

**MINUTES**  
**AUSTIN CITY PLANNING COMMISSION**  
**TUESDAY, JANUARY 10, 2006**  
**5:30 P.M.**  
**AUSTIN CITY COUNCIL CHAMBERS**

**MEMBERS PRESENT:** Suzanne McCarthy, Lynn Spainhower, Gordon Kuehne, Glen Mair, Brian D Johnson and Rich Bergstrom

**MEMBERS ABSENT:** Sue Grove, Elizabeth Bankes and Tony Bennett

**OTHERS PRESENT:** Craig Hoium, Craig Byram, Council Member Dick Pacholl, media and public

The meeting was called to order by Commission Member Johnson at 5:30 P.M.

Commission Member Mair made a motion to accept the minutes from the December 13, 2005 Planning Commission Meeting as written, seconded by Commission Member Spainhower. Motion passed unanimously.

**APPOINTMENTS FOR 2006 CHAIRPERSON AND VICE-CHAIRPERSON**

Commission Member Kuehne made a motion to appoint Brian D. Johnson for Chairperson for the year 2006, seconded by Commission Member Bergstrom. Motion passed unanimously.

Commission Member Johnson made a motion to appoint Gordon Kuehne for Vice-Chairperson for the year 2006, seconded by Commission Member Mair. Motion passed unanimously.

**SIGN APPEAL:** To consider the appeal from Universal Signs, 1033 Thomas Avenue, St. Paul, MN for the denial of the issuance of a sign permit. This appeal involves the proposed placement of a 26.66 foot by 3.78 foot illuminated wall signs on the north and east exterior walls of the Walgreen's retail store located at 1420 West Oakland Avenue. City Code Section 4.50 IV(b), requires that the placement of this type of signage in a "B-2" Community Business District faces a public street or alley.

Craig Hoium summarized details from the December 13, 2005 Planning Commission. The two main items under discussion were the time the signs would be illuminated and if adjacent property owners were notified. Since that time the property owner to the north was notified as was the store manager of Walgreens and the representative from Universal signs. The property owner to the north notified the Planning & Zoning office and stated that she did not have any objection to the sign but suggested it be non-illuminated by 10:00 pm. The store manager for Walgreens indicated that a portion of the signs are illuminated through the evening hours on a timer and the rest of the signs shut off when the store closes. Craig showed photos of the

proposed sign locations. The property to the north is a combination land-use of commercial and residential. The two major concerns from the December meeting were if the sign to the north would be offensive to the adjacent property owners and was the exterior proposed signage really necessary in relation to Wescott Field. The purpose of this ordinance is to make sure signs are not offensive to adjacent property owners and when enough signage is currently in place.

Commission Member McCarthy said she thinks most people are able to find the store with the existing signage. I can't see where the two proposed signs are actually going to help.

Commission Member Kuehne said all the existing signage is orientated to the east and west or to the south. There is no signage if coming from the north by the 4<sup>th</sup> Ave NW intersection whatsoever.

Commission Member Spainhower said coming from the north I feel you are able to see the existing signs from the four way stop signs a block away at the 4<sup>th</sup> Ave NW intersection.

Commission Member Mair asked if the store is open beyond 10:00 pm.

Commission Member Kuehne said the Austin Walgreen closes at 10:00 pm.

Commission Member Mair asked if the proposed signs are exactly the same as the existing signs.

Mr. Hoium said yes that is his understanding.

Commission Member McCarthy said the store is occasionally opened beyond 10:00 pm, like on Christmas Eve.

Commission Member Kuehne said restrictions can be placed on the time the signs are illuminated.

Mr. Hoium asked if the time restrictions would be on the proposed signage or all signage.

Craig Byram said in granting an appeal like this one where you are structuring the reasons for which you are going to give permission for a noncompliant sign, it could be to modify the use of the existing signs. I don't think legally there would be a problem with determining currently existing compliant signs to be shut off at 10:00pm but I would question the logic behind it if those signs are not offensive to any adjacent properties. I think you should only restrict the illumination times to the signs that are offensive to any neighboring properties.

Mr. Hoium said the neighboring property owner to the north brought to my attention the current existence of a flood type light on the north side of the building that is somewhat offensive.

Commission Member Spainhower said if the flood light is for safety or security issues we should not be changing the illumination times for it.

Commission Member Kuehne said maybe the light could be turned as not to shine to the north.

Commission Member Johnson asked Mr. Byram if we are free to limit illumination times.

Mr. Byram said yes these are not take it or leave it proposals. If there are grounds for which you would approve a proposal you could place the restrictions on the approval of the recommendation so the land owner can accept the restrictions or if they are unwilling then they live under the original determination that the sign is offensive.

Commission Member Kuehne asked if the Planning Commission can bring the existing flood light into this petition.

Mr. Byram said if you could logically describe how that light would make the sign on the side of the building less offensive to the neighbor perhaps. But what I hear is that the light standing alone is a potential problem for the neighbor and the two landowners will have to work that out.

Commission Member Mair said he just cannot see anything offensive about either one of these two signs.

Commission Member Mair made a motion to recommend approval of the proposed signage as it is similar to existing signage, the sign to the north be shut off at 10:00 pm daily, seconded by Commission Member Kuehne. Motion passed with four ayes and two nayes, those voting nay were Commission Member McCarthy and Commission Member Spainhower.

**OPEN PUBLIC HEARING:** To consider a request from Dan Morem, 3608 4<sup>th</sup> St NW, Austin, MN for a preliminary plat review of property to be known as Morem Addition. This 4.25 Acre site located within the 1700 and 1800 blocks of 6<sup>th</sup> Avenue NW and 8<sup>th</sup> Avenue NW will consist of 14 new single-family lots with said action pursuant to Austin City Code Chapter 12.

Mr. Hoium reviewed the request. When looking at the preliminary plat of the 14 single-family lots I want to note that the house footprints are for example only. In the packet under recommended conditions of approval item number ten should be deleted. On January 9<sup>th</sup>, 2006 a meeting was held with surrounding utilities and other various agencies to review this proposed project. I placed a copy of that memo in front of each of you for review. The memo specifically addresses some of the items discussed at that meeting; I would like to go over that list.

- 1) Vacate existing storm sewer easement located within Lot 1 of northwesterly portion of this subdivision
- 2) Storm sewer laterals shall be provided for each individual lot with design approved by the Austin City Engineer
- 3) An additional 10' wide utility easement shall be provided adjacent to public right-of-way boundaries of 8<sup>th</sup> Avenue NW and 17<sup>th</sup> Street NW
- 4) Provide utility easement along west edge of subdivision boundary to accommodate existing phone cable in place
- 5) Provide easement for storm water retention pond servicing subdivision
- 6) Storm water retention pond shall not be maintained or owned by the City of Austin
- 7) Existing sanitary sewer lift station located within the public right-of-way of 6<sup>th</sup> Avenue NW shall be removed by the City of Austin. The necessary replacement of the sanitary sewer system within this lift station area along with that in 6<sup>th</sup> Avenue NW shall also be replaced by the City of Austin
- 8) The sanitary sewer system to be placed within the public right-of-way extension of 17<sup>th</sup> Street NW shall accommodate the sanitary sewer connection point in 6<sup>th</sup> Avenue NW
- 9) Provide the City Engineer with storm sewer retention pond sizing calculations

- 10) Provide topographic plans identifying entire subdivision storm water drainage plan along with that of adjacent properties.
- 11) Research the possible relocation of the proposed sanitary main located within the northwest Lot 1
- 12) Research the availability of existing water and sewer laterals along 8<sup>th</sup> Ave NW
- 13) Municipal water main shall be dead ended within the cul-de-sac of 17<sup>th</sup> St NW
- 14) Verify any deferred assessments that may be in place for 6<sup>th</sup> Avenue NW and 8<sup>th</sup> Avenue NW
- 15) Developer shall contract for additional soil borings as directed by the City Engineer
- 16) Lots shall be renumbered to accommodate Block 1 of Morem Addition

If the Planning Commission chooses to make a recommendation to the council for approval please consider these sixteen items and items 1-9 in the packet under recommended conditions of approval.

Commission Member Kuehne asked why when it is private individuals that we have to be so careful about wetlands but not when it is city property. This property was a wetland at one time; there was a swamp in there. I have known of this property since I moved here in 1976 and know a couple who own a property adjacent to this one. There was water standing on the proposed property until construction material was dumped there and destroyed the wetlands.

Mr. Hoium said he has a copy of the geological wetland reports. To answer your questions there was actually an analysis done by the Mower County Soil & Water Conservation office in 2003. The report states the following: "This area was drained in 1967 by the City of Austin storm sewer project. After the water was lowered the topsoil was removed, this brought the altered water table and altered ground level close enough to show wetland characteristics. Since the area is an altered wetland it is exempt from the wetland conservation act." The report basically states that since the wetland was altered in 1967 it no longer classifies as a restricted or designated wetland.

Commission Member Kuehne said this is just like the farmers, tile the dickens out of the land and then the wetlands do not exist anymore.

Mr. Hoium said I believe what initiated this report is the many calls we received about construction material being placed at this sight. Somebody contacted the Mower County Soil & Water Conservation and had them do the research on the project. I think that is why Mr. Morem before filing his petition for this plat review wanted to make sure the wetland issues and geological analysis would accommodate the development.

Commission Member Spainhower asked what the geological study said. What kind of construction material is there and have they done any soil borings.

Mr. Hoium said two borings have been done and there are some areas where you could get down to depths of nine to ten feet where there is fill in those areas. In those specific areas when an excavation is done for municipal utilities or for new foundations for structures we are familiar with that and can tell by looking at the excavation if that is the case. Engineered fill would have to be hauled in and have compaction done to accommodate minimum compaction levels. A testing agency would do a compaction test prior to any utilities or buildings being placed in those areas. In looking at the boring spots, that is where the conversation came up that we do not want to put in municipal utilities, have a settlement take place and have to repair

them. We also wouldn't want someone to build a new residence and have to deal with settling issues.

Commission Member Kuehne said what he is hearing is that there are lots on this plat that at this point are not suitable for a dwelling and would have to be altered to be suitable for building but yet we are saying that the city cannot go back and make it a wetland which it was originally.

Mr. Hoium said if somebody wanted to petition to restore that area to a wetland they could do that. The wetland issue is not a matter at hand here, we have the documentation from the local jurisdiction that governs that and it states that it is permissible to develop the area. I cannot question that, it is very common in construction projects to put fill in to meet compaction requirements for structures. For example the entire Target project is sitting on about four feet of engineered fill.

Commission Member Kuehne said the concern he has is that Walmart had to find a way to replace a small piece of wetland and here we are dropping a development into what was once a wetland and we do not have to replace anything for it.

Mr. Hoium said if you are making a request to mitigate wetland there is a mitigation factor which is a two to one factor. If the report came back from the Soil & Water Conservation District that stated we have no record of the wetland being drained and it was still a wetland then the petitioner would have to go through the same process as the proposed Walmart development.

Commission Member Spainhower said this area is not deemed as a wetland because it was drained in 1967.

Mr. Hoium said yes that is correct.

Commission Member Mair asked if the proposed development is west of the Sherman Park ball field.

Dan Morem, 3608 4<sup>th</sup> St NW said yes that is correct.

Mr. Hoium showed a graphic of the existing ball field and where the proposed development would be.

Commission Member Spainhower asked if the testing came back with any problems with percolation or water.

Mr. Hoium said it was all in the report which was conducted in the year 2000. It stated that there are some areas that would have to be excavated nine to ten feet to have acceptable soils for construction. The percolation is more critical when working with septic systems and the proposed development would all be serviced by municipal utilities.

Commission Member Kuehne asked if both 1-9 and 1-16 need to be included in any recommendations.

Mr. Hoium said some of the suggested conditions may overlap but make the recommendation to include both reports.

Commission Member Bergstrom made a motion to recommend approval of this request taking into consideration items 1-9 and 1-16, seconded by Commission Member Mair. Motion passed with 5 ayes and 1 naye, voting naye was Commission Member Kuehne.

**OTHER BUSINESS:**

Mr. Hoium said our new member on the Planning Commission is Tony Bennett. He apologizes for not being here tonight as he had already planned a family trip. He also placed a roster in front of each of the Planning Commission Members and requested any corrections or additions be made and return it to him please.

Commission Member Kuehne made a motion to adjourn the Planning Commission Meeting at 6:17 P.M., seconded by Commission Member Spainhower. Motion passed unanimously.