

**MINUTES**  
**AUSTIN CITY PLANNING COMMISSION**  
**TUESDAY, JUNE 13, 2006**  
**5:30 P.M.**  
**AUSTIN CITY COUNCIL CHAMBERS**

**MEMBERS PRESENT:** Suzanne McCarthy, Sue Grove, Tony Bennett, Glen Mair and Brian D Johnson

**MEMBERS ABSENT:** Lynn Spainhower, Rich Bergstrom, Gordon Kuehne and Elizabeth Bankes

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

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

Commission Member Grove made a motion to accept the minutes as written from the June 13, 2006 Planning Commission Meeting, seconded by Commission Member Mair. Motion passed unanimously.

**OPEN PUBLIC HEARING:** To consider a request from Rick Dollar, 1101 8<sup>th</sup> Ave SW for a 52 square foot variance from City Code 11.01 and 11.30 limiting the aggregate area of accessory structures to 1000 square feet for properties located within an "R-1" Single-Family Residence District. This requested variance is for the construction of a 24' x 12' accessory building.

Craig Hoium reviewed the request pointing out that the petitioner owns two parcels of land at the proposed location. The location of the proposed structure is a similar location of a previous accessory structure that was demolished as it was deteriorated. He asked Commission Members to include the statutory requirements in any recommendation made for approval or denial of this requested action.

Commission Member McCarthy said she drove by the property and the shed to be moved from the property is very attractive and it is a shame to remove this building. If the petitioner is only at 22% lot coverage why does he have to remove the building?

Mr. Hoium said there is a limit of two accessory structures on properties within residential districts.

Commission Member McCarthy asked if both of his lots count as one property.

Mr. Hoium said that is correct. If the petitioner wanted to keep the shed he would have to repetition which would have to then be publicized.

Rick Dollar, 1101 8<sup>th</sup> Ave SW said he was renting an offsite storage facility for the camper and now has it parked on the slab. It would look a lot better if it was enclosed.

Commission Member Johnson asked if the petition could be amended or if it should be left as is.

Mr. Hoium said legally there would have to be a republication and notification of the amended variance. It is up to the petitioner what he chooses to do. He stated that the City of Austin has codes and standards to follow and he does not try to market variances. I try to accommodate residents' in their development plans but do not promote petitions for variances.

Mr. Dollar said he moved here from a small town and is a little confused by all the codes and rules. Both buildings were on the property when I moved in and with proper repair the old structure would have been presentable. I will do whatever is necessary to do this right.

Craig Byram said the nonconforming use was likely there before the standards were put in place. So long as the structures existed there was no requirement that they be removed. But once the structure was substantially altered or demolished you have to bring it to conformance. The petitioner has two options: one to go forward with the variance as written and then bring a second variance to the Planning Commission to keep the other building. His second option would be to continue this petition and bring both back to the Planning Commission next month.

Commission Member Johnson asked what the notice mailed out stated; was it specific on how much square footage was in access.

Mr. Hoium said the notification is very specific in the variance square footage. The Planning Commission could continue the hearing on this matter but if the petitioner alters or amends his request we have to re-publicize and send out mailings with the changes.

Commission Member Johnson asked how the application fee would work.

Mr. Hoium said there would have to be an additional application fee paid to cover the publicizing and mailings that would be involved.

Commission Member Johnson said there would really be no benefit to continue this hearing then.

Commission Member McCarthy said she does not normally push for additional buildings on lots but this gentleman has his place looking very nice and I do not see how it affects anyone in the neighborhood to leave the shed.

Mr. Hoium said in our policy when you have an existing non conforming land use there are provisions in the ordinance that address a maximum 50% of the improvements but I never saw the previous structure. The removal of the structure also removes the non conforming land use. The new building warrants the new foundation and that would require following the development standards or the variance.

Commission Member Johnson said we can decide on this variance and then have petitioner come back with a second variance if he chooses to.

Mr. Hoium said he recommends the petitioner if he wants to amend his request to ask the Planning Commission not act on the current request. The neighbors are going to get another notification stating the amendment with a better explanation to neighboring property owners.

Mr. Dollar asked the Planning Commission to table this variance so he can amend his request.

Mr. Hoium stated to the petitioner that the amendment needs to be turned in by the end of this month.

Commission Member Grove made a motion to continue this hearing to next month, seconded by Commission Member McCarthy. Motion passed unanimously.

**OPEN PUBLIC HEARING:** To consider a request from Magic Media, Inc., 1734 15<sup>th</sup> St NW, Rochester, MN for the rezoning of property located in the 1800 Blk of 16<sup>th</sup> Ave NW from an "R-1" Single-Family Residence District to a "B-2" Community Business District

Mr. Hoium reviewed the request. This past summer the petitioner made a request to annex this property into the city limits. There are no intentions to put a billboard on this property and have no specific plans for developing the land. The petitioner feels the property in question will be more marketable as a "B-2" District property.

Commission Member Mair asked if the property in question is west of the Dollar Store.

Mr. Hoium said it is southwest of the Dollar Store and south of the storm water retention pond.

Commission Member Mair made a motion to recommend approval the rezoning of this property as it is in compliance with the City of Austin's Comprehensive Plan, seconded by Commission Member Bennett. Motion passed unanimously.

**OPEN PUBLIC HEARING:** To consider a request from Allan and Karlene Mayotte, 2003 18<sup>th</sup> Ave SW, for a conditional use permit to operate a home occupation (pet grooming business) in an "R-1" Single-Family Residence District. Said action is pursuant to City Code Section 11.30, Subd.3(D) and 11.56

Mr. Hoium reviewed the request. He pointed out that there are very specific guidelines for home occupations and they need to be referred to in any recommendation made. He also reminded Commission Members that they can restrict hours open and days of the week the business is open.

Commission McCarthy said she really does not think any neighbors would be affected by giving hour restrictions.

Commission Member Mair asked what kind of pets would be on the property.

Karlene Mayotte, 2003 18<sup>th</sup> Ave SW said only dogs.

Commission Member Grove made a motion to approve the requested conditional use permit with the seven staff consideration except number four, seconded by Commission Member McCarthy. Motion passed unanimously.

The following are the seven staff recommended conditions:

- 1) There is no outside advertising, signage, or other item or device to call attention to the home occupation, either on the property, or in an off-premise site other than allowed by City Code Section 4.50 (Sign Ordinance)
- 2) Customer parking shall be in an off-street location
- 3) Only one customer shall be allowed on the premises
- 4) Specific times of business hours could be specified prior to approval of the C.U.P.
- 5) Only the resident of this home is permitted to be employed in this operation
- 6) The business is restricted to the principal residential structure and not to occupy more than one-third the floor area of that floor
- 7) Any necessary building code issues must be reviewed and approved by the City Building Official. The petitioner has been notified of accessibility issues for the handicapped community and this property under review

Commission Member Johnson stated this action is final unless appealed in the within 15 days.

**OPEN PUBLIC HEARING:** To consider a request for the rezoning of property owned by Burton J. Plehal Combined Disclaimer Trust, 7150 Soutag Way, Springfield, VA, from a "R-1" Single-Family Residence District to a P.D.R. Planned Development District. This request has been made to accommodate a proposed 62 unit cooperative housing development pursuant to City Code Section 11.65, for the property located within the 2200 - 2400 blocks of 10<sup>th</sup> Street NW.

Mr. Hoium reviewed the request including the past history of review from last months' public hearings. The conceptual plan did go to the City Council and passed. The next steps for this project are to review the zoning request and preliminary plat which are on the agenda tonight and then the final plat review at a later date. Mr. Hoium showed graphics of site access in which the north entrance is similar to the Cottage Homesteads complex. The main reason that city staff directed the developer to classify this site as a Planned Development is that if there are any changes made to the proposed development neighbors would be notified through the public hearing process. He then showed more graphics with the various plantings that would take place and the lighting plan. The exterior finish of this housing structure would be stonework with vinyl siding.

Shane Wright from Real Estate Equities said to answer a question from the audience regarding the pitch of the roof is 6/12. He wanted to review some of the remaining zoning regulations listed in section 11.65 with the Commission Members. Number sixteen: Statement as to when a plat will be rented or sold and how land will be transferred. Each unit owns a share of the Cooperative. Number eighteen: Protective covenants and homeowners association by-laws. These have been submitted. Number nineteen: Optional features. We offer things like flooring, cabinet style, countertops and color choices as options in each unit. Number twenty-two: Development building schedule. We are looking to start building this fall with a construction finish in twelve months. Number twenty-three: Development experience. Real Estate Equities Management Company was started in 1972. We currently manage about 4,000 properties. Number twenty four: Financial capability. We do about \$40 million dollars a year in development. We are working on or finished seven village cooperatives in Minnesota. There are three principal owners of our company, two are original founders and Keith Jans who is here tonight.

Lynette Loecher of 2404 10<sup>th</sup> St NW stated her house is the closest to the proposed development. This development is larger than any of the other seven you have built in Minnesota. Did you have to rezone any of the other properties?

Keith Jans said yes that is pretty common, all of the properties had to be rezoned from residential.

Mrs. Loecher asked how much land the other properties have.

Mr. Jans said Albert Lea is on about four acres, Fergus Falls five and a quarter acres, Fairmont is four acres. In Austin we would build on five acres and leave ten acres as wetland. The ten acres of wetland is primarily to the west.

Mrs. Loecher said she only has a few feet between her property and the proposed development, why does it have to be so close and why can't it be centered more on the property.

Mr. Jans said the proposed location was chosen overwhelmingly at the community meeting held in Austin. Half of our units for the proposed development are sold now.

Mrs. Loecher asked why this development could not be built in the Cook Farm area.

Mr. Hoium stated the NE Industrial Park in Austin is completely full and Cook Farm is designated for future industrial development.

Dave Rushton of 1002 24<sup>th</sup> Ave NW said this is a good project and is needed in Austin but he thinks it should be built in another area. This could depreciate our home values. He drove by the Albert Lea complex and it is huge with the three stories plus the underground parking which is elevated and the roof pitch of 6/12. I also think this large development will affect the wetlands negatively.

Gary Loecher of 2404 10<sup>th</sup> St NW said he wants the Commission Members to think whether they would like this next to their property. People are going to use the gated entrance because it is easier than 18<sup>th</sup> Ave NW. Why not build in an open field like you did in Albert Lea and let people build around you. Here you are forcing yourselves into our neighborhood.

Tony Lecakis of 2406 10<sup>th</sup> St NW said he is in the recycling business and he goes thru the Oak Park Village gated community twice a week. I notice the residents use the gate instead of fighting with the 18<sup>th</sup> Ave NW traffic.

Jacob Zimmerli of 1004 24<sup>th</sup> Ave NW said he is worried about safety issues, property values, neighborhood aesthetics and project unpredictability. To use this huge building as a buffer between residential and business is a little out of line.

Mr. Jans said the finished building height is between 55 and 65 feet high. If a single family development was proposed here they would typically be closer than we are proposing. We tried to angle our building to ease the neighbors' site line. The run off issue has been discussed with many officials and the water would hit the site the same no matter what development is there. There are also two retaining ponds in the proposal to keep run off at the current rate. The traffic studies are accurate as most of the people are retired and there is typically one car per unit. The average age of our owners is 70+. We will not promote the 10<sup>th</sup> St NW entrance it would be mainly an emergency and safety entrance. As far as unpredictability this would be an ownership cooperative. In our history a cooperative has never failed and there are

approximately one hundred of them, seven of them in Minnesota. HUD also inspects the property twice a year.

Mr. Lekacis asked if the Albert Lea Cooperative is full.

Mr. Jans said there are three units left. Half of the units for Austin are sold. If Austin does not sell out we would not open to anyone under 55.

Mr. Lekacis asked if that meant never anyone under 55.

Mr. Jans said yes, it is a part of our by-laws. There may be certain handicap situations where the owner could be under 55 but there are many criteria that person would have to meet.

Mr. Loecher asked about the site line from Fox Pointe Addition.

Mr. Jans said he has talked to the Fox Pointe developer about the site line.

Mr. Ruston said the Fox Pointe property owners are not going to have much of a view, they would look right at your development.

Commission Member McCarthy said she agrees that the proposed development is very close to the Loechers' property. She however did not think this development would negatively affect the property values, it might even raise them. What neighborhoods do you drive through, Elmhurst or Murphy Creek? She thought this is a good situation and there could be a lot worse things to have for neighbors.

Mr. Hoium said there is a concern with the height of the structure. If we could have the petitioner provide a sectional drawing prior to the council meeting to answer some of the questions being asked here tonight. This would give city officials an accurate illustration as to what we are dealing with in relation to buffers and building height.

Commission Member Grove stated that WalMart will affect the area a lot more than the proposed development would.

Mr. Rushton said the proposed development is so large it would dwarf our homes.

Mr. Hoium stated that the proposed development far exceeds all setbacks. They could build as close as eight feet to the property lines if they chose to if this property were to be rezoned as an "R-2" Multi-Family Residence District.

Commission Member Johnson said many of the questions brought up tonight are not legal grounds to deny this request.

Mr. Hoium said if there is a recommendation to the council include that a sectional drawing be made available.

Mr. Zimmerli asked the developer to what extent they are willing to go to provide safety for the 10<sup>th</sup> St NW entrance. Are they willing to post a sign stating it as an emergency entrance? Would they be willing to put it in the handbook also?

Mr. Jans said yes they would be willing to put that in the handbook and post a sign if the zoning regulations make it possible.

Commission Member Mair made a motion to recommend approval of rezoning the property as all issues are met with the addition of a sectional drawing and the added language in the handbook, seconded by Commission Member McCarthy. Motion passed unanimously.

**OPEN PUBLIC HEARING:** To consider a request for the preliminary platting of property owned by Burton J. Plehal Combined Disclaimer Trust, 7150 Soutag Way, Springfield, VA, to be known as Bustad/Plehal Addition. This property is located within the 2200 - 2400 blocks of 10<sup>th</sup> Street NW and is the proposed location of a 62 unit cooperative housing development.

Mr. Hoium reviewed the request. There is one change that staff would recommend to this preliminary plat. The legal description will be Lot 1 Blk 1 with the wetland as Outlot A. This is to provide assurance no future mitigation of the wetland area. The wetland shall also be designated as a conservation easement.

Commission Member Grove made a motion to recommend approval of the preliminary plat with the 13 conditions and the easement of Outlot A, seconded by Commission Member Mair. Motion passed unanimously.

**OTHER BUSINESS:**

Mr. Hoium pointed out the Minnesota League of Cities information in the back up material. If there are any questions about the information the Commission Members may call him.

Commission Member Grove made a motion to adjourn the Planning Commission Meeting at 7:15 P.M., seconded by Commission Member Bennett. Motion passed unanimously.