



Planning Commission Minutes

October 24, 2011

MEMBERS PRESENT: Commissioners Robert Hall, Dan Kitzberger, Josh Root, Tom Rublein, Maureen Scaglia, Dennis Schuller and Gordon Vizecky

MEMBERS ABSENT: Chair Rick Jabs

STAFF PRESENT: Melissa Poehlman, City Planner
John Stark, Community Development Director

OTHERS PRESENT: Pat Elliot, City Council

Acting Chairperson Kitzberger called the meeting to order at 7:00 p.m.

APPROVAL OF MINUTES

M/Hall, S/Vizecky to amend the minutes of October 3, 2011 to reflect that Commissioner Hall was absent.

Motion carried: 6-0

M/Rublein, S/Vizecky to approve the minutes of October 3, 2011 as amended.

Motion carried: 6-0

M/Rublein, S/Vizecky to approve the minutes of September 26, 2011.

Motion carried: 6-0

M/Vizecky, S/Root to approve the minutes of October 10, 2011 and October 24, 2011.

Motion carried: 5-1 (Hall dissenting)

M/Hall, S/Rublein to remove the minutes of October 24, 2011 from the previous motion.

Motion carried: 6-0

OPEN FORUM

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None

PUBLIC HEARING(S)

ITEM #1

Case No. 11-CP-02 & 11-CP-03 – Conduct a public hearing and consider an amendment to the Comprehensive Plan that will designate 7401 Lyndale Avenue and the west 140 feet of 7421 Lyndale Avenue (immediately adjacent to the street) as Community Commercial, and 609 74th Street West as Neighborhood Commercial.

City Planner Melissa Poehlman (Poehlman) explained that the properties at 7401 and 7421 Lyndale Avenue were discussed last year in the course of reviewing incongruent zoning and comprehensive plan designations. No decision was made at that time. An application for an adjacent property (609 74th Street West) requires that the future land use for this area be considered again. A public study session was held on October 3rd to discuss possibilities for this area. The proposed changes are the result of direction that staff received from the Planning Commission at this study session.

Poehlman distributed a letter to the Commission from Attorney Tim Keane, representing the owner of 7421 Lyndale Avenue (Thomas Price). The Commission was given time to read the submitted letter.

Mr. Thomas Price, 7421 Lyndale Avenue, asked the Commission to leave him and his property alone.

Commissioner Scaglia arrived.

Mr. Price stated that he has no objection to the proposal at 609 74th Street. He would like his property classifications to be left as they are or to consider the changes presented by his attorney.

Mr. Mark Nichols, 8901 Lyndale Avenue S. #102, applicant for the proposed changes at 609 74th Street, asked for a summary of the changes requested in the letter submitted to the Commission.

Poehlman read the summary statement from Attorney Keane's letter requesting that the east portion of Mr. Price's property be rezoned to MR-3 (High Density Residential) as opposed to MR-2 (Multi-Family Residential); and that the western 290 feet, as opposed to the western 140 feet as exists and is proposed to remain, of the property be zoned C-2 (General Commercial).

M/Root, S/Vizecky to close the public hearing.

Motion carried: 7-0

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Commissioner Vizecky referenced the discussion at the October 3, 2011 study session and neighborhood concerns about “stepping down” development from higher to lower intensity as approaching the single- and two-family homes. A designation of MR-3 would be inconsistent with this goal.

In response to a question from Commission Rublein, Poehlman stated that the height limit in the MR-2 District is 35 feet and in the MR-3 District it is 50 feet.

Commissioner Rublein stated that it would be unfair to consider this alternative proposal without specifically notifying the neighborhood and asked if the motion could be divided?

Staff confirmed that it could.

Commissioner Hall voiced his support for the motion as proposed, stating that he believes it is appropriate for the future of this area.

Commissioner Vizecky stated that the Commission would be open to further discussion of Mr. Price’s property when he has a specific proposal; and that as was discussed at the study session, this is an unusual property that will likely require a Planned Unit Development designation and special consideration.

M/Vizecky, S/Root to recommend approval of the attached ordinance rezoning properties located at 6401 Lyndale Avenue South, 515 64th Street West and 521 64th Street West from C-2 (General Commercial) and R (Single-Family Residential) to PMR (Planned Multi-Family Residential).

Motion carried: 6-0 (Hall abstained)

ITEM #2

Case No. 11-RZN-04 & 11-ASP-04 – Conduct a public hearing and consider 1) an ordinance rezoning 609 74th Street West from Multi-Family Residential (MR-2) to Service Office (SO); and 2) a site plan amendment at 609 74th Street West to allow operation of a commercial service business.

Poehlman presented the staff report, indicating that the request was related to the previous agenda item and that given the recommended approval of a Comprehensive Plan change at this location, a zoning change would be appropriate.

Mr. Mark Nichols, prospective owner and business operator, indicated that he would be happy to answer questions from the Commissioners.

M/Root, S/Rublein to close the public hearing.

Motion carried: 7-0

M/Vizecky, S/Root to recommend approval of 1) an ordinance rezoning 609 74th Street West from Multi-Family Residential (MR-2) to Service Office (SO); and 2) a site plan

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amendment at 609 74th Street West to allow operation of a commercial service business.

Motion carried: 7-0

ITEM #3

Case No. 11-RZN-05 – Conduct a public hearing and consider the attached ordinance amending Richfield City Code Appendix 1 to change the zoning designation of all but the west 140 feet of 7421 Lyndale Avenue from C-1 (Neighborhood Commercial) to MR-2 (Multi-Family Residential).

Poehlman presented the staff report, indicating that this item was again related to the first item agenda and that given the recommended approval of Item #1, it would logically follow to approve this item.

M/Hall, S/Vizecky to close the public hearing.

Motion carried: 7-0

Commissioner Hall stated that he abstained from the earlier vote because he wanted to know what impact these actions will have on Mr. Price and his property. Commissioner Hall asked Mr. Price to address this.

Jim Erickson, consultant for Mr. Price, responded that their intention tonight is to let the Commission know that future redevelopment proposals for this site may involve more intensity than what will be allowed under the proposed zoning. They recognize that no change will happen now, given that there is no proposal, but feel it's important to be on the record stating as much.

M/Vizecky, S/Root to recommend approval of an ordinance amending Richfield City Code Appendix 1 to change the zoning designation of all but the west 140 feet of 7421 Lyndale Avenue from C-1 (Neighborhood Commercial) to MR-2 (Multi-Family Residential).

Motion: 7-0

ITEM #4

PC Letter No. 22 – Conduct a public hearing and consider the attached ordinance amending Subsection 537.13, Subdivision 2 related to the consideration of the expansion of dimensional or bulk nonconformities in the Mixed Use Districts.

Poehlman presented the staff report, highlighting the proposed conditions for the issuance of a permit to allow expansion of nonconforming buildings in the Mixed Use Districts.

In response to a question from Commissioner Rublein, Poehlman explained that in actuality no part of the building is required to be saved under this provision because State Law allows for the total replacement of nonconforming buildings.

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M/Root, S/Vizecky to close the public hearing.

Motion carried: 7-0

Commissioner Hall stated that an extensive discussion of this item took place at a joint Planning Commission and City Council study session last month and he supports the item.

Motion carried: 7-0

ITEM #5

Case No. 11-CUP-04 – Conduct a public hearing and consider a Conditional Use Permit to allow the expansion of a nonconforming building at 7701 & 7717 Nicollet Avenue.

Poehlman presented the staff report indicating that this application is predicated on the approval of the ordinance amendment presented in the previous report. Staff detailed the proposal from Menards, Inc. to construct a new building that would be considered an expansion of a nonconforming building. Poehlman reviewed the Code requirements that would be met by the proposal and those that would not. Staff recommended approval of the proposal with a stipulation that the proposal be modified in order to not exceed the existing amount of impervious surface.

Mr. Theron Berg, representing Menards, highlighted the changes that had been made to the proposal since the study session in September.

Commissioner Vizecky asked if stormwater requirements are met by the proposal.

Poehlman responded that they are.

Commissioner Root questioned why the parking could not be removed in favor of landscaping given that the parking study concludes that there is significantly more parking than will be needed at peak hours of business.

Mr. Berg stated that Menards does not agree with the conclusions of the parking study and feel that the parking is necessary.

Commissioner Root asked if Menards had used the consultant hired to conduct the parking study in the past.

Mr. Berg responded that they had.

Commissioner Rublein stated that he believes the parking to be necessary based on his experience at other Menards stores. He asked if enhanced parking lot lighting had been considered and if the decorative fixtures along the building could be continued along the wrought iron fence on the south side.

Mr. Berg stated that they could consider improvements.

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Commissioner Root stated that he thinks it is very important to get this development right given its prominence on the street and the fact that it is the first of hopefully many other projects coming up in the area. He supports staff's recommendation to require that the impervious surface not be increased with the redevelopment of the site.

M/Root to recommend approval of a Conditional Use Permit to allow the expansion of a nonconforming building at 7701 & 7717 Nicollet Avenue as proposed in the resolution.

No second.

Commissioner Schuller asked Mr. Berg if there was some compromise between the existing proposal and staff's recommendation.

Mr. Berg stated that additional parking lot islands could be added – reducing the parking by approximately 10 spaces.

Commissioner Hall stated that he sees the proposal as a vast improvement from the existing conditions and supports the compromise with additional parking lot islands.

Mr. Curt Keel (sp.), representing Dolphin Real Estate and Dolphin Fast Food, operators of the Burger King restaurant at 140 - 78th Street East, read a prepared statement urging the Planning Commission to recommend denial of the proposal. The statement asserted that the proposal would block light and visibility to the Burger King property and eventually put it out of business. Further, the operators believe that approval of the proposal would constitute a taking of their property.

Community Development Director John Stark (Stark) informed the Commission that the assertion that this approval would constitute a taking would be addressed with the City Attorney prior to consideration by the City Council in November.

Mr. Ken Severson, 7316 Lyndale Avenue, asked if snow storage would be allowed in landscaped areas (if parking were reduced), if sidewalks could be constructed of pervious materials and voiced concerns over the proposed access to and from the site.

Poehlman responded that snow storage is allowed in landscaped areas, that the City is open to considering pervious pavement but maintenance issues would need to be addressed, and that access decisions had been thoroughly discussed by all jurisdictions involved (Hennepin County, the City and Mn/DOT).

Commissioner Hall asked Burger King was notified of the study session in September.

Poehlman responded that she did not know if they were notified specifically. The meeting was posted, as legally required, but mailed notice is not required.

At the request of the Commission, Mr. Berg addressed statements made by Mr. Keel. Mr. Berg stated that Menards had tried to negotiate with Dolphin Real Estate, but that negotiations fell apart as a dollar amount could not be agreed upon.

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Commissioner Rublein stated that the specific negotiations were not pertinent to the Planning Commission's decision.

In response to questions from Commissioners Hall and Rublein, Mr. Berg stated that the fence adjacent to the north and west lot lines of the Burger King site is 14 feet tall and that a lower height would not work for their operations.

M/Vizecky, S/Rublein to close the public hearing.

Commissioner Hall asked that staff raise his concern related u-turns and stacking of cars at 2nd Avenue with the City Engineer.

M/Vickecky, S/Scaglia to recommend approval of a revised resolution for a Conditional Use Permit to allow the expansion of a nonconforming building at 7701 & 7717 Nicollet Avenue. The revised resolution should require additional greenspace in the realm of the proposed additional parking lot islands.

Motion carried: 6-1 (Root dissenting)

NEW BUSINESS

ITEM #6

PC Letter No. 23 – Consider rescheduling the December 26, 2011 Planning Commission Meeting to December 14, 2011.

Poehlman reminded the Commission that December 26th is a federal holiday and recommended moving the December meeting to December 14th.

M/Vizecky, S/Hall to approve rescheduling the regular December meeting of the Planning Commission to December 14th.

Motion carried: 7-0

OLD BUSINESS

None

LIAISON REPORTS

Community Services Advisory Commission: Report by Commissioner Rublein
City Council: No report
HRA: Report by Commissioner Root
Richfield School Board: Report by Commissioner Kitzberger
Transportation Commission: No report
Chamber of Commerce: Report by Commissioner Vizecky

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Other: Commissioner Hall reported on funding sources for the Lyndale Garden Center redevelopment project.

ADJOURNMENT

M/Vizecky, S/Root to adjourn the meeting.

Motion carried: 7-0

The meeting was adjourned by unanimous consent at **9:01 p.m.**

Robert Hall
Secretary