

**MINUTES
AUSTIN CITY PLANNING COMMISSION
TUESDAY, JUNE 10, 2008
5:30 P.M.
AUSTIN CITY COUNCIL CHAMBERS**

MEMBERS PRESENT: Tony Bennett, Suzanne McCarthy, Lonnie Skalicky, Glen Mair, Jim Mino, and Kathy Stutzman

MEMBERS ABSENT: Shawn Martin, Lynn Spainhower and Elizabeth Bankes

OTHERS PRESENT: Craig Hoium, Craig Byram, Council Member Dick Pacholl, Council Member Jeff Austin, Mayor Tom Stiehm and public.

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

Commission Member Skalicky made a motion to approve the April 15, 2008 Planning Commission Minutes as written, seconded by Commission Member Mair. Motion passed unanimously.

OPEN PUBLIC HEARING: To consider a request from Jay and Kirsten Nelson, 600 4th St SW for a 4 foot, 6 inch variance from City Code Sections 11.01 and 11.30, Subd.5 regulating the minimum corner sideyard setback for structures located within a "R-1" Single-Family Residence District. This petitioned variance is for a proposed home addition on the north side of this residence.

Craig Hoium reviewed the request. The minimum setback for a corner yard structure is twelve feet, six inches so the petitioner is asking for a 4 foot, 6 inch variance so the proposed structure will line up with the existing structure on the property. The current structure on the property is only 8' from the north property line so it is a non-conforming structure. The addition would be on the west side of the dwelling. The existing garage would be removed and the new addition would consist of 30' x 28' home addition onto the west side of the existing dwelling. Further to the west there would also be a 28' x 23.5' attached garage. With the proposed addition 19% of the lot would be covered and 40% is the maximum limit for an "R-1" District. Notices were mailed out to surrounding property owners with no response for or against the request. The reason for the twelve foot, six inch setback requirement is to maintain any obstruction for vehicle or pedestrian traffic on roadway intersections. With any recommendation taken by the Planning Commission tonight please include any or all of the statutory requirements for granting a variance in any motion pertaining to this request. To the south of the proposed addition there is twenty feet of space, if the addition was shifted to the south the variance would not be required. In talking to the contractor for this job the challenge is to accommodate the expansion of the kitchen while including the existing kitchen floor plan.

Commission Member Mair asked if the variance is for the north side only.

Mr. Hoium said yes all other setbacks and lot coverage limitations meet the required development standards. The owners would like to line up the proposed addition with the existing house at the 8' setback.

Commission Member McCarthy made a motion to recommend approval of this variance as it is keeping with the spirit and intent of the ordinance. The plans are great and are keeping in character of the neighborhood. There should not be a problem with traffic as there is not a cross street on the north side of the house. Motion seconded by Commission Member Bennett.

Robert Flatt, 507 4th Ave SW our house is just to the west of the proposed addition. I have not seen any of the plans for the proposed addition. If the old garage is being removed will the new addition be in the same area.

Mr. Hoium said the current garage location is where the proposed home addition would be constructed and the new garage would be west of that.

Mr. Flatt said west of that is his yard.

Mr. Hoium said the existing garage is located 102' from the west property line. He then showed Mr. Flatt a graphic of the lot size and proposed addition location. The addition should be approximately 60'-70' from the west property line.

Commission Member said this would be a single story garage also.

Mr. Hoium told Mr. Flatt he could stop up to his office and receive a copy of the plans for the proposed addition. This action is only a recommendation by the Planning Commission and will go before the City Council at the June 16, 2008 meeting.

Commission Member Mino revisited the motion on the floor and asked for a vote. Motion passed unanimously.

OPEN PUBLIC HEARING:

To consider a request from the Salvation Army, 409 1st Ave NE, Austin, MN, to rezone their property located within the 300 Block of 3rd Street SE from an "I-1" Limited Industrial District to an "R-O" Multi-family Office District. Said action is pursuant to City Code Section 11.02 and would accommodate the proposed development of a twin home/adult care facility.

Mr. Hoium reviewed the request and pointed out the location of the property. The petitioner has made this request to accommodate a proposed development that would consist of a twin home unit with a 0 lot line between them. This unit would be an adult care facility with eight adults in residence. The wall between the units would be opened at the 0 lot line wall but would be designed so that the wall could be filled in to have two separate dwellings. There are drawings in the back up materials of what the structure would look like and the floor plans. If a recommendation is made to approve this rezoning the developer would have to meet all of the development standards which relates to things such as setbacks and off-street parking requirements. We have been working with Yaggy Colby & Associates in updating our Comprehensive Plan and one of the reasons this area is zoned as an industrial area was because there used to be a railroad right of way and grain elevator. It is the City of Austin staff's

position that this is an area that should be looked at being that there is residential development on both sides of this area. Consideration has been made where the property in question would be identified as a future "R-0" District from 1st Ave Se to 3rd Ave SE which would be on both sides of 3rd St SE. Out current future land-use map designates this area as a high-density land use. So the proposed rezoning would be in compliance to our Comprehensive Plan. If the Planning Commission makes any motion tonight please include any findings that support the recommendation. This request does include the entire east side of this block and the long range plan is to create future development to the north. The initial proposed development does not utilize the entire easterly block. If the rezoning is approved the petitioner will have to apply for a minor subdivision of the property that would establish new property lines. That is an action that will go right to the city council for approval.

Commission Member Mair made a motion to recommend approval of this rezoning as the staff report is quite good and this would not be offensive to the area and it is in the Comprehensive Plan, seconded by Commission Member McCarthy. Motion passed unanimously.

SIGN APPEAL:

To consider a sign appeal request from Precision Signs for the denial of a sign permit to erect a wall sign on the south exterior wall of the commercial building that does not face a public right-of-way. This property under question is located at 908 12th Street SW, Austin, MN which is located in a "B-2" Community Business District. Said action is pursuant to city Code Section 4.50, Schedule IV,b.

Mr. Hoium reviewed the request pointing out that the lease space is in the rear of the Steichen building. To the south of the proposed signage is a detached garage used for private storage and a parking area. The proposed sign is 10' x 1'8" and is within the 10% wall coverage limitations.

Commission Member Skalicky asked if mailings went out to neighbors.

Mr. Hoium said this is not a public hearing.

Mr. Skalicky asked if the public has any say on this appeal.

Commission Member Skalicky said this is similar to an appeal that was passed recently in the NW and I do not see a problem with this sign.

Commission Member Mino stated that according to the second sheet in the back up material the 10' x 1'8" sign on the building would be illuminated and the smaller plaque sign would not be.

Commission Member Skalicky made a motion to recommend approval of this sign appeal, seconded by Commission Member McCarthy. Motion passed unanimously.

SIGN APPEAL:

To consider a sign appeal from Innovative Signs for the denial of a sign permit to erect a wall sign and to allow an awning with signage on the east exterior wall of a structure which does not face a public right-of-way. The property under question is located at 301 4th Ave NE which is located in a "B-3" Central Business District. Said action is pursuant to City Code Section 4.50, Schedule No. IV,b.

Mr. Hoium reviewed the request. The property in question houses various tenants; a hair salon, restaurant, marketplace and 2nd floor apartments. The east wall faces a parking area, public

sidewalk and the library parking lot. What is proposed here is to allow the awning and signs on the east wall to remain in place. What initiated this request is that Innovative Signs came in to apply for the Progressive Hair sign on the east wall and I explained to them that they would have to apply for an appeal as it does not face a public right-of-way. The question then came up asking about the rest of the existing signage on the east wall. Over the years a number of sign permits have been issued for this 301 4th Ave NE. The following are what was in the address file: 1986, a 3' x 8' wall sign, 1988, a 4' x 8' wall sign, 1989, 3' x 8' wall sign. There are no illustrations or details to describe what types of signs were installed. Over the years there have been various businesses at this location. There are no recent sign permits issued for this property. The awning on the east side of the building was part of a renovation project which had a permit. The awning meets code without signage but when the lettering was added it becomes labeled as a sign and then a sign permit is required. I discussed the issue with the city attorney on the best way to handle this, whether we should address just the Progressive Hair sign or review the existing signage. A lot of the signage on the east wall by the market is poster board that is changed regularly and we do not issue permits for temporary signage but there is a thirty day limit. Any recommendation can be made together or address the proposed sign and existing signage separately.

Commission Member Stutzman asked if a sign permit stays with the sign or the building.

Mr. Hoium said there is a provision to our sign ordinance for non-conforming signs where a sign can be improved or replace the sign face for a cost not to exceed 50% of the sign value. If somebody came in to apply for a permit to change a non-conforming sign we would have them submit the current value of the sign and what the improvement cost would be.

Commission Member Stutzman asked if the sign in question is a non-conforming sign.

Mr. Hoium said that is correct because it does not face a public right-of-way.

Commission Member Skalicky asked if there is a permit required for the signs that are already in place.

Mr. Hoium said previously there have been other wall signs in this location but when looking in the file the permits range from 1986-1989 and there is no detailed information as to what signs were installed. Whatever direction the Planning Commission decides to take on this there are two choices. To either allow the signs to remain or remove the signs.

Commission Member McCarthy said many of the signs by the market place look like banners.

Commission Member Skalicky said the canopy is okay with him but the posters are unsightly.

Commission Member Stutzman said the canopy is the only sign the Planning Commission has any say about.

Mr. Hoium said the only regulation for the posters is to review with the property owner that the limitation for temporary signage is thirty days. If they have been up for more than thirty days we can make them remove the posters.

Commission Member Mino asked if there are two property owners for this building.

Mr. Hoium said there is one property owner, two different businesses.

Commission Member Mino recommended dealing with the signs separately.

Commission Member Mair made a motion to recommend approval of the Progressive Hair sign at 301 4th Ave NE, seconded by Commission Member Stutzman. Motion passed unanimously.

Commission Member Stutzman made a motion to allow the current awning at 301-D 4th Ave NE remain in place, seconded by Commission Member Skalicky. Motion passed unanimously.

OTHER BUSINESS:

Commission Member McCarthy first thanked the committee for setting the guidelines for contractors such as the Ulland Bros. fence from the last meeting. She went on to say she had done a lot of research and stated concerns she has about properties that have not met conditions placed upon them by the Planning Commission or the City Council. She felt it was appropriate to bring this information to the Planning Commission because she had not seen any action taken after emailing and making phone calls. The following properties are Jim's Supervalve where the landscaping has not been done and the same at the Eagles Club. Vel Ved trucking has not provided hard surfacing or landscaping yet and there was also to be a fence in place at Ortiz Body Shop. Why do we place conditions upon these businesses if they are not going to be enforced?

Commission Member Mino asked what the rules are for enforcement of these conditions.

Mr. Hoium said he appreciates Suzanne's concerns but the Planning Commission does not have an enforcement role.

Commission Member Stutzman said she is concerned if the Planning Commission has the power to grant conditions on a conditional use permit and the conditions are not met do we have the authority to revoke the permit.

Mr. Hoium said he would like Mr. Byram respond to that question.

Craig Byram said the enforcement of anything that the Planning Commission or the City Council does is to be done by Mr. Hoium's department. If Mr. Hoium feels there is no hope for the land owner to comply to conditions it would be his duty to bring enforcement. That would mean bringing the issue back to this body in a formal sense. This body does not sit as an oversight of Mr. Hoium's office or the enforcement of the zoning rules. You are strictly a fact finding and judicial determiner of the issues that are brought before you. It is appropriate for the Planning Commission to raise issues they have with any ongoing concerns with projects here at the public meetings or privately in his office. And then allow him to respond and explain each situation. Any citizen also has the same right. Any member of the staff serves at the will of the City Council and the supervisory staff at the City of Austin.

Commission Member McCarthy asked if we are too accommodating. Maybe we shouldn't be handing out to many of these permits or conditional uses.

Mr. Byram said he is not going to suggest to the Planning Commission Members how to make decisions but if you recall some of the orientations that have been given about how the Commission Members should approach their job. I have always suggested that variances and things of that nature should be the exception and not the rule. If the Planning Commission finds themselves granting these requests more often than not I suggest that the zoning requirement in question gets looked at to make sure it is still relevant. I also suggest that you take each

case individually and ultimately it is your decision on whether or not you grant the requests brought to you.

Commission Member Skalicky stated that no one is policing these conditions though.

Mr. Byram said Mr. Hoium's office is who should follow through with permits and the inspections of these properties. I do believe he is in the process of following up on a few of the properties Suzanne has mentioned.

Commission Member Skalicky asked if there are any consequences to the applicants who do not meet conditions.

Mr. Hoium said he would like to review some of the concerns brought up. The fence around the Ulland quarry located by Ellis Middle School was to be 4' high and in discussing that with Ulland Bros. they now will be erecting a six foot high security fence. Did they get the fence up right away, no, is it going to provide more security now, yes. The HRA acquired the Eastside Rail Road property in the year 2000 and also a grant for environmental cleanup. To our knowledge it was a property that was ready for development after the clean-up was administered by the HRA and actually went through and was approved for a large warehouse. With our flood buyout for Jim's Supervalve and the Eagle's Club we were able to have them develop on the property. There was a lot of material relating to old foundations, old railroad ties and soils that were not capable of supporting the structures or the parking lot. So in improving the soils there was a pile of material that was placed north of Jim's Supervalve. In the last year we have been working with the Minnesota Pollution Control Agency in trying to find a way to remedy that contaminated soil. The material tested showed a very low level of contamination, but one of the restrictions the MPCA had was that the material could not leave the site. The only way to resolve the issue was to haul it into the existing storm water retention pond and construct a new pond where the old Supervalve store used to be. That phase of the project was just completed last fall and two weeks ago that we received approval from the MPCA for clearance of that site. Two weeks ago Jim's Supervalve finished their driveway. It is difficult to ask a business to landscape when the property is going to be torn up again which was what happened last fall. The landscaping for that development will occur. The Planning Commission has to realize that if I could snap my fingers every time I wanted something done my job would be much easier.

Commission Member Skalicky asked if there can be a time table placed on projects.

Mr. Hoium said the Planning Commission nor the City Council did not have any action on that project all action was through the HRA board. The issue with Vel Ved trucking has gone to the HRA meetings for the last two months and they will be meeting with the property owner relating to those issues before the next HRA meeting. The issues with the car repair shop Mr. Erickson and myself have both been at the property to investigate and have found no violations to the conditional land use. In my research of the minutes from that meeting it is my understanding that there was a requirement for fencing to be required around all automotive parts, not automobiles.

Commission Member McCarthy pointed out in the minutes where she has asked if the conditions meant the whole car and Mr. Hoium said yes, and any of the parts.

Mr. Hoium said he has not seen any of that material. When he visited the site there were no auto parts outside of the building, only automobiles.

Commission Member McCarthy read from the minutes, "do you mean the whole car, Mr. Hoium said yes and any of their parts." That is the way I understood it at the meeting.

Commission Member Stutzman said she is appreciative that Ulland and Mr. Johnson are erecting the fence at the quarry. But I am struggling with the fact that it is four years later. The amount of time the Planning Commission and City Council and other staff spends on these issues. I am concerned.

Commission Member McCarthy stated a concern about the hog truck washing facility two doors down from Jim's Supervalu. I was thinking there had to have been a map of this development that could have been laid out better and not had a hog truck washing facility. All of the washing is done inside but my issue is when the trucks come out of the facility the trucks round the corner the excess water and fecal matter flow out of the truck. The fecal matter ends up down the drains that go to the river. How was that planned out?

Mr. Hoium said the east side development is the property Suzanne is referring to. That property was replatted as petitioned by the owner and was zoned as industrial in the early 1990's. The truck wash facility is a permitted land use in that zoning district. The drainage system for that building is hooked up to the sanitary sewer system and there is a purification system that is a state of the art system for trailer washing facilities.

Commission Member McCarthy said her issue is when the trucks leave the facility and the mess pours out onto the road.

Mr. Hoium said the truck wash uses a disinfectant that is left in the trailer and no animal waste left in the trailer.

Commission Member Mino thanked Commission Member McCarthy for bringing forward the concerns and clarifications.

Dick Pacholl, City Council member said he is very happy with the fence being erected by Ulland Bros.

Commission Member Skalicky made a motion to adjourn the Planning Commission Meeting at 6:35 P.M., seconded by Commission Member McCarthy. Motion passed unanimously.