

PLANNING AND ZONING COMMISSION MEETING – NOVEMBER 12, 2019

The Regular Bi-Monthly Meeting of the Andover Planning and Zoning Commission was called to order by Chairperson Bert Koehler IV on November 12, 2019, 7:00 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

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

Commissioners absent: Scott Hudson

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

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

October 8, 2019

Motion by VanderLaan, seconded by Daninger, to approve the minutes as presented. Motion carried on a 6-ayes, 0-nays, 1-absent (Hudson) vote.

PUBLIC HEARING: To consider city code amendments to the following sections of Title 12 Zoning Regulations: Section 12-2-2 add definition for an Impound Lot; Section 12-12 update permitted, conditional and prohibited uses; Section 12-16-4 add requirements for Impound Lots

Mr. Griffiths reviewed the information in the staff report for a request for a code amendment to allow an impound lot in the City. Mr. Griffiths explained that at the October 8, 2019 Planning and Zoning Commission meeting, the Commission unanimously recommended approval of a CUP request for interim performance standards and exterior storage. At that meeting, the Commission directed staff to work with the City Attorney and add clarification to the hours of operation and create less restrictive conditions for the storage of vehicles.

Staff worked with the City Attorney to draft a condition and loosen restrictions, however, it was found that no condition on a resolution could be written that waived the requirements of City Code 4-1-2; F. Junk Motor Vehicles, which states that any vehicle with expired license plates or registration tabs is considered to be a nuisance and therefore is prohibited.

Staff relayed this information to the applicant and after consideration they withdrew their request for a CUP prior to City Council meeting. The applicant then submitted a petition to amend the City Code to allow for "Impound Lots" in Industrial districts in order to allow the storage of vehicles with expired license plates and tabs that are otherwise operable.

Mr. Griffiths stated that staff prepared information for a draft resolution to change the language of the code for the Planning and Zoning Commission to review and provide a recommendation to Council. Mr. Griffiths stated the change includes three parts: adding the definition of an Impound Lot; amend Chapter 12-12 to add Impound Lots as a permitted use; and add Chapter 12-16-4 to City Code. Mr. Griffiths read through each proposed change.

Chairperson Koehler opened the floor to questions of staff by the Commissioners.

Commissioner VanderLaan asked for the number of acres zoned light and heavy industrial to find out the number of acres that would be affected by this change. Mr. Griffiths responded that this change only applied to a small handful of properties within Andover.

Commissioner Daninger asked if the code would still provide a 45-day limit to holding a vehicle on the property. Mr. Griffiths stated yes, that it was explicitly stated in the definition.

Chairperson Koehler asked about the visibility from neighboring properties and the impact if the neighboring property is more than one story high. Mr. Griffiths replied that there can be landscaping or fencing to adequately screen it from a higher elevation. Chairperson Koehler asked what would happen if adequate fencing or screening wasn't possible and stated he would like to see language that alleviated the requirement that it be screened from higher elevations. Mr. Griffiths responded that the Commission can add language to state adequate screening at street level.

Chairperson Koehler asked if the towing company must staff the impound lot if the lot is owned by someone else. Mr. Griffiths stated the Commission can change the language to state "the lot will be staffed by a designee of the owner".

Chairperson Koehler stated his concern about the history of similar projects in Andover. He stated that Andover used to be known as the land of junkyards and wants to mitigate

any loopholes and strict interpretations. Chairperson Koehler stated that this proposed use is an Impound Lot, not a junkyard.

Commissioner Daninger expressed support for both changes.

Commissioner Sims asked that since this is an ordinance, was there a need for a CUP. Mr. Griffiths stated it is a requirement for an Interim Use Permit (IUP) which gives the City greater control. He stated the IUP is good for a maximum of 5 years and there are several conditions that can cause revocation.

Chairperson Koehler asked if there was a maximum number of times an IUP could be renewed. Mr. Griffiths stated there was not, but it never becomes a property right. There are restrictions for how many times the applicant can re-apply after a denial.

Mr. Griffiths further explained that staff looked at adjacent communities and reviewed their policies regarding impound lots. He explained what other cities do, provided information from the applicant, and stated that the Fire Chief would like to see access lanes within the lot. Mr. Griffiths stated that staff is looking for recommendations and input on the regulation of parking within the use. He explained the City requirements for commercial parking lots and compared it to the parking the applicant is requesting which is front to back parking without access lanes.

Commissioner VanderLaan stated that residents are recalling previous problems and the restrictive way the City has dealt with it. She understands that residents are concerned that junkyards are going to happen all over again. Commissioner VanderLaan stated that she doesn't agree with that assessment because of the attention the City is putting in the code. She is, however, concerned about the parking and doesn't think it is wise to go against the Fire Chief's recommendation.

Commissioner Sims asked which type of parking other cities allow. Mr. Griffiths stated that Crystal and Fridley allow end to end parking.

Commissioner Godfrey asked why the draft was limited to 1 acre. Mr. Griffiths replied that the limit of 1 acre keeps it from appearing to be a junk yard. Commissioner Godfrey stated the importance of taking the Fire Chief's opinion as well as the amount of risk and probability of risk.

Chairperson Koehler asked if the Commission is attempting to define a parking lot for an impound lot or define a parking lot. Mr. Griffiths replied that the Commission is defining a lot for an impound lot. He stated a Commercial Site Plan would make the applicant conform to a standard commercial parking lot. He stated the Commission could allow flexibility with end to end parking but would limit that flexibility to impound lots.

Chairperson Koehler asked staff if the Fire Chief recommended access lanes for equipment or for firefighters with full gear. Mr. Griffiths was not sure of the meaning of access lanes and would seek clarification from the Fire Chief.

Commissioner Loehlein stated that current commercial parking is not adequate for the use and may pose difficulties for the business. He would like to see a middle ground which allows maximization of property and allows for safety.

Commissioner Daninger asked why staff used an aerial photo from 4-1-2015. Mr. Griffiths stated that was the best photo he could find to show the Commission what parking would look like.

Motion by Daninger, seconded by Sims, to open the public hearing at 7:39 p.m. Motion carried on a 6-eyes, 0-nays, 1-absent (Hudson) vote.

Steven Schmit, Schmit Towing, 5238 108th Avenue No., Brooklyn Park, came forward and stated that the main risk the Fire Chief had is a fire starting. Mr. Schmit stated that it is very rare for a parked car to start on fire by itself. He explained that the vehicles stored on this property would be in working condition and were no more at risk for fire than a car sitting in a Target parking lot. He explained that using a traditional lot for an impound lot is a waste of space. He stated that his company will work with the Fire Chief to ensure access.

Chairperson Koehler asked the applicant how it would affect the business if it had to conform to traditional parking lot standards. Mr. Schmit replied that it could comply, but it wouldn't be very cost effective or an efficient use of space.

Commissioner VanderLaan asked Mr. Schmit how he has worked with other Cities regarding fire lane access. Mr. Schmit replied that he has been in Fridley for 14 years and has not had any issues. He is inspected annually and complies with the Fire Department's policies. He stated that the City of Crystal required enough room to pull a fire truck into the lot and keep fire lanes and exits clear.

Chairperson Koehler asked if he had any emergency calls to the storage lots in Crystal or Fridley and Mr. Schmit stated he had not. Chairperson Koehler asked if Mr. Schmit had any issues with the Fire Department flying drones over his property to inspect for safety and Mr. Schmit said he did not.

Commissioner Daninger asked why staff limited the size to one acre and asked the property owner if they and more than one acre to lease.

Tom Rossmeisl, property owner, 3256 139th Avenue NW, stated he is the property owner and has 4.4 acres. He stated he would like to rent 2 acres to the impound lot but with the City's regulations and his desire to move forward, they proposed 1 acre. He indicated that ideally, he would like to lease 1.5 acres.

Joe Buck, general manager of Schmit Towing, 4498 102nd Lane Northeast, Blaine, Minnesota 55014, came forward and described the logistics of the impound lot. He stated there is room for a fire truck to enter the back lot and room for a firefighter to go through rows. He stated that the only time the lot is full is after a snowstorm. He assured the Commission that an impound lot is not a junkyard and that cars will be removed if not claimed within 45 days. He showed the Commission two access points to the back lot. He stated the point of the business is to have a quick turnover and not have cars sitting for long.

Commissioner Godfrey asked Mr. Buck if he could explain how someone would claim their car. Mr. Buck stated that if the car is blocked in, staff moves cars and brings it to the owner in the front. He explained that if the car is not blocked in, the owner is escorted to their car by a staff member and the owner can drive their own car out. Mr. Buck states that the lot is rotated every week. Old cars are moved off the lot and it is organized by the length of time a car has been on the lot.

Mr. Griffiths stated that he received no written public input but had received three phone calls opposed to the code change. Chairperson Koehler asked if these same people were opposed prior to the last meeting and Mr. Griffiths stated they were not.

Motion by Daninger, seconded by Loehlein, to close the public hearing at 7:57 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Hudson) vote.

Commissioner Sims stated his opinion that an impound lot is not a parking lot and can be used at the best interest of the business owner.

Chairperson Koehler asked the Commission to consider if it is enforcing the commercial parking lot code or establishing an impound lot condition.

Commissioner Daninger asked Mr. Griffiths why it is limited to one acre and how many cars can fit on that size. He stated he would like to see a commercial site plan with 2 acres to accommodate the same number of cars. Mr. Griffiths replied that approximately 240 cars can fit into one acre with back to front parking.

Chairperson Koehler stated that the Commission is recommending an ordinance that affects the entire City and not just the business at hand. He stated that the Commission needs to be cautious about what is decided to make sure it fits across the board.

Commissioner Daninger stated he is trying to find a path for the applicant to be successful, ensure safety, and still follow code. He stated if more acreage is given, the applicant will still need to provide screening.

Mr. Griffiths explained the process of an IUP and that the applicant can ask for further exceptions using Interim Performance Standards (IPS).

Commissioner Loehlein asked for clarification on the process. Mr. Griffiths explained that if the code is approved with the language requiring the Commercial Site Plan, the ordinance states IPS cannot be changed for the parking lot, however, all other aspects (curbing, landscaping) can be requested. Mr. Griffiths stated staff recommends keeping that language in there if the Commission wants to go the Commercial Site Plan route.

Commissioner Loehlein stated that a different parking arrangement is appropriate here and would like to develop a path for them. Mr. Griffiths replied that the Commission can establish a different standard for parking lots for an impound lot and staff is using regulations that are currently in place to regulate parking lots.

Chairperson Koehler asked if this is a parking lot or not. He stated that people aren't coming and going, and they aren't parking or leaving on their own. He is having a hard time saying it is a parking lot.

Commissioner Loehlein commented that making the area larger and treating it like a parking lot takes away use of land for another purpose and adds cost for the business.

Commissioner VanderLaan asked if the Fire Chief's concerns would go away if the property is increased to 1.5 acres and the applicant parks the vehicles further apart.

Commissioner Daninger stated he supported increasing the acreage and using the Commercial Site Plan parking standards because it is better for appearance and safety. If an IUP is used, the process is controlled.

Commissioner Godfrey would like clarification on safety and asked if it would be prudent to define a parking area somewhere in between impound lot and commercial parking site. Mr. Griffiths summarized the Commission's discussion stating there are three options: 1) expand the area from 1 to 2 acres and keep the Commercial Site Plan in place; 2) keep the area the same size (1 acre) and allow them to park as they want; or 3) keep standards the same and allow applicants to seek IPS for parking, which allows decisions on a case by case basis.

Commissioner Loehlein asked if striking the last sentence of item F would be a solution. Mr. Griffiths replied that then the rest of the city code would fall into place and govern the process.

Chairperson Koehler stated that it would be taking the decision and kicking it down the road and making it the applicant's responsibility to apply for IPS.

Commissioner Godfrey proposed eliminating the last sentence in Item F and move forward in approving the code. She stated this would then be handled by an IUP and IPS.

Commissioner Loehlein concurred and would like it brought back with support from the Fire Chief.

Mr. Griffiths stated that this decision would lead to 2 permits, 2 public hearings, and 2 agenda items.

Commissioner Godfrey asked if the property owner can begin using property and then come back later to ask for an IUP for parking. Mr. Griffiths replied that use cannot begin before the permits and processes are complete.

Commissioner Loehlein asked if it was possible to table the item and come back with another approach after all information has been updated. Chairperson Koehler stated that it can be tabled, but it is not recommended. He informed the Commission that 1 acre would hold around 240 vehicles impound style or 120 vehicles commercial site plan style.

Motion by Loehlein, seconded by Godfrey, to recommend to the City Council approval of an Ordinance Amending City Code Titles 12-2-2, 12-12 and Adding Title 12-16-4 with the following changes: Item B – specify street level or ground level screening; Item C – change from 1 acre to 2 acres; Item F - take out final sentence; Item H - genericize who staffs facility.

Further discussion:

Commissioner Daninger stated his purpose of suggesting 2 acres was based on requiring a Commercial Site Plan and if that was not necessary, he preferred it be kept at 1 acre. Chairperson Koehler stated with 2 acres, the business could potentially put 480 cars in that lot.

Commissioner Sims asked if removing the final sentence in Item F implies the need for a second permit. Chairperson Koehler explained that the applicant would have to apply for a Conditional Use Permit (CUP) for Interim Performance Standards. Commissioner Sims stated that he doesn't believe it is a parking lot and thought the Commission should pass what it would want to see an impound lot look like.

Mr. Griffiths reminded the Commission that if the code stated an IUP, then the process defaults to a Commercial Site Plan. He informed the Commission that the code will explicitly need to state the lot doesn't need to go through the Commercial Site Plan. He asked the Commission if they wanted to allow impound lots in Andover, and if so, how does the Commission want the parking lots to look like. Mr. Griffiths summarized the options before the Commission: Option A) Commercial Site Plan using Interim Performance Standards; and Option B) explicitly state parking is up to business owner and then IPS are not needed.

Commissioner Sims stated he liked Option B.

Motion failed on a 3-ayes, 3-nays, 1-absent (Hudson) vote.

Motion by Daninger, seconded by VanderLaan, to recommend to the City Council approval of an Ordinance Amending City Code Titles 12-2-2, 12-12 and Adding Title 12-16-4 with the following changes: Item C – change from 1 acre to 2 acres; Item B – add street level or ground level screening;

Commissioner Godfrey offered a friendly amendment to add a change to Item H to state facility designates staffing.

Commissioner Daninger accepted the Friendly Amendment.

Motion as amended failed on a 3-ayes, 3-nays, 1-absent (Hudson) vote.

Motion by VanderLaan to recommend to the City Council approval of an Ordinance Amending City Code Titles 12-2-2, 12-12 and Adding Title 12-16-4 as Written.

Motion withdrawn.

Commissioner Sims suggested adding a condition that an impound lot can park how they want with approval from the Fire Chief. Mr. Griffiths replied that this would add another process.

Commissioner Daninger suggested making a motion to direct staff to define what an impound lot looks like.

Chairperson Koehler stated the Planning and Zoning Commission would not be able to review it prior to the item going to Council.

Commissioner Daninger stated he was comfortable with that and had confidence that staff will do their research and come up with a satisfactory definition.

Mr. Griffiths reiterated the Commission had consensus on the following items: Item B – state street level screening and Item H – state the owner designates staffing. He stated the final question is Item F with three options: A) Commercial Site Plan not allowing Interim Performance Standards for parking; B) Commercial Site Plan allowing Interim Performance Standards for parking; or C) Creating a new definition for impound parking lot.

Commissioner Godfrey asked if it would be prudent for the Commission to go with Option B which gives more flexibility and control by the City.

Motion by Loehlein, seconded by VanderLaan, to recommend to the City Council approval of an Ordinance Amending City Code Titles 12-2-2, 12-12 and Adding Title 12-

16-4 with the following changes: Item B – specify street level or ground level screening; Item F - take out final sentence; Item H - genericize who staffs facility.

Further discussion:

Commissioner Godfrey stated the motion does not fulfill the Commission's responsibility. She felt the Commission should make an effort to try to define what they want on an impound parking lot.

Commissioner Godfrey offered a Friendly Amendment for Item F – “impound lots shall not be required to meet the City code standard parking lot requirements but shall maintain access lanes for fire emergency”.

Commissioner Loehlein accepted the Friendly Amendment.

Commissioner Godfrey offered another Friendly Amendment to Item A stating “All necessary permits, including commercial site plan with the exception of those listed in Item F...”

Commissioner Sims seconded the Friendly Amendments.

Commissioner Loehlein stated he would entertain a Friendly Amendment increasing the size of the impound lot from 1 to 2 acres.

Commissioner Sims offered a Friendly Amendment changing Item C from 1 to 2 acres. Seconded by Commissioner Godfrey.

Motion as amended failed on a 3-ayes, 3-nays, 1-absent (Hudson) vote.

Motion by Koehler, seconded by Loehlein, to recommend to the City Council approval of an Ordinance Amending City Code Titles 12-2-2, 12-12 and Adding Title 12-16-4 with the following changes: Item A - “All necessary permits, including commercial site plan with the exception of those listed in Item F...”; Item B – Locations where impounded vehicles are to be parked shall be adequately screened at the street level...”; Item F – “Impound lots shall not be required to meet the City code standard parking lot requirements but shall maintain access lanes for fire emergency”; . Item H “During all operating hours ...the facility shall be staffed by a representative designated by the property owner”.

Motion carried on a 5-ayes (Godfrey, VanderLaan, Koehler, Loehlein, Sims), 1-nay (Daninger), 1-absent (Hudson) vote.

Associate City Planner Griffiths stated that this item would be before the Council at the first meeting in December.

Chairperson Koehler asked Mr. Griffiths to provide the Commission with the Council copy of the Resolution.

OTHER BUSINESS

Mr. Griffiths welcomed Peter Hellegers as the new City Planner.

ADJOURNMENT

Motion by Daninger, seconded by VanderLaan, to adjourn the meeting at 9:11 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Hudson) vote.

Respectfully Submitted,

Shari Kunza, Recording Secretary
TimeSaver Off Site Secretarial, Inc.