

**OSSEO PLANNING COMMISSION MINUTES
REGULAR MEETING
7:00 p.m.
July 20, 2009**

1. CALL TO ORDER

The regular meeting of the Osseo Planning Commission was called to order by Chair Susan Hanson at 7:00 p.m., Monday, July 20, 2009.

2. ROLL CALL

Present: Commission members Dorothy Clarke, Barbra Plzak, Melanie Larsen Sinouthasy, Brad Hansen, John Cochran, RJ Wiley and Chair Susan Hanson.

Others present: Jeffrey Dahl, City Planner; Jim Hilgendorf, City of Brooklyn Park Building Official, Howard Hornibrook, and Michael Ryan.

3. APPROVAL OF AGENDA

A motion was made by Larsen Sinouthasy, seconded by Cochran, to approve the Agenda. The motion carried 7-0.

4. APPROVAL OF MINUTES

a. Approve April 20, 2009 Minutes

A motion was made by Plzak, seconded by Hansen, to approve the April 20, 2009 minutes. The motion carried 7-0.

5. PUBLIC COMMENTS – None.

6. PUBLIC HEARINGS

a. Consider Revisions to Property Maintenance Code, Chapter 151

A motion was made by Cochran, seconded by Clarke, to open the Public Hearing to consider revisions to the Property Maintenance Code, Chapter 151. The motion carried 7-0.

Dahl stated that in mid-2007, the Council directed the Planning Commission to review the City's Property Maintenance Code (PMC), Chapter 151, after receiving complaints regarding the condition of single-family rental homes in the City. After many months of reviewing Chapter 151, the Planning Commission recommended numerous revisions and also encouraged the Council to enforce the Rental Housing section of the Code in addition to the Truth-in-Housing section for owner-occupied homes. The Council then decided to hold off on revising the Code until it could be determined how it was going to enforce the Rental Housing section.

Back in November 2008, staff recommended to the Council that the City partner with Brooklyn Park in order to enforce the Rental Housing Section. The City Council

concurred and since then, staff has been working with Jim Hilgendorf, Brooklyn Park's Building Official, on the process and have set up the following timeline: We have set up a tentative timeline in order for the Rental Housing Licensing and Inspections program to be in full effect.

Timeline:

June: Set Up System
July: Continue to Set Up System, Planning Commission Review and Open House
August: City Approval and 2nd Open House
Sept: Send out single-family license applications (September 1st)
October: Receive single-family licenses (October 1st)
Early 2010: Start of single-family inspections and another open house for landlords
Spring 2010: Send out apartment license applications
Fall 2010: Start of apartment inspections

Dahl stated that many of the proposed revisions are intended to make the new Code look more like Brooklyn Park's Code. Brooklyn Park's PMC is much more organized; simpler, and references the International Property Maintenance Code (IMPC) rather than having its own maintenance restrictions. Also, it will be much easier, from an enforcement perspective, for Brooklyn Park to enforce a PMC that is parallel with theirs.

Other notes regarding the program: the ordinance requires licenses every year for both apartments and single-family homes; inspections would be every year for single-family homes, duplex, condominiums, and town homes; apartments units would be inspected every three years with the common areas inspected every year; there is a point of conversion fee listed in the ordinance---it is a fee that is required when a unit is converted from owner-occupied to a rental or non-homesteaded (the fee covers the administrative cost in dealing with rental housing and enforcing the code); and the Truth-in-Housing portion of the PMC (Section 151.05) has been slightly reorganized but is essentially the same as the existing PMC.

The City would be joining a growing number of communities throughout the country that are updating building codes by adopting the 2006 IMPC (Section 151.03).

Hilgendorf stated that the 2006 IPMC is a national model code that addressed maintenance requirements for the interior and exterior of structures. It is not meant to replace other City ordinances being enforced by other city departments (e.g. signs, nuisances, junked cars, on-street parking, outside storage, etc). The IPMC also contains requirements for plumbing, heating, fire and electrical systems in existing buildings. This document is consistent and comprehensive and is a compatible property maintenance document that is meant to be used with the other codes as adopted by the State of Minnesota.

The adoption of this document will clarify the City's expectations to property owners in the areas of providing safe, structurally sound, and well-maintained facilities for all buildings in the City of Osseo.

In conclusion, the staff is confident the revised Code will be the most efficient and effective way for the City to uphold property maintenance and protect the welfare of the community and property values. It makes sense to partner with the City of Brooklyn Park

as its PMC has been used as an example throughout the Metro Area. In addition, over the past several years, they have had to put a tremendous amount of resources in to their PMC due to a large rental housing stock and general property maintenance issues. Staff asked City Attorney Loren Magsam and Building Inspector Kevin Matiak to review the proposed revised PMC and, with the exception of a few minor edits, they are in favor of the new code.

The staff recommends the Planning Commission make a recommendation of approval of the draft PMC to the Council.

Chair Hanson stated appreciation for their work as the draft reads very clearly.

A motion was made by Cochran, seconded by Larsen Sinouthasy, to close the Public Hearing. The motion carried 7-0.

A motion was made by RJ Wiley, seconded by Plzak, to forward the draft to the City Council and recommend adoption. The motion carried 7-0.

b. Site Plan/Variance/Comprehensive Plan Amendment Request from Ryan Company at 108 Broadway St. W.

A motion was made by Cochran, seconded by RJ Wiley, to open the Public Hearing for the Site Plan/Variance/Comprehensive Plan Amendment Request from Ryan Company at 108 Broadway St. W. The motion carried 7-0.

Dahl stated that applicant Michael Ryan of Ryan Company submitted a Site Plan Application, Request for a Side-yard Setback Variance, Variance to expand a Non-Conforming Use, and a Comprehensive Plan Amendment in order to redevelop its property at 108 Broadway St. W. The redevelopment proposes for the remodel and expansion of two existing buildings and construction of an additional building for a total increase of 11,260 sq.ft. In addition, the redevelopment request is proposing landscaping and parking lot improvements. The property is under the ownership of Michael Ryan and Howard Hornibrook, is zoned M, Manufacturing and Industrial and is guided as Office in the Land Use Plan.

Three sides of the property are surrounded by the M, Manufacturing and Industrial Zoning District in Osseo. The west side of the property is adjacent to manufacturing-zoned land in the City of Maple Grove. Approximately 500 feet to the north, across County Road 81, is the Central Business District Zoning District.

The existing property entails the following businesses: Ryan Company, a construction company; Redwood Signs, a sign manufacturer; Affordable Sanitation, a portable bathroom distributor; and Fairfax Asphalt; a paving company.

On October 27, 2008, the City Council approved a lot split and combination with 108 Broadway St. W. and part of the former 100 Broadway St W. (formerly known as the Bennett Property, owned by the EDA). The combination is still in progress with Hennepin County. Combining the lots allows the applicant adequate room for a new access onto their property and more visibility. With this new access, they are proposing to improve their existing property. The uniquely shaped property is 3.48 acres and currently contains three buildings and a cell tower, which is adjacent to the cemetery at

the northwest corner of the property. The southern portion of the property is used as outdoor storage for the aforementioned businesses. The Bennett Property was recently excavated due to some environmental contamination and is now officially clean per the Minnesota Pollution Control Agency (MPCA).

In summary, the site plan proposes to: 1) remodel and expand "Building 1" (currently 6,000 sq. ft. with 9,100 sq. ft. of additional office and warehouse space; 2) remodel and expand "Building 2" (currently 1,984 sq. ft.) with an additional 1,200 sq. ft. of office and warehouse space; and 3) demolish existing accessory structure and construct "Building 3" (960 sq. ft.) small warehouse.

Per 153.079, 35 spaces are required. The site plan shows 39 total parking spaces on site, so according to the plan, this does meet the parking requirements.

The applicant has improved the parking and ingress/egress areas to meet code. The property has just one access; on the far north end off of Broadway St. W. Vehicular traffic is able to enter the property, park adjacent to one of the three buildings, turn around, and exit the property with ease. Because of the nature of the businesses, the applicant has designed the parking area to allow a semi-truck to accomplish a 360-degree turn. The southern portion will be gated and will allow enough room to accomplish a 360-degree turn as well. The Fire Chief has reviewed the plans and there is adequate room for fire trucks to get to the site.

Because there are significant trees adjacent to the property line to the north and no additional trees are needed to meet code. The applicant has submitted a landscaping plan adding four (4) trees (2-Blue Spruce and 2-Red Maples) in order to create a more pleasing entrance to the property.

The applicant has also added small plantings or shrubs along the front of all of the buildings as well as a few plantings near the entrance. While there is no minimum green space requirement for properties in the M Zoning District, the redevelopment proposes approximately 14% green space.

The applicant is proposing to drain the majority of the improved area to an approximately two (2) foot deep swale that would run parallel with the entryway into the development. The swale would be over a public easement in which a storm sewer runs through. The applicant proposes to use the existing catch basin into the main (public) storm sewer line in case the swale was to overflow with storm runoff. The applicant is not proposing any additional storm drainage improvements to the outside storage area on the southern half of the property.

The existing structures are currently entirely made of metal, which is not allowed per 153.053 (F) zoning code. The applicant is proposing to remodel the existing office areas with EIFS and the existing warehouse/manufacturing space in the existing buildings with a new metal siding front. The new office area added to "Building 1" and "Building 2" are proposed to be made of EIFS or metal as well and the new warehouse/manufacturing areas for all of the buildings are proposed to be made out of rock-face (top and side) and scored block (in the middle). "Building 3" is proposed to be entirely rock-face and scored block. Overall, the goal of the new exterior materials will assist in making both the existing and new structures consistent with each other as well as what is required in the Code.

The majority of the subject property is currently made up of outdoor storage. While the property is relatively secluded in back of the railroad tracks, outdoor storage is visible from County Road 81. About one year ago, the City passed Section 153.054 of the Zoning Code Ordinance stating: *All material and equipment shall be stored within a building or fully screened so as to not be visible from adjoining properties. Any such screening method, whether a physical structure or landscaping, shall reduce visibility in a manner that restricts vision of the object being screened. Physical structures, such as fences, shall be constructed in a style that is architecturally compatible with the primary structure.*

The development proposes the entire southern half of the development to be screened from public view. The proposed fence is to be made of chain link with colored slits to make it opaque.

Regarding the Variance requests, the project appears to meet all of the setback requirements as per Section 153.039 (D) in the Zoning code with the exception of the side-yard setback of "Building 2". The building is currently 2.1 feet from the major northern property line and therefore is a non-conforming structure as the required setback is 10 feet. A variance to the ordinance is also required because the applicant is proposing to build the 30'x 40' addition maintaining the 2.1 feet setback and in order to expand a non-conforming building.

The City's discretion in approving or denying a variance is limited to whether or not the proposed project meets the seven (7) variance standards listed in the Zoning Ordinance. The applicant must also have a hardship in complying with the existing provisions. However, the level of discretion is affected by the fact that some of these standards are open to interpretation.

The applicant's intention is to expand the building and approve its appearance. The property line where the setback encroachment exists abuts a cemetery where there is a significant line of trees that act as a natural buffer. The applicant has also indicated that at the time "Building 2" was constructed, there was no side yard setback requirement in the Manufacturing District.

Dahl stated that the third part of the request is the Comprehensive Plan Amendment. The applicant wishes to amend the City's recently adopted 2030 Comprehensive Plan. All of the current uses on site are industrial in nature. While the uses are permitted in the Manufacturing Zoning District, the subject property is guided as Office in the 2030 Land Use Plan. As such, it is expected that the zoning would change to more of an office use, in order to better reflect the land use, once the ordinance is revised later this year.

The applicant is requesting to change the current land use designation from Office to Light Industrial. The applicant has indicated that due to the poor access, limited visibility, and neighboring uses, the minor comprehensive plan amendment to Light Office is warranted.

"Office" Land Use, per the 2030 Comprehensive Plan is defined as:

This land use category represents multi-story office and service employment areas. Office-showroom and research-development services could also fit within this category.

Development might include limited retail, but not large generators of retail traffic. Office buildings with two (2) stories or greater in height and a high quality architectural design will be encouraged.

“Light Industrial” is defined as:

This land use category represents light industrial activity areas, such as light manufacturing, assembly, processing, research facilities, warehousing, storage, and distribution with limited outside storage and good access to county and state highways. Light Industrial buildings may be one level with mezzanine space and truck loading facilities.

If the City approves the Comprehensive Plan Amendment, staff will fill out a minor amendment application form to the Metropolitan Council for their review. Staff must copy the application to Osseo’s neighboring communities and jurisdictions for their comments as well.

Dahl said the staff has been working with the applicant for the past couple of months in coming up with a redevelopment plan that accomplishes their goals while at the same time, meeting the City requirements. There are many non-conforming issues with the existing property. While the City should encourage improvements to the property, it is important that all the improvements meet today’s city standards. In reviewing the proposal, staff has divided up the property into two portions. The northern half is where improvements will be made and should meet current city standards. The southern half is not proposed to be improved and will have to meet the city standards when it is redeveloped in the future.

In summary, regarding the major issues with the proposed Site Plan of the improved portion of the property:

- Parking meets the requirements.
- Trash enclosures are not shown on plan and this is a requirement per City Code. Met with the applicant today and will be submitting a revised plan with trash enclosure.
- Landscaping is not significant on the plan as this is an industrial site and not much is required. The landscaping that is being added is a vast improvement and will help beautify the property.
- Based on the comments from the City Engineer and Public Services Director, there appears to be some issues with the drawings and where the existing utilities go and some of the calculations with the storm drainage and the swale. As a result of the meeting today, the applicant stated they will supply whatever is needed.
- Staff did have an issue with the elevations, especially the areas where the metal would be left alone, especially in the more visible areas because in the code is stated that metal facades are not allowed. After talking with the applicant today, whatever the outcome and color scheme is, they will be sure it all blends in. Dahl stated conditions can be added mandating the portions of less visible sides.
- Staff has informed the applicant that all the outside storage must be completely screened. Detailed specifications should be finalized before the City Council approval.

Dahl stated after talking with the applicant today, there really isn't that much room to have the new area meet the setback, especially with the swale and goal of making that building look brand new and not have an old part of the building in plain view versus the new. The question is whether the applicant should be granted a variance to build the addition 2.1 feet off of the side property line as well or should have to adhere to the ten (10) foot side yard setback. Based on the way the code was stated before, how the building was built and the space in order to expand the building, there isn't much to work with. The buffer and fact that the use is a cemetery, it isn't really impacting negatively upon its neighbor. Dahl would like the Planning Commission to look at this closely. If both of the variances are granted they must meet the seven (7) standards listed in the ordinance.

Staff believes that based on the argument about access, visibility, and the surrounding neighboring areas to the south and west, it is appropriate that the property be changed from Office to Light Industrial, similar to what the land use was before the 2030 Comprehensive Plan Update was approved. While the Comp Plan is supposed to be a fluid document, staff feels this amendment is somewhat of an anomaly and doesn't anticipate many further amendments.

Dahl stated there are four (4) items to act upon. Chair Hanson thanked Dahl for the organized information and presentation.

Dahl was asked if there were any comments received from neighboring business. He stated only positive comments in that this will be an improvement and will benefit the neighboring properties. Clarke reiterated that the needs to be sure that this doesn't set a precedent to use metal on the buildings. Code simply states not to construct a metal building, not that it couldn't be used as siding. Chair Hanson reminded the Commission that this is an existing building, not a new structure.

Chair Hanson referenced some comments from the Public Service Director, Randy regarding access for storm water cleaning at the catch basins and manhole structures. Dahl replied that the Public Services Director had indicated that he thought some of the proposed landscaping was to be located in the easements. If determined to be, the applicant will relocate.

Dahl stated he would like feedback on Condition #12 – regarding the metal façade. After today's meeting and discussion options, they could paint over. Chair Hanson asked if the rock-face block is similar to what the Zimmerman Brothers have done. Dahl stated it is also the same as Lynde's.

Cochran questioned Condition #16 and asked for clarification. Dahl stated the condition should read "The 48 inch concrete fence on the northeast corner of the property shall be removed entirely. This amendment shall be shown on updated plans prior to Council approval;"

Dahl also referenced Condition #13. This issue is with the northern portion of this property. Before the Bennett property was added, there was a small narrow piece of property that was used for access on to Broadway St. W.---the survey shows that this portion was never properly dedicated over to the City. It is showing as private property, however it needs to be depicted as public right-of-way. Hennepin County Parcel Information shows that it as right-of-way. Staff is still working to determine the actual

status. Condition #13 was added just in case it is found to be private property versus public right-of-way and that it needs to be deeded over to the City.

Larsen Sinouthasy asked if it is normal for an applicant to ask for a change to the Comprehensive Plan and wonders if this will set a precedence. Dahl stated this does happen in other communities.

Dahl stated we are in an interim period where the zoning currently reflects the old plan so this would be a good time to amend the Comprehensive Plan. Once the Zoning Code is revised it would reflect the new Comprehensive Plan. This would have to go the Met Council and is only a minor revision.

Howard Hornibrook, applicant, stated that if we, the property owners, are going to put the money into building something that is going to work for the current businesses, we want to make sure the businesses will be able to thrive. We do not want to put part of a million dollars into doing something that in 10 years we find we would like to expand, but we cannot because it is no longer conforming.

A motion was made by Cochran, seconded by Clarke, to close the Public Hearing. The motion carried 7-0.

Dahl stated there are three (3) items to act on: the Site Plan, Variances, and Comprehensive Plan Amendment.

A motion was made by Cochran, seconded by Hansen, to recommend approval of the Site Plan application by Ryan Company to the Council with the full list of 20 conditions listed below.

- 1. The approved final landscaping plan shall be fully executed prior to issuance of certification of occupancy;**
- 2. The applicant shall submit a landscaping bond worth 100% of the value of the landscaping project and be kept with the City for one year after installations;**
- 3. The applicant shall pay all necessary park dedication fees and SAC fees prior to issuance of the building permit;**
- 4. Due to the environmental issues on the former Bennett Property, the applicant shall submit a report from an environmental engineer based on the history of the parcel and confirm that any outstanding environmental issues shall be undertaken and addressed in accordance with county, state, and federal regulations prior to issuance of building permit;**
- 5. All HVAC and other ground or rooftop mechanical equipment shall be hidden from view with materials that match materials and color used on the building;**
- 6. The applicant obtain all necessary building and sign permits and pay all fees related to the proposed development;**
- 7. The applicant shall construct trash enclosures if trash is stored outdoors. The design and its location shall be reviewed and approved by City staff;**
- 8. The applicant shall satisfy all comments and concerns from the City Engineer's memo dated July 9, 2009 prior to Council approval;**
- 9. The applicant shall satisfy all comments and concerns from the Public Services Director's email dated July 13, 2009 prior to Council approval;**

10. An accurate materials board shall be submitted to staff prior to Council approval;
11. Fence materials shall be reviewed and approved by staff prior to issuance of building permit;
12. The existing metal buildings shall be remodeled with EFIS or new metal siding as described per plans dated June 18, 2009 with the exception of the west side of Building 1 and the north and west side of Building 2, and concrete block as an exterior material shall be molded, serrated, or treated with a texture material in order to give the wall surface a three-dimensional character with the exception of the west side of Building 1 new construction. These amendments shall be shown on updated plans prior to Council approval;
13. Any private property (or part of) that is currently being used as a public road shall be deeded or otherwise dedicated to the City prior to the issuance of the building permit. This amendment shall be shown on updated plans prior to Council approval;
14. All outdoor storage shall be screened and hidden from public view;
15. Additional concrete curb shall be added to within the parking lot in order to separate parking stalls from drive lanes. This amendment shall be shown on updated plans prior to Council approval;
16. The 48-inch concrete fence on the northeast corner of the property shall be removed entirely. This amendment shall be shown on updated plans prior to Council approval;
17. Lighting that is visible from public right-of-way shall be shielded and downward directed;
18. Demolition of existing accessory shall require proper permits from local and state government levels;
19. Weeds and other vegetation shall be maintained at all times in accordance with Chapter 93.38 of the City Code;
20. The applicant shall submit revised plans at least a week prior to the Council meeting indicating all the applicable amendments to the plans.

The motion carried 7-0.

A motion was made by Chair Hanson, seconded by Cochran, that the Variance Request regarding "Building #2" for the expansion of a non-conforming and a Side-Yard Setback Variance for the building expansion area be approved, because:

- The property presents unique challenges and hardships to the owners would result if they were not granted variances;
- The requests are not based exclusively on a desire to increase the value of the property;
- The hardship and difficulties have not been caused by the owners;
- There is no detriment to the public welfare or injury to other land owners, or to the surrounding properties;
- It will not impair adequate light and air to the adjacent properties; and
- Adherence to this ordinance would create undue hardship.

The motion carried 7 – 0.

A motion was made by RJ Wiley, seconded by Hansen, to recommend approval of the Comprehensive Plan Amendment Request by Ryan Company from "Office" to

“Light Industrial” in order to redevelop its property at 108 Broadway St. W. The motion carried 7-0.

Dahl stated the next step will be for the applicant to submit modified plans showing the changes based on the conditions of approval, prior to consideration by the City Council.

7. OLD BUSINESS – None.
8. NEW BUSINESS – None.
9. DEVELOPMENT UPDATE

a. City Planner Report

Central Avenue Project

Dahl stated that the project is a little bit behind schedule, but the contractors are optimistic they can catch up. Chair Hanson asked about the timetable for completion of first phase. Dahl stated the first phase was to be completed within 2 months, which would be mid-August. At a minimum you should be able to drive through with the curb and street completed---with the sidewalk and remaining streetscape to be done later.

Larsen Sinouthasy asked if the Lion Roar Parade route will be affected by the Central Avenue Project. RJ Wiley stated the parade route will be altered, but the route is not specifically known at this time.

10. OTHER BUSINESS – None

a. Future Agenda Items

Chair Hanson stated there will be a work session for the Sign Code at 6:00 p.m. on Monday, August 17.

11. ADJOURNMENT

A motion was made by Plzak, seconded by Larsen Sinouthasy, to adjourn at 8:24 p.m. The motion carried 7-0.

Respectfully submitted,

Dawn Tessman
Recording Secretary