

Meeting Minutes

City Plan Commission

Monday, March 5, 2007

PRESENT: Acting Chairman Jerry Moore; Fred Steffen; Lois Feldman; Ann Shannon

(Excused, Ch. Mayor Wescott, Jeff Zabel, and Karen Aldinger)

ALSO PRESENT: Comm. Dev. Dir. John Gardner; Ald. Sevenich, Hanson, Trzebiatowski, Molski, and Stroik; Andrew Halverson; Reid Rocheleau;

Fran Seidl; Mary Ann Laszewski; Norm Myers Sr.; Mildred Neville; James Gormley; Tom Stubinski; Joseph Neuberger; Mike Westberg; Bill

Yudchitz; Gene Kemmeter, Po. Co. Gazette

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1. Approval of the February 5, 2007 Plan Commission Minutes

Lois Feldman moved, seconded by Ann Shannon, to recommend approval of the February 5, 2007 minutes. Ayes all; Nays none; Motion carried.

2. Planned Unit Development (PUD) Zoning - Schmeeckle Trails Subdivision

John Gardner stated we waited for the permanent zoning because it is easier to describe now that the subdivision, outlots and the restrictive covenants have been recorded. The developer has placed a number of controls on where the buildings can be placed which lends itself better to Planned Unit Development Zoning than traditional zoning. Staff recommends approval of the PUD zoning for the subdivision and the outlots. We will probably be adding to the PUD if the development expands to include the church and the project on Stanley St. as previously proposed.

Reid Rocheleau, Whiting, stated he is opposed to the PUD zoning and feels the proper zoning should be "R-LD" Residential Low Density Zoning which is consistent with the zoning criteria and the developers advertising of "not having to go north to have your nature retreat".

Mary Ann Laszewski stated consideration should be given to "R-LD" Zoning which is described as being designed for land use on the fringe of a city to help preserve open spaces, natural scenic qualities along shorelines, wetlands, and community parks.

Ann Shannon stated during our long-range planning we talked about trying to incorporate different types of development into the city.

Ald. Trzebiatowski noted the subdivision shows a walkway between lots 11 and 12. This area is supposed to be an access to a bridge across Mosey's Creek. Isn't that part of the retention pond and are people going to be walking through a wet area.

Bill Yudchitz responded there will be two underground culverts and also rip-rap to keep the area dry..

Fred Steffen moved, seconded by Ann Shannon, to recommend approval of Planned Unit Development (PUD) Zoning for Schmeeckle Trails Subdivision and to include the conditions as stated in the restrictive covenants and the subdivision plan.
Ayes all; Nays none; Motion carried.

3. Amend Sideyard Setback Requirement in Two Family Zoning District

John Gardner stated the current ordinance in Two Family zoning allows for a total sideyard of 15', one side not less than 6' with the other side being 9'. In a zero lot line situation with the property line down a common wall, property owners have questioned why their neighbors sideyard is required to be 6' and they can have 9'. And, what do we do when they want to expand a house, do they have to comply with 6' or 9'. We suggest a **7 1/2' setback on each side for everyone which would still equal the 15' total sideyard setback. The zero lot line designation was changed to a** permitted use several years ago, but the chart was not changed. He suggested adding common-wall zero lot line that to the setback chart. The 100' lot minimum width for two-family lots would be new and would be less than or equal to all the new duplex lots that have been permitted.

Mary Ann Laszewski stated the "R-3" Two Family Zoning is the only district requires a total of 15' sideyard setback. The other zoning districts, including single family, require 20' or more. It seems that when you go from single family to two family, more space would be required for green space, snow storage, and just distance between neighbors.. She agrees that the sideyards should be equal, but feels all lots should be standardized and be 10' on each side. We have not come up with a plan as to how much room a building should take on a lot.

Ald. Sevenich noted she was happy to see that the proposed 100' minimum lot width would prevent an owner from constructing a duplex "sideways" on a lot. There are a few apartment buildings set sideways on a lot and it destroys a neighborhood.

Mildred Neville, 1409 Franklin St., stated the 10' setback on each side makes sense.

John Gardner noted the current two family sideyard setback predates him and was part of the ordinance in the 1970's and hasn't been addressed since then.

Ann Shannon questioned why would we change the setback today if there will be more conversation on this in the next couple of months.

John Gardner noted we have some cases where people have put a structure on a duplex lot, want to split it, and question the difference between 6' and 9' setbacks. It would be cleaner for administration and public understanding. We are not proposing a change to density. The setback is 15' now and it will be 15' when this is done. It's just a matter of how you divide it up. After the new mayor is elected would be the appropriate time to look at lot area coverage and density if the new mayor chooses.

Bill Yudchitz noted the State Building Code does not allow a window in a residential building with 10' or less setback. (Editor's note: subsequent investigation shows the Uniform Dwelling Code allows windows in residential dwellings less than 10 ft from a lot line.)

Lois Feldman questioned if we pass this today, would staff bring up the issue of larger setbacks in a month or two.

John Gardner responded it will be at the direction of the new mayor.

Ald. Stroik questioned if it would have to be directed by the mayor. Couldn't the Plan Commission make a motion today to direct you to look at the bigger picture. Gardner said he didn't know Robert's Rules well enough to answer.

Ann Shannon noted we cannot change the 10' issue today. She would like the minutes to reflect that we would like staff to look at the sideyard setback issue.

Fred Steffen moved, seconded by Lois Feldman, to recommend approval of the amendment to change the minimum sideyard setback in Two Family Zoning to 7 ½' on each side in lots created after March 21, 2007, a minimum lot width of 100' for Two Family dwellings, and a minimum 7,000 sq. ft. lot area and 50' lot width for zero lot line development with a common wall. Ayes all; Nays none; Motion carried.

4. Approve 2007 Public Works Projects

John Gardner presented the list of proposed public works projects.

Lois Feldman moved, seconded by Fred Steffen, to recommend approval of the Public Works Projects proposed for 2007. Ayes all; Nays none; Motion carried.

5. Sign Variance for 4917 Main St. - La Quinta Inn

Jim Gormley, Foley & Lardner, stated he represents the La Quinta Inn, stated they are requesting a variance from the requirement that prevents us from changing the shape at the top to match the La Quinta logo. We are asking for a change to the shape without having to conform with the height requirement. The height of the sign is important because of visibility. We would appreciate your consideration of the small step that we would like to take beyond the limits of your sign ordinance to just change the shape of the top of the sign.

John Gardner provided photos and noted the ordinance allows changes to the sign of less than 50% of value which is typically a face change. To do more than that requires a variance. He reviewed the purpose of the Sign Ordinance. If a variance is granted for this type of sign, essentially you are granting a variance for all the signs that are nonconforming. Staff feels the request does not rise to the level of a variance and doesn't meet the necessary standard as a hardship or practical difficulty, there are no conditions that are unique to this property, and the granting of the variance would be contrary to the general objectives of this ordinance. The motel is referenced on the exit signs from the interstate. He feels the 20' Target sign is more effective than a taller sign because it is more in the field of vision. For all these reasons, staff recommends denial of the request.

Ald. Trzebiatowski agreed that lower signs do catch the eye. The La Quinta name alone is a better benefit than any changes to the sign.

Lois Feldman felt if we approve this, we would be opening up for other possibilities.

Bernie Pretat, La Quinta General Manager, noted there is no proposed height difference, just the shape of the sign.

Acting-Chm. Jerry Moore responded the request is to change the entire sign and the change would allow a maximum height of 150 sq. ft. If you keep what you have, you have 250' sq. ft.

Lois Feldman moved, seconded by Fred Steffen, to recommend denial of the request for a sign variance at 4917 Main Street because the request does not rise to the level of a variance, does not meet the standard of unnecessary hardship or practical difficulty, there are no conditions that are unique to this property, the motel is referenced on the exit signs from the interstate, and the granting of the variance would be contrary to the general objectives of this ordinance. Ayes all; Nays none; Motion carried.

6. Conditional Use - Trucking and Excavation Contractor - 701 Mason St. - Tony's Landscaping

Gary Karner, Tony's Landscaping, provided background on his business on Minnesota Ave. He wants to move his business from Minnesota Ave. to Mason St., clean up Mason St., set up his bins in the front of Mason St., and store his stock piles in the back of the building.

John Gardner stated the site is zoned "M 2" Heavy Industrial. He provided photos of the property and described the mix of industrial and residential uses in the area.

Acting Chm. Moore asked what types of businesses are allowed in Heavy Industrial without approval by this committee.

John Gardner responded that truck terminals, waste disposal plants, manufacturing of all sorts of paint and plastics, wholesale distributors, and building contractor and storage yards, are some of the permitted uses.

Reid Rocheleau provided a flood plain map of the area and stated he is opposed to granting this conditional use, but is supportive of finding a better location. He reviewed the application dated November 21, 2006 which is incomplete because the property owner line on the application is blank. He stated the owner was different from the applicant. The property transfer was not registered until January 24, 2007. He has talked with Deb Pingel from DNR who was under the impression that this matter was dead because she hasn't heard from Mr. Karner since December. The DNR should be involved because the former city landfill is on this property. The city owns 118 acres in this area and could make better use of this property such as a soccer field. The city should have purchased this property instead of Mr. Karner. We should be horsetrading with Mr. Karner for this property and getting him out in the Industrial Park along Brilowski Road where he would have proper zoning, good exposure, and easy access for his trucks.

Mildred Neville noted Mr. Gardner's memo states that recommendations are being withheld pending public input from the neighbors. She has talked with some of the neighbors and they have not received any notification from the city. The application was turned in November 23, 2006 when the person did not own the property. There is a stamp on the application of January 4, 2007 when the applicant still did not own the property. The drawing submitted by the developer doesn't reflect the same overall shape of the actual property. You think your seeing something that corresponds with reality. This matter should be stopped today. You should get a new application that is initiated after the person owns the property, you should notify the neighbors and give them time to look into it and respond if they want to.

John Gardner responded the mailings to the neighbors went out last Wednesday and are mailed to the address where the tax bills are sent.

Mary Ann Laszewski stated she knows Mr. Karner is a hard working businessman and deserves our support. There appear to be too many challenges and concerns at this location.

There are large sections of the southerly lot that are not usable because of the landfill, wetlands, and drainage ditch. Any digging or disturbing of the landfill could cause liability issues for the city. We need to enforce the monitoring of the landfill, and we need a response from the DNR regarding the management of the wetlands and storm water runoff. The staff report states typically the city doesn't allow storage in the front of the property, or heavy industrial across from residential. Why are we making these exceptions for this particular property. Already heavy truck traffic will increase on Mason St. As taxpayers, we own the low income homes across the street and should maintain an interest in the quality of life and protect our investments in those homes. Let's buy the lot back from the developer for the city. This proposal is not compliant with conditional use standards #1, #2, #4, and #13. Sec. 23.04 of the Zoning Code states that all conditional use standards are mandatory, we don't have a choice. All of the standards need to be met for a proposal to be compliant. This proposal does not meet them.

Gary Karner noted he has met with Deb Pingel from DNR and city engineers several times on the property. The area has been tested and there is no contamination. He has a landfill charge of \$3,000 from cleaning up the property of tires, appliances, iron, and litter.

John Gardner stated Tony's Landscaping would not be allowed in the County Business Park because they would not meet the investment standards nor would they want outside storage.

Fred Steffen moved, seconded by Lois Feldman, to recommend approval of the conditional use request to operate a trucking and excavation contractor business at 701 Mason Street with the following conditions: no excavation be allowed on the former landfill, storage in front of the building be limited to no closer than 40 feet to the front of the property, and screening be placed within the 40 ft. setback.

Ald. Stroik noted this is not a question of Tony's Landscaping, but the risk of the landfill and no written DNR documentation. If we have to table it for another month, that's what we ought to do.

John Gardner responded there have been meetings at the site with DNR. The DNR and the city are aware of the landfill and know the use that is being proposed. The DNR did not object to the proposed use. This property was sold by the city prior to the federal Resource Conservation & Recovery Act. It is the city's position that the owner is responsible for the contents, not the city. Even though it was a city landfill, it is the owners responsibility and he is aware of that. The proposed area for storage is east of the landfill area. We have talked with the owner about buying at least a portion of the site that is landfill and bringing it back into city ownership. That is unresolved. He would be happy to contact Deb Pingel at DNR to see if she would be willing to write her position.

Fred Steffen suggested documentation from DNR for Common Council meeting.

Andrew Halverson asked if city staff feels confident enough in the restrictions placed on this property in the conditions that no excavation happen on any of the landfill. Do they feel comfortable that is strong enough wording in this particular motion and move forward.

John Gardner responded he feels as comfortable as can be. The most comfortable would be for the city to own it.

Mary Ann Laszewski asked which real estate agent sold Mr. Karner the property.

Gary Karner responded he worked with Chuck Erickson and Kyle Parrish at Re-Max Realty.

Mary Ann Laszewski asked whether Mr. Steffen feels he should abstain from voting.

Fred Steffen stated he would abstain from voting.

Discussion followed regarding whether there would be a quorum if Fred Steffen abstains from voting.

Andrew Halverson noted the act of abstaining would not necessarily nullify a quorum. You have a quorum and if Fred decides to abstain, that isn't an act that would alter the quorum of the general meeting itself. He thinks you can act on it.

Fred Steffen withdrew his original motion.

Lois Feldman moved, seconded by Acting-Chairman Moore, to recommend approval of the conditional use request to operate a trucking and excavation contractor business at 701 Mason Street based on compliance with conditional use standards #1, #2, #3, & #4, and to include the following conditions: no excavation be allowed on the former landfill, storage in front of the building be limited to no closer than 40 feet to the front of the property, and screening be placed within the front 40 ft. setback..

Acting Chm. Moore said we will talk with the city parliamentarian, and if we are incorrect on acting on this, it will come back to the Plan Commission next month. If we are correct, it will go on the City Council in two weeks.

Ald. Stroik asked if any part of his business will be on the back lot. Can the city make a condition that we must purchase the dump property at fair market value before we issue him his condition.

Gary Karner responded that DNR noted the entire site has to be surveyed before anything can be sold again.

John Gardner suggested that we restrict the storage area first and deal with the acquisition later. A condition can be made that the storage to the south of the building be only in the areas that do not appear to be landfill.

Lois Feldman and Jerry Moore accepted the condition that storage be allowed only on areas not a part of the former landfill as part of their motion.

Reid Rocheleau noted the application is flawed and this should be postponed.

Mildred Neville noted this should be withheld pending input from neighbors.

Final motion reads as follows:

Lois Feldman moved, seconded by Acting-Chairman Moore, to recommend approval of the conditional use request to operate a trucking and excavation contractor business at 701 Mason Street based on compliance with conditional use standards #1, #2, #3, & #4 and to include the following conditions: no excavation or storage be allowed on the former landfill, storage in front of the building be limited to no closer than 40 feet to the front of the property, screening be placed within the 40 ft. setback, and the storage to the south of the building be only in the areas that do not appear to be landfill.

Ayes, Feldman, Moore; Nays, Shannon; Abstained, Steffen. Motion carried.

7. Conditional Use - Expand/Remodel Tavern - 1200 Park St. - Congress Club

John Gardner stated taverns are a conditional use. The request is to expand the bar area into an existing storage area. Because the perimeter of the building is not being expanded and the request is considered remodeling, no additional parking is required. Staff recommends approval of the request.

Jerry Moore moved, seconded by Fred Steffen, to recommend approval of the conditional use request to expand/remodel the tavern at 1200 Park St.

8. Telecommunication Tower - 5370 Hwy. 10 East

Conditional Use as Stealth Tower

Amend Commercial Ordinance Setback Requirement

John Gardner stated the request is for a regular 150' telecommunication tower with antennas closer to the tower as shown on the photo. It doesn't look like a flag pole, it looks like a tower with antennas on top. If you want to allow the tower, the Plan Commission can approve the proposal as a stealth tower and allow the lesser setbacks or you can amend the ordinance to require larger towers with lesser setbacks. You can say we will allow it in commercial zoning because we don't mind looking at towers anymore or you can say no, we like the restrictions of La Crosse and Wausau, and require vendors to hide them as best they can. He reviewed the restrictions of other communities. The regulations are a balancing act between the number of towers, coverage, and height. The shorter the towers are, the more towers there has to be.

Fran Seidell, representing U.S. Cellular, stated their request is for a 130' tower and not 150', and it is designed so that it will also house two additional carriers which would reduce the number of towers that you would see in the vicinity. The purpose is to create more in-building coverage.

Ann Shannon noted there are more and more of these towers and she is not getting used to them. She is struggling with the fact that with technology going as quickly as it is, where will it end? She is leaning toward higher towers and less of them.

Ald. Trzebiatowski felt a traditional pole in this area is more appropriate.

Ald. Hanson questioned at this height, will there be a light and would there be any problems with planes landing.

John Gardner responded it meets the height restriction map for the airport and he does not believe lights are required.

Fran Seidell noted lights are not required on top of a tower unless it is within an airport area that it is going to be a problem, or it is 200' high.

Fred Steffen questioned if we are proposing that we modify the 120' to 130' or 150' and make everything equal at 150'? If we allow this one in commercial, then legitimately all of them in commercial should be 150'.

John Gardner responded we have the absolute ceiling that we do not want to go above as far as the airport height restrictions. When you look at the chart, the tower height numbers are all over the board. It is your decision as to what you want to do.

Fran Seidell noted if you are not ready to make a decision, we are fine with tabling.

Discussion followed and commissioners felt in order to treat all applications equally, we should have some history of previous towers that have been approved and information regarding definitions of "stealth" towers.

Fred Steffen moved, seconded by Ann Shannon, to postpone this item until the April meeting for more information. Ayes all; Nays none; Motion carried.

Meeting adjourned at 6:10 p.m.

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