

CITY OF HANOVER
PLANNING COMMISSION MEETING
MAY 9, 2011 APPROVED MINUTES

Chairperson Schendel called the May 9, 2011 Planning Commission Meeting to order at approximately 7:00 p.m.

Call to Order

Members present: Karsten, Keefe, Pittman, Schendel, Spraungel, Smola, and Zanetti.

Members absent: None

Staff present included City Council Liaison Malewicki, City Planner Cindy Nash, City Administrator Daniel Buchholtz.

Others present included Mark Miller, Joan Miller, Marty Miller, Lisa McGunnigle and Abby Peterson, all of Hanover.

MOTION by Spraungel, second by Zanetti, to approve the agenda.

Approval of Agenda

Voting aye: Karsten, Keefe, Pittman, Schendel, Spraungel, Smola, and Zanetti

Voting nay: none

Motion carried: 7:0

Schendel noted that the vote count for the motion to adjourn was incorrect as he was not in attendance at the April meeting. Buchholtz stated that he would fix the error.

Approval of Minutes

MOTION by Zanetti, second by Pittman, to approve the minutes from the April 11, 2011 Regular Meeting, as amended.

Voting aye: Karsten, Keefe, Pittman, Schendel, Spraungel, Smola, and Zanetti

Voting nay: none

Motion carried: 7:0

CITIZEN'S FORUM

Citizens Forum

No citizens wished to be heard.

PUBLIC HEARING

Public Hearing

Consideration of Amendments to Article 3, General Provisions, Hanover Subdivision Ordinance

Consideration of Amendments to Article 3, General Provisions, Hanover Subdivision Ordinance

Schendel recessed the Planning Commission meeting and convened a public hearing at 7:05pm to consider amendments to Article 3, General Provisions, Hanover Subdivision Ordinance.

Buchholtz stated that commercial and industrial property owners who wish to obtain a building permit to construct a new structure on a lot described via metes and bounds is required to plat the property. He said the platting requirement adds significant costs to an economic development project. He said that staff has discussed the matter and is proposing an alternative approach that will provide the City with the information it needs to consider a site plan while reducing costs for the commercial/industrial property owner. He said staff is proposing allowing a survey that meets the requirements established by the American Land Title Association (ALTA)/American Congress on Surveying and Mapping. He said many banks require an ALTA survey as part of an application for financing. Nash stated that the negatives to requiring an ALTA survey is that the parcel continues to have a lengthy legal description and that it is more difficult to obtain any easements on the property. She said the easements could be obtained with a separate easement document.

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Spraungel inquired as to how many parcels this change would benefit. Buchholtz stated that the change would primarily benefit parcels in the Downtown River District, the County Road 19 corridor, the County Road 20 corridor, and parcels along 5th Street. Spraungel asked what triggered this request. Buchholtz stated that this requirement is always brought up by commercial/industrial property owners as an impediment to development or redevelopment. He said that the property owners do not see any value from platting their property.

Karsten inquired how the City could obtain easements under the ALTA survey. Nash stated that if a storm water pond was required as part of the project, the City would request an easement over the storm water pond so the City could maintain it. Nash also stated that if the Comprehensive Plan showed a trail easement on the parcel, the City could request an easement for that purpose. Buchholtz noted that nothing would change should the City come to the property owner after the fact, whether if the property was platted or not. Karsten asked what easements would be required through the platting process. Nash stated that a five foot drainage and utility easement around the property is typically required, as well as any easements for storm water, sanitary sewer and water utilities. She said the City is limited to require easements set out in City Code.

Spraungel stated that she did not see any positives to this change for the City. Karsten agreed, stating that she believed that this would add additional costs to the City for the City to purchase easements that would otherwise be obtained through the plat process. Buchholtz suggested an amendment to the ordinance language stating that property owners that use the ALTA process would be required to contribute easements that would otherwise be required as part of the platting process. He said this would address the concerns that Karsten raised about the potential cost of obtaining easements under the ALTA survey.

Karsten asked what other cities required. Nash stated that some cities require properties to be platted. She said other cities required properties to be a lot of record. She said the ALTA survey would provide the City with information on existing easements and encumbrances that would not necessarily be shown on a traditional survey. She said the ALTA survey requires significantly more information than a traditional survey. She said the ALTA survey would identify boundary overlaps or gaps that could be corrected.

Spraungel stated that she does not feel this change would benefit the City. She said the platting requirements are a negotiating tool for the development. She said the only benefit is to the developer. Nash stated that a developer will only allocate a particular amount of money for a project. She said that if the City can save a developer money on planning, that money could be applied for better landscaping and building materials. Spraungel asked how the City could require that those funds be applied to the project. Nash stated that such language is not typically in an ordinance. She said that the City ensures it is invested in the project by not providing flexibility to a developer on landscaping, building standards or LID development. Smola stated that the cost of the platting process for a larger development is spread amongst a number of lots where in this situation, the platting costs is applied to one lot.

Abby Peterson, 10555 Prairie Lane, stated that she supported the change as it would reduce costs and regulations for new businesses wanting to locate in Hanover.

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Malewicki noted that the Council asked that staff bring this proposed change to the Planning Commission for its consideration.

Hearing no additional public feedback, Schendel closed the public hearing at 7:35pm.

MOTION by Zanetti, second by Pittman, to recommend approval of a change to Section 30-03-04(B) of the Hanover Subdivision Ordinance to allow a commercial/industrial property owner to provide the City with an ALTA survey as an alternative to platting, so long as the property owner provides all easements that would otherwise have been required through the platting process.

Voting aye: Keefe, Pittman, Schendel, Smola, and Zanetti

Voting nay: Karsten, Sprauangel

Motion carried: 5:2

Consideration of Amendment to Future Land Use Map for PID 108-500-362306, Located on 5th Street East of Hanover Athletic Association Property

Consideration of
Amendment to Future
Land Use Map for PID
108-500-362306

Schendel recessed the Planning Commission meeting and convened a public hearing at 7:40pm to consider an amendment to the future land use map for a parcel identified as PID #108-500-362306, owned by Martin Miller.

Nash stated that the Millers have requested a Comprehensive Plan Amendment to change the guidance of their property from Commercial to Industrial. She said the property is currently used for truck trailer storage. She said they are looking to build a second building on the site. She said an expansion of the trucking use would not be allowed in the B-2 district, but is allowed in the I-3 district. Nash stated that this change would not be considered spot zoning as it is across the street from the City's industrial park property. She stated that it is staff's opinion that if the site was regulated to allow for an expansion of the existing industrial use, it would still be feasible for the site to redevelop in combination with the property to the west as part of a commercial development project. She noted that such a redevelopment would require a Comprehensive Plan amendment. She said that a positive aspect to regulating the property would be able to allow for the construction of a new building while also bettering the appearance of the site in the interim until eventual redevelopment. She said the appearance of the new buildings, landscaping, screening and other items would be thoroughly reviewed during site plan approval.

Nash stated that the Commission has a number of options to consider:

- Deny the request to regulate the property to industrial
- Recommend approval to regulate the property to industrial
- Recommend approval to regulate the property as a dually-guided property with a land use designation of Commercial/Industrial. This would reflect that the property is in a transitional state and allow for a mix of Commercial and Industrial Uses, subject to conformance with appropriate underlying zoning, until such time as the property can be redeveloped. The City Attorney should be consulted prior to approval of this option.
- Table the request until a more detailed site plan is provided.

Mark Miller, 1251 Irvine Drive NE, stated that he is looking at constructing a

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second pole building where he could move his office and truck storage from space at the Hanover mini-storage to this location, thereby consolidating his business on one parcel. He said that he would add some brick or stone to the front of the existing building to create a similar appearance to the proposed building.

Spraungel noted that 30% of the new building would be office. She inquired how many trucks would be parked inside. He said that all his trucks would be able to be parked inside. He said his goal is to consolidate his business on one parcel.

Karsten inquired why this parcel was regraded in 2002. Malewicki stated that he did not recall why the parcel was regraded from industrial to commercial. He said that the City tied that parcel to the City's vision for the County Road 19 corridor. Karsten inquired if this parcel abutted County Road 19. Buchholtz stated that the parcel did not abut County Road 19, noting that it is separated by property owned by Larry Miller.

Spraungel expressed concern that this change would create precedence for other commercially zoned parcels to seek an amendment to the comprehensive plan. Buchholtz stated that the only other parcels he could see ever seeking a comprehensive plan amendment would be the property to the east of the City's industrial park parcel, the Hanover Athletic Association property and the City Hall property. He said the guidance for the Athletic Association and City Hall properties would change only if those uses/facilities were relocated.

Spraungel stated that the criteria established in the Comprehensive Plan for amendments is that 1) there is a mistake in the Plan; or 2) there is a change in the community or in issues not anticipated by the Plan. Nash stated that the Comprehensive Plan anticipates the City's vision for 20 years without considering the transition between the current use and the future envisioned use. Buchholtz also noted that the Comprehensive Plan states that it is not a static document but one that should evolve as the community grows and develops.

Zanetti noted that all outdoor storage would be required to be screened under the zoning ordinance. Nash stated that the site plan will need to address all standards as outlined in the I-3 district.

Spraungel recommended that the City table this change until Mark Miller is able to present a more detailed site plan. Keefe disagreed, stating that she wants to keep businesses in Hanover. Miller stated that he has spent a significant amount of money so far and that he is unwilling to spend more to finalize his site plan until he finds out if the zoning amendment is approved. Zanetti asked if Miller would be able to comply with the I-3 zoning district standards. Miller stated that he believed he would be able to comply.

Hearing no further public comment, Schendel closed the public hearing at 8:10pm.

MOTION to table

MOTION by Spraungel, second by Karsten to table until a more detailed site plan is presented.

Voting aye: Karsten and Spraungel,

Voting nay: Keefe, Pittman, Schendel, Smola, and Zanetti

Motion failed: 2:5

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Schendel asked the Commission for a recommendation.

MOTION by Keefe, second by Smola, to recommend regarding the property from Commercial to Industrial.

Voting aye: Karsten, Keefe, Pittman, Schendel, Smola, and Zanetti

Voting nay: Spraugel

Motion carried: 6:1

MOTION to recommend regarding the property from Commercial to Industrial

Consideration of Request for Rezoning for PID #108-500-362306, Located on 5th Street East of Hanover Athletic Association Property

Consideration of Request for Rezoning for PID #108-500-362306

Schendel recessed the Planning Commission meeting and convened a public hearing to consider a request for an ordinance map amendment for a parcel identified as PID #108-500-362306, owned by Martin Miller.

Nash stated that the staff has weighed the request against the criteria established in the Zoning Ordinance and has provided findings on each criterion.

- a) ***The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.*** Staff comment: If the Comprehensive Plan amendment is approved, then the rezoning is consistent with the Comprehensive Plan.
- b) ***The proposed use is or will be compatible with present and future land uses of the area.*** Staff comment: The proposed use is currently compatible with existing uses, and construction of new buildings and site plan review associated with it will allow for additional opportunities to landscape and screen the property, resulting in an improved appearance.
- c) ***The proposed use conforms to all performance standards in this Chapter.*** Staff comments: The proposed use cannot be reviewed fully at this time. A full site plan review would be required prior to construction of any buildings.
- d) ***The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.*** Staff comment: The proposed use can be accommodated with existing services.
- e) ***Traffic generation by the proposed use is within capabilities of streets serving the property.*** Staff comment: The proposed use results in a lower average daily traffic than many uses permitted in a B-2 zone, and as such will generate less traffic than uses allowed under current zoning.

Nash stated that staff recommends approval of the zoning amendment application.

Spraugel stated that she was not comfortable moving forward with the zoning amendment until all the site plan information was received.

Hearing no further public comment, Schendel closed the public hearing at 8:20pm.

MOTION by Keefe, second by Schendel, to recommend approval of the zoning amendment from B-2, Highway Commercial, to I-3, Industrial.

Voting aye: Karsten, Keefe, Pittman, Schendel, Smola, and Zanetti

MOTION to recommend approval of zoning map amendment from B-2 to I-3

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Voting nay: Spraugel
Motion carried: 6:1

Consideration of Request for Conditional Use Permit to Allow Retail Commercial Sales in I-3, Industrial Park, Zoning District

Consideration of
Request for Conditional
Use Permit to Allow
Retail Commercial Sales
in I-3, Industrial Park,
Zoning District

Schendel recessed the meeting and convened a public hearing at 8:22pm to consider a request from JS Stewart Companies for a conditional use permit to allow retail commercial sales in the I-3, Industrial Park, District.

Nash provided an overview of the request, stating that the subject property is located at 11099 Lamont Avenue NE. She noted that the applicant currently uses the property for an excavating company and for the repair of motor vehicles. She said the applicant is seeking a used car dealership license to be able to attend auto auctions and facilitate title work with the state as an accessory use to the auto repair business. She said that this type of business requires licensure with the state, which in turn requires proof of compliance with local zoning requirements.

Nash stated that staff is recommending the conditional use permit to be approved, subject to the conditions that 1) outdoor storage is not permitted for the storage of cars "for sale" or inoperable vehicles; and 2) all activity associated with the used car dealership shall be contained inside the existing buildings.

Spraugel stated that she has an issue with conditional use permits. She questions the City's commitment to enforce the provisions of the conditional use permits over time. She also expressed concern that the permits essentially never expire. Karsten concurred. Spraugel expressed disappointment that the applicant was not in attendance and that she would like the matter tabled to allow Commissioners to ask questions of the applicant.

Hearing no further public comment, Schendel closed the public hearing at 8:30pm.

MOTION by Keefe, second by Karsten, to table to the June meeting.

Voting aye: Karsten, Keefe, Pittman, Schendel, Spraugel, Smola, and Zanetti
Voting nay: none
Motion carried: 7:0

UNFINISHED BUSINESS

Unfinished Business

Park Dedication Study

Park Dedication Study

Schendel introduced the item. Nash provided an overview of the park dedication study process. A summary of the overview is listed below:

- What is a park dedication study?
 - Makes a determination as to:
 - What park improvements are needed?
 - Are park improvements needed because of new growth, existing residents or a combination of the two?
 - What are the funding sources that can be used to fund park development plans?

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- Legal requirements the City needs to consider
 - Nollan v. California Coastal Commission
 - Establishes a requirement of a “rational nexus”
 - Dolan v. City of Tigard
 - Establishes a requirement of rough proportionality
 - Minnesota Statutes
- What is “rational nexus”?
 - There must be a reasonable connection between the need for additional facilities (new parks or trails or improvements to existing parks) and the demand from new development
- What is “rough proportionality”?
 - The park dedication fee charged cannot exceed a proportionate share of the costs incurred or to be incurred by the City in accommodating the development.
- What are the requirements under Minnesota Statutes?
 - Park dedication fees can only be imposed by ordinance.
 - New or amended fees do not become effective until January 1st of the year following adoption and publication.
 - Recent amendments to statute have incorporated the Nollan and Dolan requirements.
- What are some general rules to consider as we move forward?
 - Park dedication fees cannot be used for maintenance.
 - They may only be used for acquisition and development.
 - Replacement of existing improvements is deferred maintenance, and as such is not an eligible use of the park dedication fund.
 - Park dedication fees can only be used for items within the City’s currently approved plan.
 - Park dedication fees must be placed in a separate segregated fund.
 - When reviewing the park dedication fees to charge a development, due consideration should be given to facilities open to the public within that development.
 - The City may not refuse to approve a development contingent upon the Developer waiving their rights to challenge the City’s park dedication fee. State statute gives the developer the right to have their development approved and then litigate the park dedication fee following approval.

Nash stated that prior to the next meeting she will send out a level of service matrix for park improvements. She said the goal is to determine the right mix of improvements that meet the City’s goal/values. She said the Commission will also review the City’s Comprehensive Plan and existing park infrastructure.

NEW BUSINESS

No new business was on the agenda.

MISCELLANEOUS/OPEN FORUM

No one wished to be heard.

REPORTS

Schendel inquired about the Wetter’s concept plan. Buchholtz stated that the

New Business

Miscellaneous/Open Forum

Reports

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City Council approved the concept plan. He said the Wetter's have decided to move away from that concept to explore a different development scenario.

MOTION by Spraungel, second by Keefe, to adjourn the May 9, 2011 Planning Commission meeting at 9:02 p.m.

Adjournment

Voting aye: Karsten, Keefe, Pittman, Schendel, Spraungel, Smola, and Zanetti

Voting nay: none

Motion carried: 7:0

Daniel R. Buchholtz, City Administrator

DRAFT