

**M I N U T E S**  
Austin City Planning Commission  
Tuesday, September 15<sup>th</sup>, 2020

**MEMBERS PRESENT:** Mike Postma, Melissa Swenson, Karem Salas Ramirez, Aaron Stewart, Melissa Burroughs, Rita Srock

**MEMBERS ABSENT:** Jim Mino, Jay Lutz

**OTHERS PRESENT:** Holly Wallace, City Attorney Craig Byram, Public

Commissioner Postma called the meeting to order at 5:30 pm.

Minutes from August 12<sup>th</sup>, 2020 meeting were reviewed. Commissioner Swenson motioned to approve. Commissioner Burroughs seconded. All in favor, none opposed. Motion carried. Roll Call below:

Postma – Aye  
Swenson – Aye  
Salas Ramirez – Aye  
Stewart – Aye  
Burroughs – Aye  
Srock – Aye

6 – Ayes, 0 – Nays

**FENCE APPEAL:** To consider an application from Diane Hanson requesting a fence appeal to replace existing privacy wood fence with vinyl in the setback area of the front and side yards on her property located at 500 8<sup>th</sup> Ave SE.

Ms. Wallace presented the materials. The petitioner is looking to replace an existing privacy fence up to 12 feet from the South property line boundary, making the driveway to the South not of concern.

Commissioner Srock asked if the driveway was the petitioner's. Ms. Wallace stated it belongs to Greenman. Commissioner Postma asked if they are requesting the fence be a foot higher than she has it now and is this a concern. Ms. Wallace stated the petitioner expressed wanting a privacy fence as she does have children that play in the back area. Being that she is on a busy street, she had worries about a shorter fence and that there were no concerns from staff. Ms. Wallace said she hasn't seen any cars parked at the storage facility, so it appears to be rarely of concern. The fence has been this way since the permit was pulled in the 80's or 90's.

Commissioner Postma asked if any public attending. No comments from public.

Commissioner Swenson asked for clarification that the fence in question is just South yard and not to the North corner of the lot. Ms. Wallace stated it is only the section in the South that is in question.

Commissioner Stewart asked to clarify if there were any safety issues or concerns with sightlines. Ms. Wallace stated there is not.

Commissioner Swenson motioned to recommend that council approve the application as presented. Commissioner Srock seconded. All in favor, none opposed. Motion carried. Roll Call below:

Swenson – Aye  
Salas Ramirez – Aye  
Stewart – Aye  
Burroughs – Aye  
Srock – Aye  
Postma – Aye

6 – Ayes 0 - Nays

**OPEN PUBLIC HEARING:** To consider a petition from Joy Maryanha for a Conditional Use Permit approving a massage business located in her home at 1407 7<sup>th</sup> St SE in an “R-1” Single Family Residential district.

Ms. Wallace presented the materials. The petitioner is requesting to approve a home occupation – massage business at her home in an R-1 district. She previously held a massage license, but moved away, and currently moved back and is now going through the process to complete the necessary steps. There have been no comments from the public/neighbors in regards to this petition. The property was inspected by the building/zoning department and has met accommodations including off-street parking concerns. Appointments are scheduled so clients aren’t waiting on-premises. With a CUP conditions can be added as requirements. If this were to become a nuisance issue/CUP was violated, a public hearing would be held to revoke the CUP.

Considerations from staff were reviewed.

Commissioner Postma asked if this CUP was good for 5 years. Ms. Wallace stated CUPs stay with the property forever or until revoked and are recorded at the county so it’s a record with the property.

Commissioner Srock asked if there is a limit to the hours of the business because it is R-1. Ms. Wallace stated conditions on the hours can be made by commissioners as part of the CUP if desired. The petitioner, Joy Maryanha, stated she doesn’t plan to have any too early or too late at night, and her business is by referral only, with space between clients.

Postma asked if there is anyone from the public who wished to speak on the matter. No public comments.

Commissioner Swenson motioned to approve with the staff recommendations. Commissioner Salas Ramirez seconded. All in favor, none opposed. Motion carried. Roll Call below:

Swenson – Aye  
Salas Ramirez – Aye  
Stewart – Aye  
Burroughs – Aye  
Srock – Aye  
Postma – Aye

6 - Ayes 0 - Nays

**OPEN PUBLIC HEARING:** To consider a request from JS2 Properties LLC to split lot parcel number 34.790.0950. The proposed addresses are 800 10<sup>th</sup> Ave NW & 1103 7<sup>th</sup> St NW. This would be a change of non-conforming use, creating two parcels from one due to the new lot sizes.

Ms. Wallace presented the materials. The petitioners are proposing that the lot be split to two primary residence parcels to make them more marketable. Each property currently has its own utilities and use will not change (residential). Due to the lot size, this would be a change of non-conforming use.

Ms. Wallace asked if anyone had any questions for Jacob Smith with JS2. Commissioner Postma asked if any public contacted us after notices. A council member that lived in that neighborhood had neighbors reach out to her with questions and followed up with Ms. Wallace. No further information was requested.

Commissioner Srock asked if each property would have their own driveway. Jacob Smith, with JS2 Properties, 206 2<sup>nd</sup> St NE Blooming Prairie, MN, stated there was previously likely a garage where two vehicles currently sit. The survey separated the property line between where the two vehicles park so each house will have their own individual driveway though it will look like one being finished right next to the other.

Commissioner Burroughs asked to clarify if there is no garage on either property. Mr. Smith stated that is correct. Commissioner Burroughs also asked if there are any other properties in town of less than 2,000 square feet. Ms. Wallace stated she did not check, but that there are some small parcels, but that this is very small. Commissioner Burroughs then asked if anyone knows why the 6,000 square feet was picked as the minimum for the City Code. Ms. Wallace stated she didn't know for sure, but possibly to help with safety hazards and esthetics of the city. The property does lose profitability by not having a garage and not much yard.

Commissioner Postma asked if the properties are currently habited. Mr. Smith stated they are both rented. Mr. Smith explained that the combined parcel does not meet an FHA lot so 30-year financing is not an option, it would have to be an investor or paid for with cash. So the marketability of two separate lots is higher than one individually.

Commissioner Postma expressed that this is a difficult decision between two non-conforming uses. Commissioner Burroughs expressed concern with having a 6,000 foot minimum residential lot per city code and approving something 2/3 less than the minimum, having a shared driveway, with no garages.

Commissioner Postma stated this is an open public hearing and asked for any public input. No public comments.

Commissioner Stewart asked if City Attorney Byram had anything to add or present. City Attorney Byram stated the process is put in place to decide if this makes the nonconforming use better or worse and it is up to the commissioners to make that determination. It could be viewed that commissioners would be eliminating a non-conforming use and instead creating a variance per say of technical limitations on lot size.

Commissioner Postma motioned to recommend that council approve the change of non-conforming use that is equally appropriate or more appropriate than previous use. Commissioner Swenson seconded. 5 in favor, 1 opposed. Motion carried. Roll Call below:

Postma – Aye  
Swenson – Aye  
Salas Ramirez – Aye  
Stewart – Aye  
Burroughs – Nay  
Srock – Aye

5 – Ayes 1 - Nay

**OPEN PUBLIC HEARING:** To consider a petition from Nicholas Endres to approve a rezone of the property located at 1101 8<sup>th</sup> Ave SE from “I-1” Light Industrial to “B-2” Community Business District and to amend the Future Land Use Map to allow for additional residential rental space within the property.

Ms. Wallace presented the materials. The property is currently used for office space, equipment storage, and one residential apartment. The petitioner is requesting to re-zone to B-2 allowing more residential apartment space. Surrounding the property to the North and East are industrial and open space. To the West is Commercial and Residential. Rezoning to B-2 is more restrictive than what's allowed in an Industrial district.

Considerations from staff were discussed.

Commissioner Postma asked for clarification on a non-conforming use due to a rental already being there. Nicholas Endres, 4040 Berkshire Road, Rochester, MN. He stated it's been an apartment ever since they purchased in 2006. Mr. Endres stated he is wanting to add an 800 sq ft, 1 bedroom apartment where the office was. The previous apartment is a 900 sq ft, 2 bedroom upstairs currently rented.

Commissioner Swenson motioned to recommend to council to approve the rezone and update future land use map. Commissioner Srock seconded. All in favor, none opposed. Motion carried. Roll Call below:

Postma – Aye  
Swenson – Aye  
Salas Ramirez – Aye  
Stewart – Aye  
Burroughs – Aye  
Srock – Aye

6 – Ayes 0 – Nays

**OPEN PUBLIC HEARING:** To consider a petition from Ron Schroeder with S&S Towing to amend an existing CUP to allow towing, storage of vehicles, and car sales on the property located at 401 1<sup>st</sup> Ave SW. This parcel is located in a "B-2" Community Business district.

Ms. Wallace presented the materials. S&S Towing is requesting to amend the CUP that allowed for car sales on the lot. The petitioner purchased the property and added towing to the business. Properties to the North, East and West are commercial and to the South is Residential.

Considerations were discussed as well as staff recommendations.

Hours of operations were questioned due to it being a towing business. Ron Schroeder, 2111 3<sup>rd</sup> Ave SE stated the business hours of operations are 9-5, but 24 hour on call vehicles go home with staff. So vehicles would potentially be brought back in the middle of the night, but they are courteous of their neighbors.

Commissioner Postma asked if the trucks have backup alarms. Mr. Schroeder stated one does, but it is currently not in use and they are looking to sell it.

Ms. Wallace asked the petitioner if the vegetation along the property line would be cleared out. Mr. Schroeder stated they have been slowly cleaning that up. Commissioner Postma asked the

intention of the business – do they plan to move to the South? Mr. Schroeder said they will stay where they are because the South lot is residential. Currently a 6 foot chain link fence separates the residential lot from the lot in being petitioned. Commissioner Postma asked if there will be cars on grass in the fenced in area. Mr. Schroeder plans to have all the fenced-in area be asphalt in the future to make maintenance easier.

Commissioner Srock asked if they are on the monthly rotation with the police department to tow vehicles, and if during a snowstorm its possible there will be heavy traffic and a large amount of vehicles. Mr. Schroeder stated they are on the rotation and this is a potential possibility.

Ms. Wallace stated there was no response from neighbors/public that received notices.

Commissioner Stewart asked if the commissioners can set requirements for the number of cars for sale with towing, etc. Mr. Schroeder stated he currently has 5 cars for sale, with plans to sell no more than 8-10 at a time. The impound lot can get pretty full during the winter months.

Commissioner Postma asked if the lighting could be explained. Mr. Schroeder stated they currently have lights that are motion activated on the exterior with security cameras.

Commissioner Swenson motioned to approve amending the CUP to add towing with all the recommendations by staff. Commissioner Srock seconded. 5 in favor, 1 opposed. Motion carried. Roll Call below:

Postma – Aye  
Swenson – Aye  
Salas Ramirez – Aye  
Stewart – Nay  
Burroughs – Aye  
Srock – Aye

5 – Ayes, 1 – Nay

Commissioner Swenson motioned to adjourn the meeting. Commissioner Burroughs seconded. All in favor, none opposed. Motion carried. Roll Call below:

Postma – Aye  
Swenson – Aye  
Salas Ramirez – Aye  
Stewart – Aye  
Burroughs – Aye  
Srock – Aye

6 – Ayes, 0 – Nays

Meeting adjourned at 7:04pm.