

PLANNING AND ZONING COMMISSION MEETING – NOVEMBER 9, 2016

The Regular Bi-Monthly Meeting of the Andover Planning and Zoning Commission was called to order by Chairperson Daninger on November 9, 2016, 7:00 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

Commissioners present: Commissioners Scott Hudson, Bert Koehler IV, Kyle Nemeth, Steve Peterson, and Jeff Sims.

Commissioners absent: Timothy Cleven

Also present: City Planner Stephanie Hanson
Others

APPROVAL OF MINUTES.

August 23, 2016

Commissioner Nemeth requested the following corrections:

- Page 4, Line 33, remove the asterisk
- Page 5, Lines 1 and 40, Mr. “Simms,” should be spelled with one “m.”

Motion by Nemeth, seconded by Hudson, to approve the minutes as corrected. Motion carried on a 4-ayes, 0-nays, 2-present (Koehler and Peterson), 1-absent (Cleven) vote.

PUBLIC HEARING: Interim Use Permit Amendment – Mining – Andover Boulevard and Butternut Street NW – Mark Smith

City Planner Hanson noted the purpose of this item is to hold a public hearing and take input on an Interim Use Permit (IUP) extension. Mark Smith has requested an extension of the original IUP with the expiration date of December 1, 2016 to December 31, 2017.

On April 21, 2015, City Council approved an IUP to allow mining on the properties Mr. Smith owns at Andover Boulevard and Butternut Street. The materials will be transported and used for the residential development known as Catcher’s Creek 2nd Addition. Materials will be used for soil corrections needed for the construction of streets, overall site grading and building pads.

Mr. Smith hoped to start hauling material to the Catcher's Creek 2nd Addition during the month of November. The duration of the project will last no more than three weeks. However, since it is the end of the hauling season and because of potential inclement weather conditions, the hauling may not ensure the project can be completed in 2017, in the event of unforeseen circumstances such as inclement weather, spring rains, road restrictions, etc.

City staff reviewed the proposed IUP extension and has no issues with the request. The overall project is being completed in two phases. The first phase is completed. The site was restored in a timely fashion and Mr. Smith met the conditions of the resolution.

The Engineering Department completed a review of the proposed plan. As part of the review process, the Engineering Department verifies that after the removal of the materials, the final grade of the site will still allow for future development to occur.

A permit from the CCWD has been approved. Silt fence and seeding to establish groundcover after project completion will be required through the CCWD permit.

The Interim Use Permit criteria were presented. City Planner Hanson reviewed the proposed IUP with the Commission. The Planning and Zoning Commission was asked to hold a public hearing, review the proposed Interim Use Permit extension and make a recommendation to the City Council.

Commissioner Nemeth asked if the City had received any complaints from any of the residents about issues such as dust. Ms. Hanson confirmed that they had in the past. Mr. Berkowitz had indicated that Mr. Smith was very receptive, keeping the street sprayed and working with the homeowners. Mr. Nemeth continued by asking why the deadline of December 31, 2017. Ms. Hanson responded that it is unknown if it will be a late or early spring, and this way Mr. Smith will be guaranteed a whole season to complete the work and then he assumed that the City staff would need to inspect.

Commissioner Peterson asked if this was the project that when it originally came to the Commission, that the neighbors complained about power washing their homes. Ms. Hanson replied that yes, this was that same ongoing project. She stated that there was a CUP originally on this site and there were issues at this site. With the IUP, the dust has been controlled more and turf was established in a timely manner.

Chairman Daninger asked if this resolution mirrors the original one. Ms. Hanson replied, yes, including the hours, dates and times. He also inquired if any staff issues delayed Mr. Smith or why it had not been done. Ms. Hanson noted that there had been some issues with the flood plain on the site, so he has been working with the CCWD and the City, and also economic reasons. Ms. Hanson recalled that the original request was for 2017, but it was changed to 2016. This recommendation came from the Planning and Zoning Commission. She reconfirmed that this was a change from the applicant's request.

Motion by Koehler, seconded by Peterson, to open the public hearing at 7:14 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Cleven) vote.

Carmen Mohncamp, 140 NW Andover Boulevard, stated her property is right next to the property where the dirt is located. She stated that if someone had driven past it, they would see that there are now tall weeds there. She complained that the weeds come into her yard and it is a lot of work to remove them. She asked about putting down the “blue or green stuff.” She also asked what time of the day Mr. Smith can haul dirt. Commissioner Koehler replied 7 am – 6 pm with no hauling on the weekends.

Chairman Daninger stated that the staff hears the concerns of the residents and complimented her expression of her concerns.

Arlene Elin, 137 Andover Boulevard, described her home as the one where the trucks come out and turn. She stated that she had talked to Mr. Smith and she waited to see if there was more hauling being done. For her the issue is not about progress, but rather prolonging it. It took all summer the last time and Mr. Smith sent a street sweeper. She said that she hired someone to come out and power wash the house because she gave up trying to clean it herself. Because the power washing had to be done with chemicals, plus traditional power washing, her home had to be repainted. She noted that the other buildings that were not power washed with chemicals do not need paint. Her total cost was \$7,200. She noted that there was some hauling a couple of weeks ago and there was nothing all summer. She said she would like to “get this behind us” and if it could be done in 2-3 weeks. The field that was talked about she believed never got done [planted with seed] or was not done right. She stated she did not have a problem with the development itself. She also believes that homeowners should be able to work directly with Mr. Smith on concerns and that she was not there to represent others. She stated that she knows one neighbor who had family members power wash her house for her. In conclusion, Ms. Elin indicated that she appreciated the Commissioners listening to her.

Chairman Daninger commended Ms. Elin on her presentation and for being clear and concise.

Mark Smith, 2120 Otter Lake Drive, Lino Lakes, developer, came to the podium for questions.

Commissioner Koehler stated that he had heard that Mr. Smith had been talking to the neighbors and thanked him for spraying the roads.

Mr. Smith stated that there are two areas, the one on the east side of Butternut was seeded and mulched with hay and wet down. He noted that there was a lot of rain this year. The area next to Mrs. Mohncamp’s property was never touched. It is just the original field as it was. He said that they may take some soil in the future from that location, but not thus far. They have worked to control dust by using magnesium chloride and by controlling the route.

Commissioner Koehler stated that he thought the timing would end at the end of December 2016. Mr. Smith responded by explaining that there was an easement discussion related to the right-of-way that caused a three-month delay. That was approved just now and the season is coming to an end this year. In the spring, they must wait for road restrictions to come off, which is around May 15. Areas must be dry to dig dirt, a wet spring could delay the work and then they have to wait for the timing of the subs and the timing of their work.

Commissioner Koehler reiterated that the project was tied up with the weather, and it was now coming into winter, and asked clarification as to why the deadline would be the end of December of next year. Mr. Smith said that this had been an unusual year and that the job will require three weeks of hauling and two weeks of preparation. He is worried that there will not be the five to six weeks needed yet this year and that this year it was wet all summer. He further stated that companies do not want to leave their equipment at a site all winter.

Commissioner Koehler wondered why they were pushing for a date of December 31, 2017 if this year is the nicest it is going to get. Mr. Smith replied that if the watershed issue had not stalled the work, the work could have gone until December 1 and if they had started the work three to four weeks ago, they could have completed it.

Commissioner Nemeth stated that he agreed with Commissioner Koehler, and that December 31, 2017 felt a little long. He said that he felt for the residents that have had to endure the trucks going down the street and that he agreed with Ms. Elin. He acknowledged that weather is an issue and encouraged Mr. Smith to get the work done in a short period of time and to continue to work with the neighbors. He concluded by saying that the City needs the lots, but that it is important to be good to the neighbors and keep the dust down as much as you can and that he might prefer to shorten it up the length of time.

Commissioner Hudson asked if it was a four to five-week project. Mr. Smith confirmed that it is a short-term project and that it was a four to five-week project if all goes well.

Chairman Daninger commented that “we cannot always fix everything at the right time.” There were not weeds because the contractor planted it and the dirt was not disturbed by the project. He suggested that a lawn mower might fix that, and clarified that was a statement, not a motion. He postulated, “Can we just make this for two months?” And asked if Mr. Smith was hauling based on when the lots are sold. Mr. Smith stated he was not.

Chairman Daninger asked if the only reason to stop would be due to weather. Mr. Smith stated that once the equipment is there he has to pay for it. Chairman Daninger stated that he was clear on the start and finish.

Ms. Hanson noted that the materials will be brought to the Catcher's Creek 2nd Addition. The plat has not been finalized.

Chairman Daninger reiterated that "once you say good to go, that is it."

Mr. Smith noted there will be a plat for the Butternut Street properties as well and there will still be excess dirt probably and then the developer will need to come back to the Commission again.

Ms. Mohnkamp said that she would like to ask Mr. Smith how much he is going to take off of the dirt right next to her property, which she said was 20 feet from her house. She asked about the huge equipment and if it would rattle her house and if it could crack the foundation. Ms. Hanson replied that 57,000 cubic yards is what is being asked to be approved. Ms. Mohnkamp stated that it is going to be really loud and asked if he could put up a silt fence. Ms. Hanson confirmed a silt fence is a requirement of the permit.

Ms. Elin asked how the soil would be prepared when the dirt movement is done. Ms. Hanson confirmed that it is a requirement to seed and restore.

Motion by Nemeth, seconded by Sims, to close the public hearing at 7:42 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent vote.

Commissioner Daninger asked if there were questions of Commissioners and staff.

Commissioner Nemeth asked about the December 31, 2017 date.

Commissioner Koehler reiterated that Mr. Smith wants this done as soon as possible because he cannot sell the homes without the grading being done. The project is four to five weeks, but could be longer due to weather. His concern is that he does not want this work done in the neighborhood during the holiday season. He expressed concern about the permitting process being day driven, not timeline driven and that this does not mean he is working the whole time. He wondered if there might be a creative way to give the time Mr. Smith needs, that gives homeowners a window and is still flexible.

Commissioner Hudson said that his thought process is similar with two months to do the work. He would like the developer to pick a start date and finish and that he was not so concerned about what date.

Ms. Hanson stated that in the past we have not given a two-month permit. If there were extenuating circumstances, there would need to be public hearings to extend the IUP.

Commissioner Koehler asked if it could be defined further.

Commissioner Peterson asked if one of the conditions would be that work will stop eight to ten weeks after the start of hauling. Ms. Hanson stated that the Commission could make that recommendation as part of the resolution.

Commissioner Sims expressed concerns if Mr. Smith would run into a problem, he would have to come back and ask for an extension. He also asked if the neighbors could be notified.

Commissioner Peterson confirmed that it was clear that all parties want to get it done, but it is more about notification than when it is going to take place.

Commissioner Sims stated that the neighbors could plan accordingly if notification was given.

A resident spoke from the audience.

Commissioner Daninger confirmed that this is a public notification and a public hearing. The residents have been notified that this is what this hearing is for. His concern was that the notification has a big window.

Mr. Smith stated that the dirt is going to a plat being worked on by staff. That preconstruction meeting could be that notice and that he is happy to notify.

Commissioner Daninger said he would like to be able to start the clock and say 8 weeks, but there is no way to know when that will happen and that he did not know if anything could be done in the resolution. He expressed not wanting to hinder the applicant.

Commissioner Nemeth stated that he agreed and his slight hesitation was not wanting to “box him into 8 weeks and then we get a lot of rain.” He does not want the applicant to have to come back to the Commission. He would like some leeway, but does not want the project drawn out for 12-15 weeks. It needs to be expedient as much as possible. He encouraged the residents to contact staff with any concerns wanting to balance the desire for new lots with care for current residents.

Commissioner Koehler said that he was hesitant to say eight weeks arbitrarily, as we have not put the tool in place to know how to do this as a time block. He suggested looking as a Commission at this process in the future, the principle being, once this project starts, the applicant must work steadily toward completion, barring an act of God.

Motion by Koehler, seconded by Nemeth, to recommend to the City Council approval of the resolution. Motion carried on a 6-ayes, 0-nays, 1-absent (Cleven) vote. The resolution was modified and the staff was asked to help with the wording:

5. The end date would be November 30, 2017.

11. Once the project starts, the intention would be to continue the work, uninterrupted, per terms of resolution until finished, barring unforeseen circumstances.

City Planner Hanson stated that this item would be before the Council at the November 15, 2016 City Council meeting.

OTHER BUSINESS.

City Planner Hanson updated the Planning & Zoning Commission on related items.

On August 23, the City Council did approve with condition, the Preserve at Oak View. The final plat was approved on October 4. The streets are in now and looks good.

The final plat for the Gray Oaks 4th Addition was approved. There have issued 6 building permits already.

The Estates of Arbor Oaks is under construction, opening July 2017.

The ReMax building certificate of occupancy will be issued in the next week. December 15 will be the Grand Opening.

Andover Vet hospital certificate of occupancy will happen soon. They are bringing in equipment now.

The certificate of occupancy for the AT & T store has been issued.

There have been 103 building permits issued so far this year.

The City received a \$32,000 planning assistance grant. The funds will be used to update the Comprehensive Plan. The update will begin in February 2017. Most of the funds will be used to hire a consultant for the Transportation Plan.

Planning and Zoning Commission terms are up at the end of January 2017. Applications are due December 9.

Chairman Daninger stated that residents who are interested in being active in the City could be involved in the Commissions.

Commissioner Nemeth asked how many lots are remaining in inventory in the City. Ms. Hanson stated that she does not know the current count and could come back to the Commission with that information.

Commissioner Nemeth asked about the hiring of a new Community Development Director. Ms. Hanson said an announcement had not been made yet.

Ms. Hanson stated that the Commission may have a work session in December with a preliminary plat to review as well as a CUP.

Ms. Hanson confirmed that Speck consulting was the firm selected to update the transportation plan.

ADJOURNMENT.

Motion by Koehler, seconded by Nemeth, to adjourn the meeting at 8:10 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Cleven) vote.

Respectfully Submitted,

Marlene White, Recording Secretary
TimeSaver Off Site Secretarial, Inc.