

PLANNING AND ZONING COMMISSION MONTHLY MEETING
Council Chambers
12/23/2014 6:00 P.M.

Present: Ron Welder, Larry Wright, Joel Amandus, Neal Boeding, Ed Delaney, Brenda Parker.
Absent: Lyle Brown, expected absence- excused.
Staff: Doug Krogmeier, City Manager David Varley, Fire Chief Joey Herren, Mayor Brad Randolph, Council Liaison Kevin Rink
Visitors: Mark Lair, Linda Lair, Andy Andrews, Bob Manka, Tonya Booten, Marty Feinberg.

Ron Welder called the meeting to order at 6:00 P.M. with six members present.

ACTION ON MINUTES

The minutes from November 25, 2014 were approved on a motion by Amandus, seconded by Delaney.

NON AGENDA ITEMS

Bob Manka spoke regarding subdivision requirements regarding the next final plat for Innsbrook subdivision. He requested that the following items be reviewed when reviewing the Final Plat:

- 11-4-7B requires streets not exceed 700 feet long. Current plans do not meet this requirement.
- 11-4-7G requires lot frontage minimum of 35 feet. Current plans show two lots smaller.
- Subdivision paving is paid for by the subdivider. But accounts payable records for the City show 135 feet of paving paid for by the City. How was this approved? No other subdivider has been assisted in such a manor by the City.

Case File: 15-01 Rezoning request by Betty and Marty Feinberg to rezone 1311 – 18th Street from I-1 Limited Industrial District to I-2 General Industrial District.

Staff reviewed the report, explaining that over the past several decades the city has had multiple zoning and nuisance violations regarding this property, which leads staff to advise the commission not to recommend this rezoning to Council.

Welder opened the public hearing at 6:08P.M.

Marty Feinberg Spoke in favor of the request. He understands and before he would relocate he would put up a fence and follow conditions as required by the commission. If the commission wanted to start with a probationary period to see compliance he would comply. He explained that the business itself has changed, large storage is not feasible anymore, the business in this economic climate requires near immediate turn around. Large storage simply won't happen. Previous issues were a collection of 80 years of storage. He wants to cooperate, not doing so just costs everyone money.

Parker asked why move back to this site, Feinberg explained that the old site is too big, with his mom retiring, it's too much to handle. Plus when the railroad closes the 18th Street crossing, that would kill business. He is also in multiple ventures, and is trying to make this business smaller. Parker asked if he would run both sites, Feinberg replied that Don Hall wants that site.

Amandus asked If Feinberg still owns 1510 18th, Feinberg responded that Don's Buying that property.

Delaney noted that he understands people in the city are scared to death the laundry list of issues could resurface. Feinberg responded that 95% of the issues were encroachment, which he would remedy prior to moving back by installing adequate fencing. He went on to state that years ago he

would have just moved in and said see you in court, but he understands the requirements and is trying to do it properly. Further discussion took place regarding fencing and conditions, which Feinberg explained that because of the economy, the volatile nature of the business dictates that large stock is not kept on site, thus the fence height is not required to be as high as past would need.

Wright mentioned that in the past some type of bonds we put up by Feinberg to ensure compliance and something like that could be considered or offered by Feinberg to ensure compliance.

Parker asked if Feinberg would sell 1510 18th even if rezoning is not approved. Feinberg stated he would and he could go to other sites, but would prefer to move back to his original site as it is already set up for the business. He's rather stay in the city and his customers spend money in town.

Bob Manka spoke in favor of the request. He understands as a long time neighbor the nature of the business, but as a city we need this type of business. He collects the trash that would otherwise fill up property.

Mark Lair spoke indifferently, but asked how the highway closing 18th St. would affect the traffic in this area. He also asked if nuisances have been an issue for Feinberg properties which Krogmeier stated it has been. Feinberg rebutted that if he is back up there all the time he will see and keep these properties in better condition.

Fire Chief Joey Herren spoke to how the conditions in the past have not been maintained such as the fence that was installed but was knocked down due to over storage and operation. The city does not have the manpower to force compliance if these previous conditions reemerge. He also noted that the City has had to spend a lot of taxpayer dollars to deal with the issues created by the operation of the location in question.

Mayor Brad Randolph also spoke on the request. He stated he has mixed feelings about moving the scrap yard back to that location. From the City's perspective, he does not want to see the City fight with the business owner anymore. He would like to see a spirit of cooperation and doesn't want the city to scrutinize in excess or the owner to disregard the laws of the city. He has concerns based on history, and however the commission chooses to rule, he would like to see added layers of protection, monetarily or otherwise, to give the city sufficient recourse in the event the conditions are not met without having to go through the courts for remedies. He would like both the business to be successful, while in compliance. He does not want 10 years from now to have to answer the question why did the city let it happen again. The concerns and the condition are really up to Feinberg to follow through with what is to be promised.

Wright noted that the guarantees, mayors concerns, and conditions to impose are related to the special use more so than the rezone. Krogmeier stated the question on the table is really does the commission want to consider rezoning this property to I-2 being that much closer to the highway. Delaney asked if the rezoning is approved what types of conditions can be placed on the special use to give the city the power to shut down the business. Krogmeier explained that the zoning code does not give limitations on the conditions. Amandus questioned if neighbors got notice, Krogmeier explained neighbors got notice and no comments were received.

Lair asked what types of business could go there if its rezoned. Krogmeier stated that I-2 is general industry. Anything not listed as special uses could go there. I-2 does carry lot requirements for specific types of operations so based on the size of the lot, there are limitations for the type of use.

Welder closed the public hearing at 6:31P.M.

Welder called for question, Parker noted that as she has heard from several citizens requesting her to not let this happen, taking that into consideration **Parker made a motion to recommend Council deny the rezoning request for Feinberg. The motion failed for lack of a second.**

Amandus then made a motion, seconded by Delaney, to recommend Council approve the rezoning request. Motion failed via a vote of 3-Yes, 3-No.

Case File: 15-02 Special Use Permit request to operate scrap/salvage/recycling business by Betty and Marty Feinberg at 1311 – 18th Street.

Krogmeier explained that he is still recommending to table this request until after Council can vote on the Rezoning to better understand how Council would like to proceed as well as conditions council felt should be imposed if any.

Welder opened the public hearing at 6:38P.M.

Manka stated that the business is needed and with the right regulations and Feinberg's cooperation with those regulations this could be approved.

Welder closed the public hearing at 6:41P.M.

Parker made a motion, seconded by Boeding, to table the Special Use Permit Request until Council can vote on the Rezoning.

Zoning Review: Proposed Code Changes: 10-19 Off-Street Parking and Loading: Clarification

Krogmeier explained that a clarification was needed on one item to be changed. The original surfacing requirement exempted single family dwellings from requiring hard surfacing. The proposed change was written to exempt all residential but staff was unsure this was the intent of the commission. After discussion the commission confirmed it was not the intent to exclude all residential properties from hard surfacing but to only exempt single family and two family dwellings from this requirement. We a clear understanding staff will update Council on the intended code.

OLD BUSINESS

Campers: Krogmeier stated staff is still working out possible solutions for this issue, therefore it is not on the agenda for this meeting but likely will be brought up in January.

OTHER/NEW BUSINESS

None

Wright moved, seconded by Delaney, to adjourn.

Motion was passed unanimously. The meeting adjourned at 6:51P.M.

Ron Welder, Chairman of Planning and Zoning Commission