

MINUTES OF THE ZONING COMMITTEE
Thursday, June 8, 2017 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: DeJoy, Edgerton, Lindeke, Makarios, Ochs, and Reveal
STAFF: Anton Jerve, Cherie Englund, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Makarios.

Vertical Endeavors - 17-042-216 - Conditional use permit for indoor recreation, with modification of standard for primary access from an arterial or collector street at 2550 Wabash Avenue, NE corner at Emerald.

Anton Jerve presented the staff report with a recommendation of approval for the conditional use permit with conditions. He noted District 12 recommended approval, and there were no letters in support or in opposition.

In response to a question by Commissioner Reveal, Mr. Jerve said the application is to modify a condition for indoor recreation use as noted in finding 4. He added that finding 2b can be met through the site plan review process.

Commissioner Edgerton asked if the proposed bollards are acceptable. Mr. Jerve said they are acceptable.

Commissioner Edgerton asked if they will meet the parking requirement if the parallel parking on Wabash would be eliminated once the proposed sidewalk is constructed. Mr. Jerve said he did not believe they would need the parallel parking to meet the requirement and it may be a discussion at site plan review.

Commissioner Ochs asked if there is clearance for a bus to turn around in the parking lot. Mr. Jerve said the rear half of the parking lot, which is used for delivery trucks, could also allow for buses to turn around.

The applicant, Nate Postma, 6594 Odell Ave. S., Hastings, said that this climbing facility is for bouldering, rather than climbing with ropes as offered in their other facilities. He said because of this type of climbing, he does not expect bus traffic to this facility. He also discussed some of the challenges with a proposed future sidewalk, connecting to the trail along the vacated railway, and landscaping.

No one spoke in favor or in opposition and the public hearing was closed.

Commissioner Reveal moved approval of the conditional use permit with conditions.
Commissioner Lindeke seconded the motion.

In response to Commissioner Edgerton and Chair Makarios, Mr. Jerve noted an error in the bullet points of the staff report that were corrected from finding 3d to finding 4.

Commissioner Lindeke commented that this is going to be a really great walking and bike trail through this corridor.

The motion passed by a vote of 6-0-0.

Adopted Yeas - 6 Nays - 0 Abstained - 0

Drafted by:



Cherie Englund
Recording Secretary

Submitted by:



Anton Jerve
Zoning Section

Approved by:



Kyle Makarios
Chair

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STAFF: Jake Reilly, Cherie Englund, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Makarios.

Evergreen Recovery - 17-042-160 - Variance and conditional use permit for supportive housing for 16 residents at 203 Robie St. E., NE corner at Ada.

Jake Reilly presented the staff report with a recommendation of approval for the variance and conditional use permit with conditions. He noted District 3 made no recommendation, and there were no letters in support, two letters in opposition, and the second opposition letter included 64 signatures.

In response to a question by Chair Makarios, Mr. Reilly said the recommendation for 12 facility residents and one resident manager is based on the RT1 zone and the large size of the lot, which could be split and have two houses with comparable density. He also noted that the RM2 zone across the street would allow up to 16 facility residents.

Commissioner Makarios asked if condition 2 of the staff recommendation, to require 3 additional parking spaces, is based on 12 residents and one resident manager. Mr. Reilly said that is correct.

In response to questions by Commissioner Ochs, Mr. Reilly said permitting up to six facility residents for this use in RT1 mandated by the state, and Mr. Torstenson said that is to treat such residential facilities with up to six people as similar to a family.

Commissioner Ochs asked about the requirement for two or more such facilities to be a minimum distance from each other, and if two facilities were built on the lot could they accommodate 12 residents. Mr. Reilly clarified that he did not mean to suggest they could have 12 facility residents, but they could conceivably have two structures on the property from a general density standpoint.

In response to Commissioner Lindeke's question about finding 5(f), Mr. Reilly said there are several large institutional uses and a mix of residential uses in the surrounding area.

In response to a question and comment by commissioners Reveal and Edgerton, Mr. Reilly said there could have been a number of priests living in the house when it was a rectory for the church.

In response to a question by Commissioner Edgerton, Mr. Torstenson said a resident manager is included in the six facility residents permitted under RT1 zoning.

Chair Makarios clarified that condition 1 of the staff recommendation, that there shall be no more than 12 facility residents and one resident manager, would allow 13 facility residents. Mr. Reilly said that is correct.

The applicant, David Backus, 415 Ash St., Lino Lakes, said the house is about 5,000 sq. ft., and it wouldn't make sense to have a resident manager with only 6 residents. In response to a question by Commissioner Reveal, Mr. Backus said the program can work with 12 residents and a resident manager.

Commissioner Ochs asked why 6 residents would not work.

Mr. Backus explained the need for 24-hour support and supervision for their program's success, which would not be financially viable for only 6 residents.

George Younes, 1501 Keller Lake Rd., Burnsville, spoke in favor. Mr. Younes said he owns the property and the house has about 5,000 sq. ft. of living space. He said the basement is 2,000 sq. ft., with 8-foot ceilings, and there was a chapel there. They wouldn't add a bedroom in the basement if there are only 12 facility residents. While homes commonly have three bedrooms, this house has six bedrooms, a couple very large and a couple with private bathrooms. He agreed to this use is because they will always have a full time awake staff person there.

In response to a question by Commissioner Reveal, Mr. Younes said he will retain ownership and maintain the property. In response to a question by Commissioner Lindeke, Mr. Younes said the footprint of the house is about 2,000 sq. feet, with a 2000 sq. foot main level and basement, and a 1000 sq. foot second floor.

Commissioner Edgerton asked for clarification of the 24 hour, awake staff member. Mr. Younes said he believed this would be achieved through staff members working in shifts.

Nancia Santine, 234 East Winifred Street, spoke in opposition, submitted a letter, and signed a petition. She said she disagrees with the owner that the property is being well maintained. She said she feels that the neighborhood has enough with the Wellstone Center, the high-rise, and public housing. She is concerned about where the residents will park because it is difficult to find a parking space in front of her house. She said the West Side needs help in cleaning up the neighborhood and there is too much temptation for a recovering alcoholic with a bar 1-1/2 blocks away and events like Cinco de Mayo.

Durena Villamor, 233 Robie Street East, spoke in opposition and signed a petition. She asked what the ratio of employees to facility residents would be, adding that she works in this industry and one staff person to 16 facility residents is not enough supervision. She said she is concerned for the older people and children in the neighborhood with the lack of supervision.

Mr. Backus said that the previous tenants are being evicted because they weren't following the lease. They have professional staff and will always have two staff members on site, a live-in staff person plus a shift staff person that would always be awake, which is beyond what is required by the State of Minnesota. He said they will have 100 percent off-street parking for staff and residents.

Chair Makarios asked if there will still be two staff on duty if the application is approved for 12 facility residents. Mr. Backus said they will.

Mr. Backus said the Fair Housing Act does not allow discrimination against handicapped people. Of the 64 residents who signed the petition, 17 people mention safety of children in the neighborhood as the reason they disagree with approval of this application. According to the Fair Housing Act, preconceived notions that people who have a substance abuse problem may be a danger to the neighborhood would constitute discrimination. He said the people in his program are well behaved, are on probation, and are supervised 24 hours per day. He added that at the end of this program the residents will be employed and have housing and that their recidivism rate is about 10 percent. He said they have the highest success rate in Minnesota because the program is so strictly controlled.

Commissioner DeJoy noted nearby bars and restaurants that serve alcohol where there have been substance abuse issues, and asked if clients are allowed to come and go as they please.

Mr. Backus said clients are required to be awake by 8:00 AM. A morning group goes to treatment for three hours and then to work, and are allowed out during the day. They have a curfew and if they smell alcohol they administer a breathalyzer. If a client is found to be intoxicated, they would be removed from the program and taken to a shelter or transitioned out to another program.

Commissioner DeJoy asked if the facility residents are allowed to have visitors. Mr. Backus said on Sunday they can have a family member visit, but generally visits happen elsewhere.

Commissioner DeJoy said that parking is intense in this area, being close to a commercial district.

Mr. Backus responded that their staff and residents will not use on-street parking spaces.

Commissioner Ochs asked why there is a need for 24-hour supervision.

Mr. Backus said it provides extra safety for facility residents. The facility residents have a disability and need help, and they have a 90 percent success rate.

In response to questions by Commissioner Reveal, Mr. Backus said they operate one other facility; it is a 2,200 sq. ft. house, with nine residents, and they do not permit sex offenders in their program.

The public hearing was closed.

Commissioner Reveal asked staff when the photos were taken. Mr. Reilly said they were taken two weeks ago. Commissioner Reveal said the property looks well kept.

Commissioner Reveal moved approval of the variance and conditional use permit with conditions. Commissioner Edgerton seconded the motion.

Commissioner Lindeke said he was going to vote against this application, but has been swayed by the applicant's description, and 12 facility residents seem like a good number for this house.

Commissioner Ochs said he supports Evergreen Recovery's program and would support 6 facility residents at this location, is concerned about the variance and conditional use permit for more residents to make the program work in a house and property that is too small, and does not support such a large facility in this residential area.

Commissioner Edgerton said that no one wants these facilities so they go into industrial areas, which is not best for the facility residents. The public includes the residents in the facility and the neighbors around them. He suggested having a number for neighbors to call if there is an issue.

Chair Makarios agreed, noted the permitted use is for six facility residents, and said he thinks the variance is warranted and that 12 people can fit on a property of this size.

Commissioner Lindeke asked if condition 1 of the staff recommendation should be changed to no more than twelve (12) facility residents and two staff people shall be on the property.

Peter Warner offered four additional conditions for consideration based on the testimony of the applicant: 1) two staff people will always be present on the premises, one live in person and one shift staff; 2) adequate parking on site and no staff or resident parking on streets; 3) no sex offenders allowed; and 4) enforceable curfew hours. Since the applicant did not address the actual hours it may be good to have the applicant come back to inform the Zoning Committee of what those hours are.

Commissioner Reveal said she is comfortable with these additional conditions, but clarify condition 1 as not more than one live in staff person and one additional staff person, so the use remains as 12 facility residents and one resident manager.

Commissioner DeJoy said this seems like micromanaging the program.

Mr. Reilly said condition 1 may inadvertently limit the number of staff on site if it limits how many staff are allowed.

The public hearing was reopened.

In response to questions by Chair Makarios, Mr. Backus said their curfew hours are 10:00 PM on weeknights and 11:00 PM on weekends, with a variance for a client working a night shift. He said that they have one live in staff person that has gone through the program, and also have another staff person on site 24-hours a day.

Commissioner Reveal asked if they will provide therapy services at this house. Mr. Backus said all therapy services are located at their office on Energy Park Drive.

Chair Makarios said he agrees that there will be adequate staffing on site.

Commissioner Lindeke said that condition 2 should not require paving 3 additional parking spaces.

Chair Makarios said we should not require more parking than the code requires.

Commissioner Reveal proposed replacing condition 2 of the staff recommendation (3 additional parking spaces) to require enough parking to meet the zoning code requirement with no on-street parking.

Mr. Torstenson said if they have 13 residents in the house, the zoning code requires as a minimum of five off-street parking spaces. There are currently 2 spaces in the garage, so they would need 3 additional spaces, which is what condition 2 makes clear. The applicant did not request a variance of the parking requirement.

Commissioner Reveal made a motion for an additional condition that residents and staff may not park on the streets. She said her only hesitancy is that she is unsure whether the required parking spaces are sufficient to provide enough off-street parking for their residents and staff.

The motion passed by a vote of 5-1-0 (DeJoy)

Commissioner Reveal said the applicant already stated that sex offenders are not allowed in this program and feels no need to enforce this, because they are licensed by the Department of Human Services.

Commissioner Reveal said she is fine with the curfew hours as stated by the applicant, likes the notion of making it a condition so the Department of Safety and Inspections can enforce this if it becomes a problem, but doesn't want to micromanage the program and would not like to specify the time of the curfew.

Commissioner Ochs said the residents do not have free reign because they are enrolled in a program. Commissioner Reveal said she is comfortable not having an extra condition for a curfew.

Commissioner Ochs asked who people should call if there is an issue at the house and if this house will be identified through signage.

Mr. Reilly said that if there is a problem at the house, the appropriate thing to do would be to call police. He said that there are notifications to residents for sex offenders moving into an area and this is not the same thing. He said that supportive housing facilities like this are not identified because a goal is for the facility residents to be integrated back into society.

Commissioner Reveal moved approval of a variance and conditional use permit for a supportive housing facility for twelve (12) facility residents and a resident manager, with the three conditions recommended by staff and the additional condition added by the committee. Commissioner Edgerton seconded the motion.

Commissioner Lindeke said he dislikes requiring parking lots that will not be used, and that staff could suggest that applicants apply for a variance of the parking requirement if it's not needed.

The motion passed by a vote of 4-2-0.

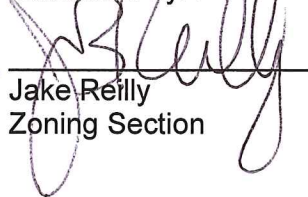
Adopted Yeas - 4 Nays - 2 (DeJoy, Ochs) Abstained - 0

Drafted by:



Cherie Englund
Recording Secretary

Submitted by:



Jake Reilly
Zoning Section

Approved by:



Kyle Makarios
Chair

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The meeting was chaired by Commissioner Makarios.

Shahid Aziz - 17-042-099 - Rezoning from I1 light industrial to IT transitional industrial at 495 Kenny Road, NE corner at Brunson.

Bill Dermody presented the staff report with a recommendation of approval for the rezoning. He said District 5 made no recommendation, and there were no letters in support or in opposition.

In response to Commissioner Reveal, Mr. Dermody said he had not contacted the Port Authority. Commissioner Reveal said in the future the Zoning Committee would like staff to contact the Port Authority when rezoning any industrial property.

Commissioner Ochs asked why the applicant is requesting to rezone from light industrial to transitional industrial. Mr. Dermody said the applicant would like to have a dwelling unit on the first floor and rezoning to IT transitional industrial would allow for that use.

Commissioner Ochs asked how taxes would be affected by rezoning from I1 to IT. Mr. Dermody said the rezoning would not affect the taxes, but the use does.

The applicant, Shahid Aziz, 495 Kenny Road East, said he acquired this property after working with the Environmental Protection Agency (EPA) for two years. He said he employs 29 people, and he purchased this property so he could park all of the cars for his business indoors and live upstairs. In response to a question by Commissioner Reveal, Mr. Aziz said he owns a limousine company and a mechanical business. He said there is about 17,000 square feet of space on the first floor, where there is space to add two apartments separated from the garage. He said the entrance to the apartments will be on Brunson. He added that this location will be used for storage of the limousines, and his business is operated at 1047 Raymond Ave.

Commissioner Ochs asked if the first floor would be used for parking vehicles and to have residential rental units. Mr. Aziz said yes, and that he lives on the second floor at this location.

No one spoke in favor or in opposition and the public hearing was closed.

Commissioner Reveal asked staff if residential living space is allowed in this building. Mr. Dermody said that the I1 zoning allows for residential living space on the second floor, but does not allow this use on the first floor.

In response to a question by Commissioner Ochs, Mr. Dermody said the zoning code generally allows mixed residential and commercial use in I1, and specifically limits dwelling units to upper floors.

In response to a question by Commissioner Lindeke, Mr. Dermody noted that this property was rezoned to I1 in 1975 under the citywide rezoning.

Commissioner Reveal moved approval of the rezoning. Commissioner DeJoy seconded the motion.

In response to Commissioner Lindeke's comments about the land use map and the mix of residential and other uses in this area, Mr. Dermody said that the Payne-Phalen District Council will be reviewing their district plan in the next year and perhaps a zoning study will follow.

Commissioner DeJoy noted that there is a lot of residential use in industrial zones, such as in the Vanderby building, and there are other industrial uses closer to the railroad. She said that she thinks the proposed use will not disturb nearby residential uses. She also noted that District 5 Planning Council is hoping to have Payne Ave. rezoned by next year.

Commissioner Ochs said he is in favor of contiguous zoning, is concerned about losing industrial opportunities and tax revenue, and would have liked the Port Authority to have been notified.

Commissioner Reveal said they looked at the range of uses allowed in industrial zones about 3 years ago, and many uses can't locate anywhere else. She is not so concerned about other uses where there is no demand for industrial. She is comfortable with a comprehensive look at zoning in this area. In discussion with the Port Authority for rezoning industrial property, she would like to see something about the demand for the property.


Commissioner Edgerton said he is generally comfortable with this rezoning, but asked staff to try to get a sense of vacancy rates and demand for industrial uses for rezoning of industrial property.

The motion passed by a vote of 6-0-0.

Adopted Yeas - 6 Nays - 0 Abstained - 0

Drafted by:

Cherie Englund
Recording Secretary

Submitted by:

Bill Dermody
Zoning Section

Approved by:

Kyle Makarios
Chair

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The meeting was chaired by Commissioner Makarios.

Beacon North I - 17-042-435 - Rezone portion to become part of the railroad ROW from I1 light industrial to I2 general industrial at 777 Forest Street, W. side of Forest S. edge of the railroad ROW.

Bill Dermody presented the staff report with a recommendation of approval for the rezoning. He stated District 4 made no recommendation, and there were no letters in support or in opposition.

Paul McGinley with Loucks Associates, representing Beacon North, said to make a boundary adjustment to clean up this property, a small piece of land that will become part of the railroad corridor needs to be rezoned to have the same zoning as the rest of the railroad parcel.

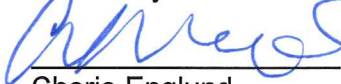
No one spoke in favor or in opposition and the public hearing was closed.

Commissioner Edgerton moved approval of the rezoning. Commissioner Reveal seconded the motion.

The motion passed by a vote of 6-0-0.

Adopted Yeas - 6 Nays - 0 Abstained - 0

Drafted by:



Cherie Englund
Recording Secretary

Submitted by:



Bill Dermody
Zoning Section

Approved by:



Kyle Makarios
Chair