

PLANNING COMMISSION MINUTES

DATE: August 27, 2012

TIME: 4:30 p.m.

PRESENT: Chairperson Porter; Commissioners Ballard, Olson, Buelow, Eyden, Gromek, Boettcher and Davis

ABSENT: Commissioner Briggs

STAFF PRESENT: City Planner, Mark Moeller and Assistant City Planner, Carlos Espinosa

The meeting was called to order at 4:30 p.m. by Chairperson Porter.

Approval of Minutes – August 13, 2012

The minutes from the Commission's meeting of August 13, 2012 were reviewed and upon motion by Commissioner Olson and second by Commissioner Ballard were unanimously approved as submitted.

Public Hearing – Nonconforming Ordinance Amendment

Chairperson Porter called on Assistant City Planner, Carlos Espinosa to provide a summary of this item. Mr. Espinosa noted that during its meeting of August 13, 2012, the Commission had reviewed a number of potential amendments to City Code Sections 43.32 and 43.32.1 pertaining to the regulation of nonconforming uses and buildings within the City. Given that discussion, staff had recommended a number of potential amendments to these sections including:

1. The addition of language that reflects Minnesota Statutes Section 462.357, Subd. 1e. Mr. Espinosa noted that although nonconformities that are created by changes in regulations are generally allowed to continue under state code, this particular section permits the City to impose reasonable regulations or conditions to prevent and abate nuisances and to protect the public health, safety, and welfare. Per this regulation, reasonable regulations or conditions may be imposed by the City on a nonconformity through a recordable instrument approved by the City Council, including a nonconformity agreement, or otherwise by permit, or order, of the City Council. Given discussion with the City Attorney, it was strongly recommended that this language, or reference to it, be added to the ordinance.
2. The second significant amendment relates to clarifying when and how nonconforming uses may be modified. Given current staff recommendation, the following language was proposed:
 - Nonconformities may be expanded as follows:

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1. Nonconforming uses may expand upon issuance of a conditional use permit only when listed as a conditional use within the applicable zoning district.
2. Nonconforming uses not listed as a conditional use may only expand if change to a conforming use.
3. Nonconforming lots, structures, or site characteristics may expand only upon approval of a variance.

Mr. Espinosa noted that these amendments would prevent nonconforming uses, not listed as "conditional", from expanding at all, while allowing conditionally permitted uses to expand through a conditional use process.

3. Given previous discussion, it was further proposed that greater clarity be given to the definition of the term "expansion". Criteria proposed for this included:
 1. An increase in: structure dimensions, size, area, height, width, number of units, useable floor area and/or land area of use;
 2. Addition of a structure or part thereof;
 3. Addition of equipment. This shall not apply to new equipment which constitutes merely an improvement over the previous method and does not constitute a change in the nature and purpose of the original use of a property;
 4. Relocation of operations to a new location on the property not previously used unless the relocation reduces or eliminates the nonconformity.

At this point, Chairman Porter opened the public hearing, and called for any person that wished to speak to present first their name and address. There being no one present to comment, the public hearing was closed.

Following brief discussion, it was moved by Commissioner Eyden, and seconded by Commissioner Boettcher, to recommend approval of the proposed ordinance attached to this agenda item. When the question was called, the vote of the Commission was unanimous to approve the motion.

Sand Moratorium Study: Traffic Impacts

Chairperson Porter noted that prior to discussing this item, any person desiring to speak to the sand moratorium issue would be given an opportunity to do so. Given this, he asked if a person from the CASM group was present to provide comments this afternoon.

Steve Schild noted that he had been asked by CASM member, Marie Kovesci, to provide comments related to traffic impact summary information and other traffic issues to be discussed by the Commission this afternoon. At this point he summarized those comments as fully contained on Exhibit A of the permanent minutes.

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Given additional invitation from Chairman Porter, no one was present to provide comments on behalf of the Blasting Committee or Frac Sand Industry. In calling on comments from any person of the general public, the following persons spoke:

- Jill Johnson, 1109 West Howard, noted traffic concerns of Gould and Cummings Streets. She explained that although these are truck routes, they do pass through residential areas. As such, she was concerned of future congestion and health issues that may result in relation to increased frac sand operations in the City. She strongly recommended that comprehensive traffic impact studies be conducted of either of the industry, as a whole, or on a use by use basis.
- Jeff Falk, Fountain City, stated that there doesn't seem to be a consensus as to the total number of trucks that could be expected to come into the City as part of this evolving industry. Given this, he asked how it was feasible to plan for anything while this uncertainty exists.

Following closure of the public comment phase, Chairman Porter called on Assistant City Planner, Carlos Espinosa to provide a summary of this issue.

Mr. Espinosa stated that the movement of frac sand in Winona generates significant amounts of truck traffic. The potential off-site impacts of truck traffic are one of the reasons a Conditional Use Permit was recommended for new sand processing and transportation operations. Based on numbers from approved Conditional Use Permit applications, completed site by site analyses, and discussions with operators, staff has assembled a map of approximate truck traffic generated at various sand facilities in Winona. These numbers are approximate and vary widely depending upon a number of factors including:

1. Market prices for frac sand;
2. Season;
3. Rail car storage capacity;
4. Availability of rail cars and barges.

Mr. Espinosa emphasized that given his discussion with current operators, Winona is at, or near, capacity for rail car storage. Additionally, the main rail line used to move sand out of Winona is very busy and significant amounts of train traffic cannot be added without disrupting the transport of other commodities. Thus, without increases in rail storage capacity or room on the main line, the truck traffic numbers on the map attached to the staff report are unlikely to increase significantly. Although there is room for expansion in barge traffic, this is severely limited by Conditional Use Permit requirements for such transportation facilities. Also, additional truck traffic from any other new facility in Winona is also limited by the Conditional Use Permit requirement (which would presumably set a number of the maximum number of trucks per day serving a facility).

Outside of the previous, Mr. Espinosa stated that Dave Christianson from the Minnesota Department of Transportation and Tom Beekman from the Wisconsin Department of Transportation were present this afternoon to present PowerPoints of the industry and

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how it is playing into transportation issues within their respective states. PowerPoints are reproduced as Exhibits B and C of the permanent minutes. Given these presentations, the consensus of the Commission was that information that had been presented this afternoon was excellent. Mr. Espinosa stated that he would locate both PowerPoint presentations on the frac sand website of the City. During ensuing discussions, both presenters provided additional data relative to train capacity and use. Both indicated that compression factors are being experienced in both States. Given that the problem appears to be a bit more significant on the Minnesota side, greater efforts may be made in promoting shipping from various locations in Wisconsin. With this, truck traffic may shift away from the Winona market. However, both speakers indicated that, given the evolving nature of the industry, all of this was speculative.

Chairman Porter thanked both speakers for attending this afternoon's meeting. At this point, he reopened the public mic process. There being no one to speak further to the traffic impact issue, the public mic process was closed.

Sand Moratorium Study: Site by Site Analyses- Gould Transport Operation & 370 West Second Street

Chairperson Porter called on Mr. Espinosa to provide a summary of these analyses. Mr. Espinosa then summarized present operational and facilities plans for the Gould Transport Operation (Mikrut) and 370 West Second Street (Modern Transport). Given those analyses, the following specific recommendations were presented for each site:

Gould Transport Facility

1. Completion of a Fugitive Dust Plan. A fugitive dust control plan for the Gould facility is recommended to be filed with the City. The plan should detail what activities on-site could create dust, identify dust control strategies, and specify an inspection schedule.
2. Moisture Testing. Moisture testing of the sand at this site is recommended. Such testing should follow protocol as defined by the City.
3. Obtain Industrial Stormwater Permit. If applicable, such a permit is recommended to be obtained from MPCA.

370 West Second Street

1. Moisture Testing. Moisture testing of sand at the site is recommended. Such testing should follow protocol as defined by the City.
2. Obtain Industrial Stormwater Permit. If applicable, such a permit is recommended to be obtained from MPCA.

Mr. Espinosa stated that if the Commission concurs with the previous recommendations, a motion to approve them would be in order.

In addressing the Gould Street operation, Commissioner Olson asked if plans were underway to somehow improve or expand the shipping facility. Rich Mikrut, operator in

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attendance, responded that it was his hope that the site could be expanded at some point in the near future and that such a facility could be enclosed. Mr. Mikrut further explained issues that had resulted in the closure of access to his facility from Bierce Street. Because of this, delivered sand to his facility needs to move through other areas of the City, some including residential neighborhoods.

In response to a question from Chairman Porter, Mr. Mikrut stated that operators of facilities generally determine the most effective/efficient routes from sand sources.

It was noted that the operation at 370 West Second Street seemed relatively silent. Mr. Espinosa responded that activity at this site has been less than occurred in 2011. In part, this activity was the direct result of variations in market demands.

Given further discussion, it was moved by Commissioner Gromek and seconded to approve site analyses recommendations as presented for the Gould Transport Operation and 370 West Second Street this afternoon. When the question was called, the vote of the Commission was unanimous to approve the motion.

Mr. Espinosa noted that in developing the schedule for the frac sand issue, it had been proposed that a couple of round table discussions would be held. Given this, he was proposing that such a roundtable be established within the next two week period. Following discussion, the consensus of those present was that Tuesday or Wednesday, the week of September 10th would work for most.

Commissioner Olson said that the Commission had already addressed many issues. In his opinion, a roundtable discussion would only serve to open up additional discussion to issues that had already been thoroughly discussed. Mr. Espinosa stated that a purpose of the discussions would be to bring all recommendations into one discussion period. Commissioner Olson again noted concerns with the process while Commissioner Eyden suggested that it may be a good opportunity to summarize what has been discussed and agreed to thus far.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned.



Mark Moeller
City Planner