existing structure and all they would have to do is put up their antenna. Voice

Stream came back stating that the existing water tower was too close to their existing tower and that they wanted to locate farther south, more into the core of southern Austin. That is why the Wastewater Treatment Plant location was chosen by one of their engineers. Another question was asked by Commission Member Johnson, is there any plan to paint the tower any particular color? Mr. Fraser stated that there was no plans. Mr. Fraser explained in detail the construction material used to construct these towers. His personal feeling was that he would stick to the "gray galvanized". It weathers, it ages, it dulls, it looks a dull gray and ultimately, that blends in more. The light blue poles on a gray day, almost glow and may attract more than the gray or brown pole. This would be left up to the desecration of the Planning Commission and they would be happy to follow through on this.

Garry Ellingson, 112 12th Avenue SW, who resides right across the street from the proposed location of this tower. One thing was mentioned that scared him. The field next to, are they going to put this thing here or are they going to put it across the street in the open field? Where is it going to be. If this is approved, are they going to have latitude to put it anywhere on that property? Mr. Hoium stated that this tower would go on the Wastewater Treatment Plant property and it would have to meet the setbacks. Mr. Hoium referred to the illustration and explained in detail where this tower would go. Mr. Ellingson asked if there would be any chance that it would be moved over to the other side and Mr. Hoium assured him that there would not be. There actually is a lease that has been drawn up, and to clarify, this matter was in front of the City Council for the review of the lease and the approval and they did approve this lease with the condition of the approval of the conditional use permit. Mr. Hoium did not want the public or the Planning Commission to think the Council already acted on something that was not reviewed by the Planning Commission. Mr. Ellingson stated that there was a siren fairly close to this and inquired if this would interfere with any radio signals from there? Mr. Fraser stated that it would not with the exception of AM radio towers and they have a tendency to just knock Voice Stream's signal down due to the fact that they transmit anywhere from 1000 to 10,000 watts. Mr. Ellingson went on to say that he was still concerned that it did not interfere and that people who live in Joyce, Iowa were told that wind mills would not affect anything either, but now you will find out that they have poor TV reception because of the blades spinning which creates a magnetic field. He stated that there was another microwave that has to have a clear path, is this going to be in a path of any microwave. Mr. Fraser stated "no". He said that the engineers have already reviewed all of the microwave paths currently operating within the City limits of Austin and there are no issues as far as Voice Stream interfering with microwaves. As mentioned before, Voice Stream is operating within the FCC guide lines, all frequencies are licensed, even the microwave frequencies. There is government control over what can happen and the FCC, if there are disputes, all the carriers, or the carriers using those frequencies, are suppose to go to the FCC. The FCC then resolves that dispute. As far as interfering with cable TV, normal TV broadcasting, radio, AM/FM radio, we do not interfere with any kind of reception that the residents may have in this area. As mentioned, the frequency is already here. Commission Rosenberg questioned Mr. Ellingson further on the wind mill in Joyce, Iowa. Mr. Ellingson stated that the blades caused static electricity. Commission Member Grove questioned how it works when you drive through all of these towns with water towers with all of these antennas plastered on them, is that the same thing? Mr. Fraser said that it was exactly the same thing and that is why they looked for an existing structure when they first came to Austin, to locate their equipment on. 99% of the communities have this equipment on water towers, existing buildings, rooftops, whatever they can utilize. This is a very expensive project for Voice Stream. The last thing they want to do is erect a structure. If there is something around that Voice Stream can put their antennas on, they are more than happy to do that. Commission Member Rosenberg asked if this would affect any other cellular tower in the area? Mr. Fraser stated that it would not. Mr. Fraser stated again that the FCC has issued licenses to 2 carriers in the cellular frequency, the A & B, which are 800-900 megahertz, and 6 PCS carriers were issued licenses about 6 years ago. He went into an in-depth description of these licenses on how these carriers have been building out their networks from the ground

up. These frequencies did not interfere with emergency services or other broadcasters of cellular or even the PCS licenses. He stated this tower was an 1800-1900 megahertz. Mr. Ellingson asked if this tower was going to be 300 feet or 150 feet from the nearest residence if this goes down, because we have a predominantly south wind. Mr. Hoium stated that the language in the ordinance lists that its 150 feet or the height of the tower from property lines and 300 feet from Residential Districts. Mr. Ellingson stated that "Paragraph A" is confusing and went into detail of his concern about this language. Mr. Hoium stated that he has a base map on his computer and when this location was identified, there were 300 foot radii that were drawn on the map from every residential district from the area to assure that the tower location would not be subject to any of the districts. Mr. Hoium stated that if the conditional use permit is approved, there is no waiving or variances for the development standards. They have to be met. Mr. Ellingson said that he understood that, but if the tower went down, where would it go? Mr. Hoium stated that it was going to be at least 300 feet from the nearest residential district. Mr. Ellingson stated that if the tower went down to the northwest, there is a house on the curve at Main and 12th, that house sits real close to the corner, is that going to be 300 feet from where the tower is or is that 150 feet from the tower? Mr. Hoium stated that it would be 300 feet.

Commission Member Johnson asked if there was anyone else who cared to speak to this. Commission Member Mair asked if Voice Stream has done any of this in any other area? Mr. Fraser stated that since Voice Stream has been in business, roughly 6 years, they have over 1200 sites in the State of Minnesota and Wisconsin. Basically the coverage area is all of Minnesota, a good portion of North and South Dakota, and a good chunk of western Wisconsin. Voice Stream keeps on expanding. They try to look for existing structures in most of the cases, but if they can't find anything, the last resort is to build a tower. To give you an idea of the ratio or the split or percentages, probably 75% of Voice Stream's equipment is on new towers or existing towers, another 20% is on water towers and rooftops, and then 5% is on some other structure that can work for them (i.e. smoke stack or chimney or something like that). Most of Voice Stream's sites are brand new sites in communities. These are not very tall sites like a typical cell tower that you would find out in rural areas being about 250 feet to 400 feet. This site is really designed to cover about a 6 mile radius if that. It all depends on terrain and buildings and the height of the structure and the height of the antenna and that determines the coverage area. This is designed to just cover southern Austin. Commission Member Rosenberg asked about wind. Are these engineered to withstand just so many miles per hour or what? Mr. Fraser stated that these towers are all stamped by a State of Minnesota Engineer and certified to meet the requirements of the State which are ice and wind loading. He went on to state that these towers are really not designed to fall. The foundations alone are probably about 25 to 30 feet deep and it is a single pier foundation that goes down with rebar inside and then the poles bolt onto that foundation. If this pole were to collapse, there would be, in Mr. Fraser's opinion, sheer devastation in the community of Austin. Mr. Fraser stated that he has photos of the tornado that went through Florida where the only thing left were Voice Stream's poles still standing. If there were to be failure in these poles, it would be at the point of most resistance which at the top where the antennas are and what would happen is the "crows nest" on the top, that would snap right off and the coax would just be holding it and it would be banging against the pole itself.

Commission Member Johnson asked for other questions. Someone stood up and made some statements that were not picked up by the mic.

Commission Member Mair asked the Chair what exactly the Planning Commission was doing with this request. Commission Member Johnson stated that this was a conditional use permit request so it is an approval or a denial with such conditions that the Planning Commission would implement. He then called for a motion, there being no other questions. Commission Member Mair moved to approve this conditional use permit, with the color being gray galvanized. Commission Member Grove seconded the motion.

Unanimous Ayes. Motion carried. Commission Member Johnson stated that this is an approval and that without an appeal within 15 days, this will be a final action.

4) **OPEN PUBLIC HEARING: To consider a request from Ruth Schmidt, 1409 22nd Avenue SW, for a 3' variance from the minimum 5 foot side yard setback in a "R-1" District.**

Mr. Hoium reviewed this request. He stated that this property is located at 1409 22nd Avenue SW, with the legal description of Outlot 41, Southgate 1st Addition. The petitioner is requesting a 3 foot side yard variance from a minimum 5 foot setback required by City Code Section 11.30, Subd. 5. If you look at the area in question, the area is completely surrounding by a "R-1" District an all single-family development. The petitioner is proposing to remove the existing attached garage on the east side of her single-family dwelling and is proposing to construct a 24 foot by a 24 foot attached garage onto the front of the existing family dwelling. In the area behind, a combination of a storm shelter, mudroom and a patio or to gain access to the rear yard area. The storm shelter issue, this particular house is located on what is called a "slab on grade" or has a crawl space, it does not have a basement under this house. In reviewing this with the petitioner, suggestions were made. Number one, a detached garage could be constructed in the rear yard area and meet all of the development standards or the proposed location for the attached location for the attached garage in the front yard area could be shifted further to the west to meet the 5 foot setback area. The proposed garage would actually be 2 feet from east property line. If you look at the next adjacent property, 1405 22nd Avenue SW, that structure is approximately 22 feet from the property line. If you look at the intent for side yard setbacks, it is to create an access for any need for emergency type personnel or apparatus, and also to create an openness or a healthy atmosphere for the people residing there. The site is currently developed with 24 feet next to the next adjacent residential property, but if this neighbor should decide to put an addition onto the west side of the house, the space would then be at 7 foot if this variance is approved. Mr. Hoium asked for any questions on the layout or where the proposed addition would be. He explained if the proposed addition were to be shifted 3 feet to the west there are 2 issues that come into play with that. One, there is a gas line that would have to be relocated for this proposed addition, and there is also a window for the kitchen area that may be blocked if shifted to the west. Mailings of the public hearing were mailed out and Mr. Hoium stated that he did not received any calls speaking for or against the requested variance. He stated that he would like the Planning Commission to be aware of the statutory requirements when reviewing variances. Commission Member Grove requested that Craig repeat his response on the "7 feet" area. The existing dwelling to the east of this property is currently 22 feet and if the current or future property owner would want to put on an addition, and if they were at the 5' minimum setback, you would then have 7 feet between these properties. There will be one building code issue related to what is being proposed by the petitioner is that there are firewall requirements that will have to be included with the design of this building and this would reduce or eliminate the possibility of fire spreading from the petitioners property to the east or from the east to the petitioner's property. If you look at the minimum distance building code wise in relation to the property line, if it's less than 3 feet, that is when the firewall is required. Mr. Hoium stated that the petitioner was in the audience if the Planning Commission has any questions for her. Commission Member Rosenberg asked if there was an agreement in effect that states that they can be only 2 feet from the other property line? The agreement would be the variance that is being reviewed tonight. There are times when you can get an "agreement to build" form, and that is for detached structures only. Commission Member Kuehne stated that this would change the street considerably, which is a concern because most of the houses are pretty much uniformly set back about the same distance and the petitioner is going to be coming out about 20 feet in front of the rest of the homes that are there. Is this correct? Mr. Hoium stated that according to the area map, if they look at the site area just to the north of that, it shows the alignment of the structures. Commission Member Kuehne stated that he was looking at that and most of the structures are about 45-50 feet

back from the property line and by putting this one in you would be dropping this down to about 30 feet from the property line and so you are going to have what now is a very nice, esthetic line, it will be very much interrupted.

Ruth Schmidt, 1409 22nd Avenue SW. In relationship to that outline of the street, there are only 2 houses that face the north, mine and the neighbor that is at 1405, the other neighbor faces to the east and the other is to the west. The neighbor is not here tonight, but he said that I could take the whole 5 feet, he doesn't have a problem with that. I am only asking for 3 feet. The purpose of putting the garage out front was to allow me to have room for the safety shelter, the mudroom, and a patio in the back. The reason I am doing this is, when I bought the house, I did get a good deal on it knowing I was going to have to put some money into bringing it up to the status to the neighborhood. In the last 2 years, I have gotten a large crack in the cement in the garage, I have noticed that the roof is dipping, the cinder blocks that sit on the concrete slab is shifting. It's a problem that is not going to go away and I would like to do it now before I retire. Commission Member Rosenberg asked if her entrance to the house would be through the garage? She stated that the plan is to have the garage with a door into the mudroom and from the mudroom, you would enter into the kitchen area of the house. The petitioner stated that she only has a pair of windows in her living room and a window in her front door, a kitchen window and one small window in a small room for her laundry which will be coming out already. By shifting the addition to the west, she does not want to lose her kitchen window. The gas line is now to the east, they need to shift it to the west because you can not have a gas line under a cement driveway. The petitioner went into detail about where the gas line currently ran and said that the Austin Utilities approved this because there was no basement. Commission Member Johnson asked if the front door would remain in place. Petitioner stated that it would. She also stated that they met the front yard setbacks. No other questions.

Commission Member Johnson stated that this was a recommendation to the City Council and called for a motion and asked for a reference to the standard . Commission Member Kuehne made a motion to make a recommendation to the Council to approve the request of the petitioner in the fact that if we do not allow this petition, this property can not be used in a reasonable fashion. Seconded by Commission Member Rosenberg. Unanimous Ayes. Motion carried. Commission Member Johnson stated that this request would go to the July 15, 2002 Council Meeting. Petitioner asked what the difference was between a recommendation and approval or denial? Commission Member Johnson stated that the conditional use permits that the Planning Commission considered earlier, the Commission either approves or denies these requests and then it is subject to an appeal, whereas, a variance request like this, the Planning Commission makes a recommendation to the Council to either approve or deny it and then the Council takes action taking into consideration the Planning Commission's recommendation.

- 5) **OPEN PUBLIC HEARING: To consider a request from Randy Hegland and Kim Geffert, 1209 18th Street NE for a 3 foot variance from the minimum 5 foot side yard setback for structures in "R-1" Districts.**

Mr. Hoium reviewed this request. He stated that this request is related to a proposed attached garage addition for the property located at 1209 18th Street NE. The property is located in an "R-1" District and completely surrounded by a single-family development. A general location of this site would be located northeast of KAAL TV office building or the Watt's Truck Stop. Mr. Hoium detailed the site plan explaining the location of existing structures and then explained what is being proposed. The building would actually be set back 2 feet from the north side yard property line. Looking at the adjacent property, that structure, to the edge of the roof, would be located 3 feet from the same property line in question. In reviewing this matter with the petitioner, discussion was brought up with him if there could be any possibility of locating this proposed addition directly behind the existing garage and meeting the 5 foot setback. If you look at any other development standards relating to what is

being requested, lot coverage and other setbacks would be met, it would just be the side yard setback. Public notices went out to adjacent property owners and Mr. Hoium did not receive any calls speaking against the proposed variance. Mr. Hoium did receive a call from the property owner of 1211 8th Street NE and he was also in attendance at this meeting. He indicated to Mr. Hoium that this individual did not have a problem with what was being proposed. Mr. Hoium asked for any questions from the Planning Commission. Commission Member Rosenberg asked how large the existing garage was. Mr. Hoium stated that he believed it has a double garage door which is 16 feet in width. Commission Member Grove asked Mr. Hoium about the firewall issue. Mr. Hoium stated that the firewall issue would apply to this also. Mr. Hoium explained that this was a building code issue.

Randy Hegland introduced himself and stated that he lives at 1209 18th Street NE. In answer to the question as to what size the existing garage is, the garage is 24 deep and 18 or 20 foot wide. It is attached to the house and has a 12 foot door on it now so he is only able to put one vehicle inside. What he's hoping to do is add the 4 feet and put a 16 foot garage on the structure and then be able to put both vehicles inside.

Commission Member Johnson asked if the fence in the back yard was on right on the property line? Mr. Hegland stated that it was. The dimensions of the garage were mentioned again and Mr. Hegland was not quite sure of the exact measurements. Commission Member Kuehne's concern with the properties, if they allowed this variance to go through, they would be creating a situation where 2 buildings would only be 5 foot apart and the new property would have to meet the fire codes where the old property would not have to meet this code. Mr. Hegland explained that the structure that he would be close to would sit back away, it's a free-standing garage and it is not attached to the house. Commission Member Kuehne stated that the petitioner's structure and the neighbor's structure are basically parallel. Commission Member Kuehne stated that in trying to get any kind of fire suppression equipment between your two buildings, is almost impossible if one of them is on fire. Mr. Hegland stated that he felt it was impossible now. There is a fence that comes off the house in back that was already there when he bought the house and there is roughly 8-10 foot there now, but on the south side of his home, there is plenty of room. Commission Member Kuehne stated that the problem exists, 10 years down the road, neither one of you are living there, and the two land owners do not get along, now what do we do? It's great that people can agree that are living there now, but if the properties are sold, and we get a dispute between the two landowners, we've got a problem. Commission Member asked if the existing law would take preference then? Commission Member Kuehne stated that he didn't think that if there was a fire, the Fire Department probably would not even stop to ask permission to cross property to get to the fire. Mr. Hegland stated that he did not think that there would be an issue unless something would get built to the south of him. Commission Member Kuehne asked, if we have 5 foot of snow on the ground, how high are the snow piles on the south side of your house from your neighbor's driveway. Is there access at that point? Mr. Hegland said he did not know. Commission Member Mair stated that he has some real concerns over this situation where the buildings are 5 foot apart. This situation was discussed further along with the snow issue. Mr. Hegland stated that he also has a small dip in his roof that he was hoping he would be able to repair it at this same time.

Mike Pratt, 1211 18th Street NE, addressed the Commission and stated that he looked at this thing with Randy for a long time, and granted the garages are close and the houses are close, and there is a fence in there. The 3 feet or the 4 feet that he is going to come over, isn't going to make an issue to him. There is nothing that is going to get between the garage and the house right now anyway. There is no room for anything to go through there anyway because of the fence. He stated that he a fire fighter also with Maplevue and this is a good issue, but there would be access through the back yard. Mr. Pratt stated that he could not see any problem with this.

Commission Member Johnson called for a motion for a recommendation on a variance request. Commission Member Mair made a motion for this 3 foot variance, stating that it was certainly reasonable. The motion was seconded by Sue Grove. Unanimous Ayes. Motion carried. Commission Member Johnson stated that this was a recommendation to the Council and they would hear it next Monday and take action on it.

Commission Member Johnson asked Mr. Hoium if there was any other business.

Motion was made to adjourn by Commission Member Kuehne. Motion was seconded by Commission Member Grove. Unanimous Ayes. Motion passed. Meeting adjourned at 6:50 p.m.