

PLANNING AND ZONING COMMISSION MEETING – OCTOBER 8, 2019

The Regular Bi-Monthly Meeting of the Andover Planning and Zoning Commission was called to order by Chairperson Bert Koehler IV on October 8, 2019, 7:00 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

Commissioners present: Dean Daninger, Karen Godfrey, Scott Hudson, Nick Loehlein, Jeff Sims, and Mary VanderLaan

Commissioners absent: None

Also present: Community Development Director Joe Janish
Associate Planner Jake Griffiths
Others

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

September 10, 2019 Regular Minutes: Correct as written.

Motion by Loehlein, seconded by Godfrey, to approve the minutes as presented. Motion carried on a 5-ayes, 0-nays, 2-present (Koehler, Sims) vote.

PUBLIC HEARING: Conditional Use Permit (CUP) — Interim Performance Standards and Exterior Storage — 3098 162nd Lane NW — Best Outdoor Services Inc./ Tom Rossmeisl

Associate Planner Griffiths, referencing a Site Location map, oriented the subject property and stated the applicant is proposing to lease the eastern half of the property to a towing company for the short-term storage of vehicles. As part of the change in use, the applicant is required to bring their site up to the standards of the City Code. Therefore, the applicant is requesting Interim Performance Standards (IPS) to bring the property close to compliance to City Code as is allowed in the Hughes/Westview Industrial Park area. The applicant is proposing additional screening for the exterior storage and has plans for expanding and exceeding the requirements in their proposed five-year plan. The applicant is a landscaping company in Andover that purchased the property to house their landscaping company. He referenced photographs and a map to show the building they

use and stated the applicant is proposing to lease the eastern half of the property for the parking of vehicles. The applicant has proposed a six-foot chain-link fence with slats for screening to prevent views of the area from the public street or adjacent residential properties. The applicant also proposed to do significant landscaping of the area. Using photographs, he referenced an existing four-foot chain-link fence which would remain, and stated the applicant would also like to make additional improvements to the site as part of IPS. The applicant is requesting to keep the site basically as-is (the surface will remain Class 5 gravel) and then installing some curb stops along the north side for customer parking. Parking on the north half is not possible due to drive lane requirements, and the parking locations will be ironed out during the commercial site plan process.

Associate Planner Griffiths cited City Code 12-13-3, which indicates any property that has exterior storage outside of a residential district is required to obtain a CUP if it appears detrimental to a number of conditions: if it is demonstrated that such storage is a hazard to the public health, safety, general welfare, morals, or has a depreciating effect on nearby property values. In the past the council has required a CUP for exterior storage as is being proposed in the application. City Code 12-13-22 states the purpose of IPS is to get the properties within the Hughes/Westview Industrial Park up to a level not quite to City Code but close until such time when city sewer and water is extended. He referenced a diagram the applicants provided to show what the site will look like when improvements are completed in the one-year plan, after installing the curb stops and six-foot fence, keeping the existing four-foot fence, and adding vegetation. He referenced diagrams showing proposed improvements in the five-year plan, including seeding the northern part of the property, paving the customer parking area, removing the four-foot chain-link fence, adding signage, and other improvements beyond what is required.

Associate Planner Griffiths stated the City Council, when granting a CUP, shall consider the advice and recommendations of the Planning and Zoning Commission and review the criteria and also consider: 1) The effect of the proposed use upon the health, safety, morals, and general welfare of occupants in the surrounding land. The applicant is proposing screening and other security measures to make sure adjacent residential and industrial uses are not impacted by the plan. 2) Existing and anticipated traffic conditions. There will be traffic concerns caused by people picking up their vehicles that have been towed, but it is not anticipated those concerns will be larger than other adjacent industrial or commercial uses in the area. 3) The effect on property values and scenic view in the surrounding area, and the proposed use on the Comprehensive Plan. The applicant is proposing screening to prevent views of almost all of the exterior storage as well as improvements to the site greater than as it currently exists. The criteria for IPS includes: 1) The existing appearance of the building and site. The applicant is proposing screening, curb stops, and several kinds of landscaping. 2) Compatibility of the proposed site development plan with the other industrial properties in the area. A lot of the sites in the area have Class 5 gravel; nothing being proposed is outside of the realm of the properties in the Hughes/Westview Industrial Park area. 3) Effect of the proposed use and the proposed site development plan on the adjacent residential neighborhood. The proposed

plan includes screening from the public street and adjacent residential properties. The applicant indicated the vehicle area would be open from 9 am - 4 pm Monday through Friday and on weekends from 1 pm - 3 pm for customers to pick up their vehicles only by paying for their vehicle at the landscaping company. Vehicles will be towed to the area only during those times. The Andover Review Committee reviewed the proposal and did not submit any comments, positive or negative, related to the application. Associate Planner Griffiths stated both he and the applicant, who was in the audience, were available to answer any questions.

Commissioner VanderLaan suggested changing verbiage to say traffic will occur "mostly" during hours of operation as opposed to "only" during hours of operation to use less restrictive language. Community Development Director Janish stated the understanding is vehicles will be brought to the site during business hours; the renter of the property has another location where vehicles will be stored for an initial time period. He suggested directing the question to the property owner or potential renter to get an answer regarding the suggested language.

Chairperson Koehler asked why the curb stops were acceptable by Engineering in this application versus a previous application where Engineer Berkowitz was not in favor of allowing curb stops. Associate Planner Griffiths confirmed Chairperson Koehler's understanding of the previous application for Upper Midwest Athletic Construction, wherein Engineer Berkowitz was against the use of curb stops. Since both Planning and Zoning and City Council approved the application, city staff is taking the direction the Council is fine with curb stops in the IPS within the Hughes/Westview Industrial Park.

Chairperson Koehler asked if there had been any comment from Engineering on this plan or regarding plowing the lot of snow with the curb stops in the middle of the lot. Associate Planner Griffiths said staff consulted Andover Review Committee, which both Mr. Law and Mr. Berkowitz sit on, and no comments were received, positive or negative. Staff also asked if curb stops would be required within the fenced parking area; again, no comments were provided either way.

Chairperson Koehler inquired if neighboring property owners were notified of the public hearing. Associate Planner Griffiths confirmed notices were sent to all property owners within 700 feet.

Chairperson Koehler asked if any concerns were raised outside of the meeting from any neighboring property owners. Associate Planner Griffiths stated no residents submitted formal inquiries or letters to be included in the report. One resident called the City to express support for the request, and another resident called to express concern regarding safety with the number of vehicles going to and from the property.

Chairperson Koehler asked if there was a limit for how many cars can be stored/come and go in a given day; specifically, is the limit based on what the company can handle or does the City have limits. Associate Planner Griffiths said the applicant will be required

to go through the commercial site plan process; and as part of that process they will be required to determine locations to park vehicles, drive lanes, etc., which will be ironed out during the process. There is no City Code maximum amount, and as long as the company is compliant with the City Code, everything that is being proposed is fine.

Chairperson Koehler clarified that Engineering, not knowing a maximum number of cars, had no concerns with the amount of traffic on the road. Associate Planner Griffiths reiterated this area was for short-term parking and parking would be in a small, confined area. Engineering reviewed the entire application and did not provide any comments.

Chairperson Koehler commented that short-term parking bothers him more than long-term parking because it means vehicles are coming and going more frequently.

Commissioner VanderLaan said she shared Chairperson Koehler's concern regarding curb stops because of Engineering's question regarding whether it would set precedence in an earlier meeting; and now city staff feels direction was given by the Planning and Zoning and City Council, so there is a precedent that allows Planning and Zoning to move forward.

Commissioner Sims asked for clarification by city staff regarding the comment of things being "almost up to Code" versus if it was City Code. Associate Planner Griffiths stated, in the IPS, this area in the Hughes/Westview Industrial Park has some leeway because it is an industrial area and sewer and water has not been extended yet. If this site was to go through the normal process and be completely up to code, the entire site would need to be paved with a surface Engineering would be comfortable with and the applicant would have to go through the commercial site plan process, just like any other business in Andover. Community Development Director Janish added that it relates to the parking area; the bituminous coverage and the high-back curb are the two items that the applicant is asking to deviate from. He stated it is very unique that the applicant is proposing a five-year plan and, in addition to complying with the one-year plan, they will be making improvements in conjunction with a five-year plan.

Commissioner Sims asked for confirmation that the proposal is acceptable per city standards. Community Development Director Janish stated each IPS is based on their own merits; there is an examination to determine whether it is appropriate in the particular location, which is why there is a public hearing to take public input, and the Planning and Zoning Commission members can make a recommendation to the City Council. Regarding the issue of curb stops, since they were approved by the City Council before, while not necessarily a precedent, in certain situations it may be appropriate within the Hughes/Westview Industrial Park under these IPS's to see a use go into the buildings, that it may be appropriate for the Planning and Zoning Commission and City Council to consider it and make a determination.

Commissioner Sims asked if the City extended water services to the area, would the applicant be required to upgrade to regular City Code or would it be on a case-by-case

basis. Community Development Director Janish said the ordinance is written so that any future expansion would require them to meet the requirements. For example, if they have their five-year plan in place in five years and year six the City runs water and sewer to the area, if the applicant does not propose to expand, they don't need to meet City Code. However, if they propose to expand, then they have to put in an asphalt/concrete surface and look at the high-back curb. If city utilities are within the park and the applicant wants to expand, that triggers the requirement.

Commissioner Sims asked whether the applicant is grandfathered in if they don't change anything. Community Development Director Janish confirmed that but stated if there is a future change in use, the applicant may be back before Planning and Zoning and City Council again because the IPS's are to allow for businesses to change use, knowing there's not city water and sewer, because the City understands the constraints that provides. If the applicant is at the location 10-15 years and then sells to somebody else or repurposes the building, they may be in front of the Planning and Zoning and City Council if the IPS's still exist at that time. Associate Planner Griffiths added item number 8 of the proposed resolution of approval addresses that.

Motion by Daninger, seconded by Hudson, to open the public hearing at 7:22 p.m. Motion carried on a 7-ayes, 0-nays, 0-absent vote.

Steven Schmit, president of Schmit Towing, Inc., 5238 108th Avenue North, Brooklyn Park, stated their main office is in Fridley with a secondary location in Crystal and the company has gone through CUPs in both of those locations and have met all the requirements. His company would be leasing from Best Outdoor Services. He stressed this location will not be a junkyard or have wrecked cars; it will be clean and neat. The initial objective is overflow storage from the other two lots. The hours of operation would be for customers that need to retrieve their cars from that location. Although that is not their main objective at this point, they would like to have that option for the future. They would be towing cars in at odd hours, not just during the daytime hours.

Chairperson Koehler asked what happens after a car has been in the lot 45 days. Mr. Schmit said the cars then belong to them, to dispose of however they wish: 95 percent of them are hauled to a scrap yard in Anoka, and occasionally a car will be resold. Most of the cars are not picked up because there's something majorly wrong with them.

Chairperson Koehler asked what kind of vehicles are picked up; for example, whether a semi could be towed there. Mr. Schmit confirmed a semi could be towed, but the vast majority are vehicles towed either from a city street by a police department or out of an apartment complex in the wintertime because they are plowing a parking lot and people did not move their cars because they do not run or for other reasons. They tend to be complete cars that don't have a lot of value.

Chairperson Koehler asked who would be handling the plowing. Mr. Schmit stated Best Outdoor Services would be doing the plowing and landscaping.

Chairperson Koehler stated his understanding is if someone picked up their car, they would go to the landscaping company to pay the fees and wondered whether someone from the towing company was onsite or if the towing company would depend on the landscaping company to collect the fees. Mr. Schmit said someone from the towing company would most likely be onsite.

Chairperson Koehler asked how the cars would be removed if the lot is unplowed and there is no pavement, if there would be a truck available to pull them out. Mr. Schmit confirmed his statement and added their tow trucks are all-wheel drive and they also have a Bobcat and a plow on a pickup.

Chairperson Koehler asked if tow trucks would be stored at the facility. Mr. Schmit said there may be one sitting there occasionally but that is not the intention.

Commissioner Daninger clarified whether the towing company would staff the landscaping location to collect the money during working hours, which Mr. Schmit confirmed as correct.

Commissioner Daninger stated his concern regarding tow trucks coming in at 2:00 in the morning and wanted to make sure there would not be issues with the noise ordinance, which he stated could be discussed later with city staff.

Commissioner Daninger asked if Schmit Towing would be staffing someone at that location during open hours. Mr. Schmit responded that would happen if they started to release cars from that location; or if there was a snowstorm and cars were towed to that location, it would be staffed until most of the cars were gone, which typically happens within 1-3 days. All of their trucks are late-model, the small tow trucks are gas so they are quiet, and the flatbed tow trucks are modern diesel so they are quiet.

Commissioner Daninger said he is trying to help Mr. Schmit because he did not want them to lose their permit because of vehicles coming in at 2:00 in the morning.

Commissioner Hudson referenced Mr. Schmit's comment that some of the cars may not run or work but item 2 in the resolution talks about the vehicles being in clean and operable condition and will not contain any valuables. He asked how literal the resolution is to real life since Mr. Schmit said cars are often towed from parking lots and they will not start. He stated he did not know how practical that item was, although it was not necessarily a question for Mr. Schmit.

Chairperson Koehler asked Mr. Schmit to give his opinion. Mr. Schmit said some of the cars would not be operable, which is why people did not move them for snowplowing, or they got ticketed by the police and did not get picked up. For the most part they will have four tires, will not be smashed up; it would be a normal vehicle like you would drive in a parking lot.

Commissioner Sims asked, since the cars are not necessarily from Andover, they could be from a Blaine parking lot, how does Schmit Towing get authority to tow a car from a Blaine parking lot. Mr. Schmit said the cars are towed off of private property and they can tow them where they want. Most of the apartment complexes they provide service to are in the metro area; they will bring most of the cars to the Crystal and Fridley lots because that is the most convenient for both them and the customer. They tow for the Fridley PD and the State Patrol, and those vehicles typically go to the facility in Fridley. A long-term storage because of an investigation, for example, may end up in Andover to free up space in the Fridley location.

Commissioner Sims asked if Schmit Towing collects the fee from the towee, which Mr. Schmit confirmed as correct.

Commissioner VanderLaan stated the language in the reports indicates "no inoperable cars" and Mr. Schmit said there may be a few inoperable cars, and she understands there may be times when a car is not running and it has to be removed. She referenced a prior problem in Andover of a "sea of cars" and described how the City hired an airplane to locate cars so they could be removed from the City. She asked Mr. Schmit to restate that 45 days would be the absolute limit and there would be no inoperable cars after that in the lot. She also expressed concern about inoperable cars having gas tank ruptures and toxic waste going into the soil and asked what precautions would be taken to prevent that from happening or an immediate cleanup so there is not a repeat of those types of problems. Mr. Schmit indicated they are very aware of hazardous materials leaking out of cars. If a car is leaking, they either plug the leak or catch the material leaking out of the vehicle at both the Fridley and Crystal lots. They would do the same at Andover; there would not be any cars leaking fluids onto the ground any more than if a car may have a drip in a parking lot. If gas or coolant is leaking, the product would be caught or the vehicle brought to one of their other facilities, put inside and properly drained. It is a big issue in their industry because for 100 years many towers let hazardous materials leak into the ground which created huge problems. He said they understand the issue and deal with it.

Commissioner Loehlein referenced Mr. Schmit's comment that occasionally the State Patrol or somebody has to do an investigation and wants the company to keep a car for an extended period of time but that item 3 of the CUP states vehicles will be on the property for a maximum of 45 days. He asked for clarification of what "a long time" is. Mr. Schmit said when they impound a car for the police, often people call for it within 1-3 days. Sometimes the police will put a hold on a car for 30 days or so while they do an accident or crime scene investigation, but typically it is not more than 30 days. In those situations, they like to put the vehicles at their other facilities so they can be accessed easier, usually Fridley.

Commissioner Loehlein asked for confirmation that even in those situations Mr. Schmit would not have a problem adhering to the 45-day limit, since an investigation would be 30 days. Mr. Schmit agreed and said he could also move vehicles to another lot.

Chairperson Koehler requested the property owner to come forward.

Brandon Rossmeisl, 20256 Walden Boulevard NW, Oak Grove, Minnesota, stated he and his father, Tom Rossmeisl, 3256 139th Avenue Northwest, Andover, Minnesota, are the property owners.

Commissioner VanderLaan congratulated the Rossmeisls on the expansion, adding that it's nice to see businesses grow and Andover tries to help with that. Tom Rossmeisl said he has lived in Andover since 1991.

Commissioner VanderLaan asked about the longevity of the company and whether it was an LLC, a partnership, etc. Tom Rossmeisl said they are an LLC and began in 1993.

Commissioner Daninger welcomed the Rossmeisls to the meeting and wanted to make sure they were aware the five-year plan, item 7, is part of the resolution and that it is a big deal that it is part of the resolution. Rossmeisls confirmed they were aware.

Commissioner Daninger asked whether they would be leasing to only one towing company, which was confirmed as accurate by the Rossmeisls.

Commissioner Daninger asked the Rossmeisls whether they were aware that when people's cars are impounded, they are not the most happy because of their vehicle being impounded and if they knew what they were getting into. The Rossmeisls confirmed they understood.

Commissioner Daninger expressed his concern with the noise because that is an issue with neighbors, and there was a lot of "may," "should," "could," "45 days," "no junk cars" but they are being taken to the salvage yard, and Andover went through similar issues before. Tom Rossmeisl said he understands the concerns, that they have a long-term relationship with Schmit and Brandon worked for them for several seasons.

Commissioner Daninger said he thinks this is a doable situation but there is some verbiage in the resolution that is pretty strong and they will need to work through all of the variables.

Chairperson Koehler asked what triggers snowplowing, reiterating that people are not thrilled to pick up a towed car and will be less thrilled if the lot is not plowed. Brandon Rossmeisl stated their company also plows and salts as part of their business and it will not be a problem to get a car open. They are proposing to put a gate by the back corner so they can get snow out easier and keep the lot wide open.

Chairperson Koehler asked if they had any concerns about the curb stops going in and being able to plow over them/around them without destroying them. Brandon Rossmeisl stated the curb stops are in front of the fence to protect the fence from customers potentially hitting it. He has been plowing for 12 years and is not worried about them.

Chairperson Koehler mentioned Engineering did not comment this time but had several comments the last time curb stops came up so he is trying to do his homework and thanked them for the explanation. Brandon Rossmeisl said the curb stops are a temporary fix until the five-year goal because they just bought the building and don't have a lot of money to do all the improvements right now.

Chairperson Koehler said he appreciates seeing the phased installation -- one-year/five-year plan -- and that they are not flying by the seat of their pants and have thought things through. Brandon Rossmeisl said it was a large purchase so it had to be thought through.

Commissioner VanderLaan asked whether the building was steel, wood, etc. Brandon Rossmeisl said it is a steel-constructed building with tin on the outside and they will hopefully be making it look better in the next five years as funds become available. Tom Rossmeisl added they plan on having the building painted.

Commissioner VanderLaan asked what the curb stops would be made of. Brandon Rossmeisl said the prior owner of the property was a precast concrete company and they left some concrete curb stops at the Rossmeisls' request. They may have to purchase more; the curb stops they purchase may be rubber or concrete.

Chairperson Koehler asked if any other audience members wanted to make comments.

Joe Buck, general manager of Schmit Towing, 4498 102nd Lane Northeast, Blaine, Minnesota 55014, stated Schmit Towing has been in business for 38 years. Steve built it up from scratch with one truck. He himself has been with the company for 3 ½-4 years and has been in the industry 28 years. Because the Commission had concerns about the cars and the 45 days, he wanted to speak because he runs the lots. Currently, on Tuesdays and Wednesdays he makes sure the cars are checked, marked, inventoried, makes sure everything is copacetic, and cars are rotated and removed weekly. On the 45-day mark the computer prints a list telling him what's available to be taken out and disposed of. Regarding disabled cars, when towing and during snow emergency situations, it's hard to look at a car and say, "*Does it run or doesn't it run?*" because they don't have keys and cannot check. That is why Steve said "possibly may have a car that is inoperable," because they do not have that knowledge at the time they tow it. They dispose of cars properly. At Crystal and Fridley, they have hazmat material at the shop door in case something leaks or spills. Police wrecks will not be brought to Andover. If there is a forfeiture or special case with the police brought in, it will be because they want more room to get around it and it will be just for that time. He calls Best if there is too much snow for him to plow at the Crystal and Fridley locations, and they are phenomenal when it comes to plowing. Regarding disgruntled customers, their staff is trained to not take

comments personally and not to get into an argument with people, because people are not mad at the staff, they are mad at the situation. If something catastrophic were to occur, staff knows to call him and he will handle it. If you whisper during an argument, the other party has to quiet down to hear when you are saying. He is six-foot, 280 pounds, and if he starts to whisper, people think, “*What is going on? Why is he whispering?*” and the mood of the situation can change. People have thanked him for towing their car and that it was kept safe and properly. The company takes pre-tow pictures of everything to limit damages claims. Every tow truck is late-model according to Steve but he himself calls them brand-new. They've grown from 12 trucks to 20 trucks in four years. They are trying to do things the right way: The drivers are in polos, not in uniforms, and everyone is clean-cut. They try to run a very professional business, and they deal with the Fridley PD and the State Patrol all the time. He drives; he manages; he does everything. In the winter it's a free-for-all because no one knows when it's going to snow or how it's going to snow. Steve Schmit is from the military, a lot of the guys are from the military, and although he couldn't serve, he was raised by a Marine. You need to be respectful, polite, and cordial to people. You treat them how you want to be treated. He's never had a dispute that he couldn't handle.

Commissioner VanderLaan thanked Mr. Buck for the information and the procedure for handling disgruntled people.

Motion by Hudson, seconded by Daninger, to close the public hearing at 7:48 p.m. Motion carried on a 7-ayes, 0-nays, 0-absent vote.

Commissioner Daninger stated he liked the proposal but would like to change a few words in the resolution. Regarding the noise issue, he suggested adding that vehicles will be dropped off outside of those hours and, being it is an industrial park, he is okay with that. He asked what effect a noise complaint would have. Community Development Director Janish said the noise ordinance would apply and, similar to any other noise complaint, there would be an investigation. If the complaint is in the odd hours of time, it would be the sheriff's department who would respond to the questions. He assumed the noise would be the tow trucks beeping as they are backing up, and if they were to go out there with monitors, he did not think it would go over the City's ordinance related to noise; plus, there is a duration component, which is how long the noise is occurring. The on-and-off beeping isn't that loud, and he did not think there would be any complaints. If there were complaints, city staff would look into it and contact the property owner and lessee to look at how the issues might be rectified if there was a violation. Commissioner Daninger said he asked the question for both the applicant and home audience, so they could understand.

Commissioner Daninger suggested adding the hours of operation, when people would get their car, to the resolution. He also suggested making note that people would be dropping off vehicles outside of that time. For item 2, he suggested saying the vehicles would be in “clean condition” rather than “operable.” He likes the 45 days, but according to the employee, they will move them in 45 days. He commented that putting the five-year plan

in the resolution, item number 7, is aggressive. He has no problem if the applicant's staff, not the tow company, releases vehicles as long as they know what they're getting into. He suggested the tow company train the applicant's staff.

Commissioner Hudson stated he has an issue with item 2 as well. He suggested using "clean condition" and striking "valuables" from the language because who knows what is in the vehicles. He likes the project and passion that both companies are showing and is in support of it and wants to make sure the language is appropriate.

Commissioner VanderLaan suggested substituting the word "operable" to "towable" condition because it may not run. For example, if it has three wheels and one axle, it can still be towed.

Chairperson Koehler pointed out the resolution is for City Council, and Planning and Zoning does not need to wordsmith it but give recommendations as to what should be put in, such as using the word "towable" or using the language "vehicles will be assumed to be in clean and operable condition," because that is the company's assumption, as they explained. He thought the "will not contain any valuables" should be stricken because they do not know what is in them. He said the critical words that need to stay are "no repair or salvage will take place on site," because that is the language that separates this from the old junkyards in Andover that caused the problems Commissioner VanderLaan described. He said the hours of pick-up need to be added and the hours of drop-off would be 24/7/365, since no one knows when it will/will not snow. Community Development Director Janish stated staff would work with the City Attorney on the language and that Planning and Zoning have made it clear what they don't want transported to the site and they will let the applicant know what the City Attorney's recommendation is. He thought there were good suggestions made, "assumed working condition," because there may be some vehicles that they know don't run when they get there but there are other ones where they don't know whether it is workable or not.

Chairperson Koehler reiterated the Commission wanted to address several areas -- the operable conditions; that the vehicles don't contain any valuables; want to retain the "no repair or salvage"; want to add hours of pick-up and drop-off -- and asked if the Commission had any additions or corrections to the list.

Commissioner Sims asked whether the City could dictate the hours the business would be open. Community Development Director Janish stated the applicant submitted what they believe the hours of operation would be and the hours could be changed through an amendment process of the CUP. At this point, city staff is complying with the requests of the applicant. If Planning and Zoning wants to provide for additional hours, he did not think the applicant or lessee would have concerns with that.

Commissioner Sims asked if they are bound to the times once the wording is in the resolution and wondered if they would want a wider window of time. Community Development Director Janish confirmed if the times are in the resolution, that's what the

business would have to comply with. Commissioner Sims stated he wanted to make sure the applicant is aware that a standard would be set if it is in the resolution.

Chairperson Koehler commented that it is a good idea to bring it to the attention of the applicant and maybe the City Attorney should be consulted. He asked if the Commission wanted people picking up their cars at 8:00 pm at night and felt the Commission should provide guidance on what the hours should be if the Commission did not like the hours listed. He said he was okay with the hours in the resolution and knowing that drop-off could happen at any time; but if the Commission felt otherwise, it should be discussed.

Commissioner Hudson stated he would be fine adding an hour on either end of the times. Chairperson Koehler restated the business could operate from 9-4 but by Mr. Hudson's assertion could operate from 8-5.

Commissioner Godfrey suggested the City Attorney finesse the verbiage by indicating that pick-ups are expected to occur during regular business hours or traditional business hours with drop-offs occurring at any time or 24/7 and to let the City Attorney frame the language in a flexible manner so the business has some leeway to run the business the way they think works best for them.

Commissioner Sims stated Commissioner Godfrey's suggestion made sense to him.

Commissioner Loehlein said he would support the language suggested by Commissioner Godfrey as well.

Commissioner Godfrey commented that precedence was discussed earlier and she did not see any precedent that the City set business hours for anyone.

Commissioner Daninger suggested the "valuable" verbiage should perhaps remain since this should not be a place that has valuables because it then becomes a location that people may want to get into. He stated he would be okay with it either way.

Commissioner Sims asked how they would get anything out if they don't have a key. Chairperson Koehler said that could be solved with the same verbiage discussed before: that the vehicles will be assumed to be in clean and operable condition and assumed not to contain any valuables. Commissioner Daninger stated he would be fine with that.

Commissioner Daninger stated, from a consumer standpoint, everyone is used to Monday through Friday, 8-5. He is not sure where the hours proposed came from. He is happy to support longer hours, but it's up to the applicant as to what hours they want.

Chairperson Koehler stated he understands that the hours could be broader -- earlier and later -- and the applicant can choose hours shorter within the time but cannot exceed the hours.

Commissioner Hudson noted the hours came from the applicant; that is what is in the packet.

Commissioner Daninger agreed and said the Commission should approve what the applicants want.

Commissioner Sims stated the hours are not in the resolution yet. Commissioner Daninger said it needs to be added to the resolution, but the Commission should give the applicants what they want.

Commissioner Loehlein brought up environmental concerns. He believes that Mr. Schmit and Mr. Buck do their best to inventory and keep track of vehicles, but if something would spring a leak and fluids from a vehicle get into the parking lot, what power does the City have to regulate that or what would happen in the event of a car springing a leak. Community Development Director Janish said it would depend on what is leaking and how much, similar to a gas station, where the EPA/MPCA has guidelines. If a truck driver has a semi which springs a leak during the night, he would wake up in the morning to guys in suits who are trying to contain it and the driver receives a hefty fine. In this case, the property owner and lessee will be relied upon to handle spills in an appropriate manner, but if there are certain chemicals spilled over a certain amount, the EPA should be notified and the proper process used to clean it up.

Commissioner Loehlein commented there is nothing in the resolution regarding environmental concerns. Community Development Director Janish said it is already a regulation which applies everywhere including, as a homeowner, if you have a spill on your property over a certain amount, you are responsible to clean that up. It would be similar to someone who was at the grocery store and their radiator or gas tank would spring a leak, or if you overfill your gas tank. Ultimately, it would be up to the individual, in this case the towing company and property owner, to clean it up in an appropriate manner and contact the appropriate authorities.

Chairperson Koehler reiterated Mr. Buck's comment that at the other sites they have hazmat material on standby and would assume they would do the same at this site. He stated he trusts them and there are regulations in place outside the purview of Planning and Zoning. He said it was worth noting and felt Mr. Buck addressed that issue.

Chairperson Koehler asked if the City anticipates running water and sewer to the area in the near future. Community Development Director Janish said a time frame has not been established for city services to be provided to the Hughes/Westview Industrial Park.

Chairperson Koehler asked if the City called Crystal or Fridley to find out if there were any complaints at the other two sites. Community Development Director Janish stated he had not and did not believe the Associate Planner had done so either.

Chairperson Koehler suggested the City do that so the issues can be addressed if they come up. He stated if his car had to be towed somewhere, he would want it to go there but said the City should be aware of what they are getting into and make sure the City is prepared for it. He did not feel it would alter anything regarding the upcoming vote.

Chairperson Koehler asked for a motion with clarification surrounding the operable conditions, the valuables, the hours of pick-up and drop-off, and how the Commission would like to address that.

Commissioner Daninger asked whether the hours of drop-off needed to be in the resolution. Chairperson Koehler stated in his opinion that is a question that staff should be asking the City Attorney.

Commissioner Daninger stated he would not put that language in the resolution, but as it moves forward, if they have discussion, it could be a line item the City Council may want to add.

Motion by Daninger, seconded by VanderLaan, to recommend to the City Council approval of the resolution with a few changes: for item number 2, the City Attorney should be consulted, but words such as "clean condition," address the "valuables" language, and "assume operable" or similar verbiage. Item number 9 will be added to address hours of operation as "regular business hours" or based upon a recommendation from the City Attorney.

Further discussion:

Commissioner Loehlein stated the second part of item number 2 was discussed, "will not contain any valuables," but he did not hear in Commissioner Daninger's motion something to soften the language such as "assumes that it will not contain any valuables" or similar language and does not think the Commission wants to have wording in such black-and-white language that says, "will not contain any valuables," because he does not know how the towing company will know that.

Commissioner Daninger stated he is okay with using the word "assume" and wants to make sure the City Attorney comes up with some good verbiage: "Assume valuables," "assume operable." He was not sure how it was stated in the motion.

Commissioner Loehlein said he heard Commissioner Daninger mention "assume" with respect to "operable" but not the "valuables" portion. Commissioner Daninger clarified that his motion would include the change noted by Commissioner Loehlein.

Chairperson Koehler restated Commissioner Daninger's motion: To wordsmith the "operable conditions," to wordsmith the "valuables" being contained therein, and to add a line about the hours under point 9 as recommended by the City Attorney. He asked Commissioner VanderLaan if she seconded the motion. Commissioner VanderLaan

confirmed she seconded the motion to bring it to discussion and she would also second the alteration of that motion so it is forwarded to the City Attorney for legal language to assist the Commission.

Commissioner Daninger commented the hours of operation were not defined, but when this application comes before the City Council, there will be more definites based on Commission members' comments.

Chairperson Koehler restated the motion and second to approve the resolution as written with some cleaned-up language around operable conditions so it is not falling on the applicant to know that it is operable, some cleaned-up language around containing valuables so it is not falling on the applicant to know whether or not it contains any valuables, and adding a point 9 to discuss the hours of operation in line with other businesses of this type as determined by the City Attorney.

Motion carried on a 7-ayes, 0-nays, 0-absent vote.

Community Development Director Janish stated this item will come before the City Council at the October 15 meeting.

OTHER BUSINESS

Community Development Director Janish stated the lot split request for 124 170th Avenue NW that the Planning and Zoning Commission considered was approved by City Council. The applicant and property owner have picked up the application and are in the process of recording it at the county and the fees have been paid to the City.

Commissioner Sims asked if there was a second meeting in October. Community Development Director Janish stated for the second meeting in October they are looking at a work session with the Council related to the Comprehensive Plan and there is some discussion about the possible inclusion of the Planning and Zoning Commission at that time. He provided a progress update on the Comprehensive Plan.

Commissioner Godfrey asked if there was any progress on arranging a meeting with the Fire Chief, as was discussed. Community Development Director Janish said because of several projects and activities occurring, they have not been able to arrange a time with the Fire Chief yet but was hopeful it could be scheduled in the next couple of months.

Chairperson Koehler stated the Fire Chief indicated he did not want the meeting during the winter because he wanted people to be able to ride in the fire trucks to understand fully what is at stake and that if the meeting does not happen soon, it will have been requested for more than a year.

ADJOURNMENT

Motion by Hudson, seconded by Godfrey, to adjourn the meeting at 8:16 p.m. Motion carried on a 7-ayes, 0-nays, 0-absent vote.

Respectfully Submitted,

Ruth Holdvogt, Recording Secretary
TimeSaver Off Site Secretarial, Inc.