

**MINUTES OF THE BROOKLYN PARK PLANNING COMMISSION
REGULAR MEETING**

January 13, 2010

Approved Minutes

The meeting was called to order at 7:03 p.m.

1. CALL TO ORDER

2. SWEARING IN OF NEW MEMBER

Planning Director Sherman swore in new Planning Commissioner Steve Schmidt.

3. ROLL CALL/ PLEDGE OF ALLEGIANCE

Those present were: Commissioners Conn, Holm, Jechorek, Johansen, Sullivan, Lessard, Nguyen, and Schmidt, Council Liaison Rich Gates, Planning Director Sherman.

Those absent and excused were: Commissioner Cupka

4. EXPLANATION BY CHAIR

5. APPROVAL OF AGENDA

MOTION HOLM, SECOND JOHANSEN, TO APPROVE THE JANUARY 13, 2010 MEETING AGENDA AS SUBMITTED.

MOTION PASSED UNANIMOUSLY.

6. CONSENT ITEMS

MOTION JOHANSEN, SECOND LESSARD, TO APPROVE THE CONSENT AGENDA AS SUBMITTED. THIS ITEM WILL MOVE TO THE FEBRUARY 10, 2010 AGENDA. *MOTION PASSED UNANIMOUSLY.*

7. PUBLIC HEARING

A. Lazarus Auto Detail- Case# 09-122 Conditional Use Permit for an auto detail business at 7030 Winnetka Av N

Planning Director Sherman advised that the applicant was not yet present and Chair Conn stated that they would discuss item 7B at this time.

B. Zoning Code Amendments for Section 152.140- 152.148 of the City Code regarding

off-street parking, drive isle, garage and driveway regulations

Planning Director Sherman stated that there was discussion last month specifically about modification to items on page eleven related to commercial vehicles in residential areas. Staff had proposed language that talked about a total of eight feet in height and the Commission directed that they also wanted to have a maximum height over the roof. Staff did modify the language to state one non-commercial vehicle with commercial equipment attached such as ladders and racks, not to exceed two feet in height above the top of the vehicle or a total of eight feet in height.

Most of the modifications are language modifications that, through code enforcement and other things that we see through application of the ordinance, staff felt need to be modified. Staff wanted to arrange the ordinance differently so that it was more clearly defined what applied to residential and what applied to commercial or non-residential. There were some areas that talked only about commercial and industrial but then there was nothing really covering Institutional uses like churches so staff changed the language from Commercial and industrial to non-residential so it encompasses everything that is not a house.

Those were the significant changes. Staff also moved a whole section of the code from a different section so it is together with all of the other parking items. In the past it was under the outside storage area for accessory uses. Planning Director Sherman stated that staff recommends approval of the modifications that they have highlighted in the ordinance itself.

The hearing was opened for public comment.

The hearing was closed and comments confined to the Planning Commission members.

MOTION NGUYEN, SECOND JOHANSEN, TO RECOMMEND APPROVAL OF THE ZONING CODE AMENDMENT 09-125 FOR MODIFICATIONS TO OFF-STREET PARKING, DRIVE ISLE, GARAGE AND DRIVEWAY REGULATIONS

MOTION PASSED UNANIMOUSLY.

Chair Conn advised that this application will be considered by the City Council on January 25, 2010.

A. Lazarus Auto Detail- Case# 09-122 Conditional Use Permit for an auto detail business at 7030 Winnetka Av N

Planning Director Sherman presented the aerial view of this property. She stated that the property is not new construction, it is an existing building located at 7030 Winnetka Avenue North. It is just north of 68th Avenue and is just north of Highway 694 in an industrial park area of the community. It is sandwiched in between Winnetka Avenue and County Road 81.

Service businesses are allowed by conditional use in the BP district as long as they are less than 25,000 square feet. This is a 3,000 square foot auto detail center that began operation at the site in 2009. Staff became aware of it because they received complaints regarding the parking

APPROVED MINUTES

that was happening on the streets. The applicant was going to move but decided to stay and apply for a conditional use permit. Staff did require the applicant to go through a code analysis, which is a building code process where an analysis is done to determine whether or not the building can be used for the purposes requested. This was done and there will be modifications required, mostly related to the mechanical systems.

The main concern from a staff perspective relates to parking at the site. Because the building was constructed as a warehouse there is limited parking. There are only nine stalls on the property. There are twelve employees at the site and the business does involve the detailing of cars, making parking a concern. The applicant contacted Grace Lutheran Church, just south of the property, about shared parking. The ordinance does allow that with a pedestrian connection. Staff included a condition about adding a sidewalk in the staff report. There are some ongoing maintenance issues on the property that have been going on for a long time. There have been issues with debris and storage on the site that does not belong there as well as a trash dumpster that is outside. Conditions regarding maintenance of the property have also been added to the staff report. Staff will require the building of a trash enclosure, which is required by our zoning code on all commercial properties. Planning Director Sherman referenced a letter sent by a neighbor to the south, Northwest Suburbs Cable Communications Commission. Sherman stated that she did speak with Mr. Moore, who wrote the letter. In their letter they outlined some concerns they have and conditions they would request be added regarding the business and the sidewalk that will be required. They would like a condition added that this sidewalk be maintained by the applicant. They would also like a condition added that there would be an agreement that runs with the Conditional Use Permit and the church in the event the church no longer wants to share parking as that would create a big parking issue with this user.

Applicant, Mr. Steve Farrell, was introduced. He stated that he is the Executive Director of Room For U Ministries, which operates Lazarus Auto Detail. They are a faith based non-profit business providing jobs for men coming out of prison or drug rehabilitation. They were able to get David Luther from the Luther Auto Group to fund their non-profit to start this up.

The hearing was opened for public comment.

Mr. Greg Moore, Executive Director of the Northwest Suburbs Cable Communications Commission located at 6900 Winnetka Avenue North introduced himself. He stated that they are located directly south of and adjacent to the property at 7030 Winnetka Avenue. He explained that there are nine cities in the northwestern suburbs that make up the Commission. Mr. Moore stated that they would like the Commission to deny this application, but if the Commission does decide to approve this Conditional Use Permit, they would wholeheartedly support the general conditions recommended by staff and contained in the draft resolution. He stated that they have suggested modifications to Planning Director Sherman that would strengthen those general conditions in the email correspondence which he said he would summarize.

APPROVED MINUTES

Mr. Moore stated that the Northwest Suburbs Cable Communication Commission owns the property at 6900 Winnetka Avenue North. They purchased an additional adjacent property to accommodate additional parking for the future. They have spent considerable funds to build and expand their facility. They have followed all City requirements and this property at 7030 Winnetka Avenue North has been an eyesore since a building was first built on it. Mr. Moore stated that this site faces their front entrance.

Shortly after Lazarus moved into the property, cars were parked up and down the street, making it difficult for Northwest employees to enter and exit Winnetka Avenue. After complaining to Planning Director Sherman, the cars were then moved to the church parking lot at Grace Lutheran Church. Access to the Grace Lutheran parking lot is directly through Northwest Suburbs property. There were so many people cutting through their property on a daily basis that the grass was dying on the south side of their building. Mr. Moore stated that when he complained to Ms. Sherman she stated that the business was going to be vacating within 90 days. Mr. Moore stated that in the fall he notified Ms. Sherman that Lazarus was still operating out of the property. She advised Mr. Moore that Lazarus was now going to apply for a Conditional Use Permit and that there would be a public hearing.

Mr. Moore requests that the Planning Commission deny this application because the applicant has not complied with the City ordinance for extended periods of time. Though shared parking is allowed, the parking at Grace Church is not adjacent to or directly across the street from where the cars are detailed and the employees will continue to make dozens of trips per day to get cars from the parking lot to be detailed. Mr. Moore stated that they support the applicant putting in a sidewalk at the applicant's expense to reduce trespassing across their property. The cost of construction, maintenance and snow removal should be part of the general conditions. Mr. Moore stated that they do not believe the sidewalk will eliminate or reduce the trespassing to acceptable levels and suggests that a condition be added that would revoke the permit if significant trespasses by the applicant's employees accrue. The applicant not only washes cars inside and outside of their building, but uses plywood standing on end as platforms to dry car mats in the sun and it is very unsightly and clearly visible from their property. They request that all work on the cars be performed inside including washing and drying of car mats and any other activities related to the business. Mr. Moore stated that the conditions should include a legally binding contract between the applicant and Grace Lutheran Church. Failure to secure a contract, or the expiration or revocation of the contract should revoke the permit.

The hearing was closed and comments confined to the Planning Commission members.

Commissioner Lessard asked Mr. Farrell if he was asked to move the trailer on the property. Mr. Farrell stated that he had not, but that it was not his trailer. The trailer belongs to the previous tenant. Commissioner Lessard asked him about the trespassing complaint and Mr. Farrell stated that no one had spoken with him directly from that business.

APPROVED MINUTES

Commissioner Jechorek asked Mr. Farrell about the cars in the Grace Lutheran Church parking lot. She stated that she had gone there prior to this meeting and that there were several cars in the lot that appeared to be dealer cars, some of which were double parked. She asked how many cars they have in that lot today. Mr. Farrell stated that he believes they have about forty five cars there right now. He stated that they work with the Luther Automotive Services Group and they collect the cars that they are going to sell at auction and bring them to the church parking lot. They sometimes do get a number of cars at once but they are sold at auction quite soon and these cars will be going to auction on Wednesday. There would normally not be this many cars, but auctions did not run over the Christmas holiday season.

Commissioner Jechorek stated that she wonders about potential services on Wednesday nights at the church, and how these cars would affect their activities. Mr. Farrell stated that he has spoken to administrators at the church and they have not indicated that there is any problem with what they are doing.

Mr. Farrell stated that they should have put more thought into the issues trespassing could cause and that he doesn't believe that trespassing is still occurring now that they know it is a problem. He also stated that he could make it an offense punishable by suspension if he catches someone trespassing.

Chair Conn asked Planning Director Sherman how much parking the church has, as forty five cars parked in their lot seems like a lot. Ms. Sherman stated that she does not know how many parking spots they have but the Grace Lutheran Church parking lot isn't supposed to be a storage lot for Luther Auto dealerships. They have lots of other property in our community where these cars could be stored. She stated concern along with Commissioner Jechorek that some of these cars were double parked. They are not supposed to be doing that either. They should be parked in spots that are marked and on the site. Staff has had ongoing discussion about Minneapolis Auto Auction using parking lots in the community for this purpose and that is not what staff wants to happen here.

Chair Conn stated that forty five cars is a lot of cars and he is not comfortable with this. Ms. Sherman stated that staffs anticipation of the business operation is that cars are not being stored, that they are coming in and being detailed and then leaving. Chair Conn asked Mr. Farrell how many cars are parked there in a normal week. Mr. Farrell stated that their intention is to clean them and get them out quickly, and they are generally gone within twenty four to forty eight hours. In general, they would not have more than fifteen to twenty cars parked there at any one time.

Chair Conn stated that he is considering recommending a condition putting a number on how many cars can be parked in the church parking lot. He asked Mr. Farrell if twenty cars is a reasonable number. Mr. Farrell stated that this number would normally be enough.

Commissioner Nguyen stated that he is struggling with this because he sees what they are trying to do there but the facility does not work for their operations. He stated that even if they

APPROVED MINUTES

modified the number of cars to twenty, there would still be twenty trips back and forth from the church to the business every day and that situation is not suited to the way the business is being run. Parking on the street is not a valid alternative due to the heavy traffic on that street. Commissioner Nguyen stated that there is a facility across the street that is for sale and the building has a large parking lot. He asked Mr. Farrell if they had explored that option. Mr. Farrell stated that he does not know if that building has the drainage necessary for their type of business. He stated that when they were in Maple Grove they did not have to go through this Conditional Use process so he did not realize they would have to meet all of these parking and other requirements. They were not moving here to open a business to intentionally try to disguise anything. They looked for a facility that would have a good floor drain system.

Commissioner Nguyen asked if they could make an agreement with that business to use their parking lot. Mr. Farrell stated that the owner may not want a lot of cars parked there when they are trying to sell their building. Mr. Farrell stated that they have discussed parking some of their cars at a Luther property on Bass Lake Road and Highway 169.

Commissioner Schmidt stated that there seems to be two completely separate issues being discussed. There is the issue dealing with the applicant's business and the issue dealing with the building owner, such as with the trailer and the trash enclosure. They were issues prior to the applicant setting up business. If the Conditional Use Permit is denied, those issues still exist. He stated that he is concerned that the discussion is going in two separate directions.

Chair Conn stated that if the Conditional Use Permit is granted it would be with the conditions relating to outside storage and the other things discussed. If the issues are not taken care of the Conditional Use Permit could be revoked. That gives the Commission the ability to enforce the conditions.

Commissioner Lessard stated that if the Conditional Use Permit is granted it carries conditions that do not apply to the applicant, but to the landlord. He asked if the landlord should be present to agree to these conditions. If the landlord does not meet these conditions, he will not lose anything, he will continue on.

Planning Director Sherman stated that whenever staff receives an application of any kind, including a Conditional Use Permit, the property owner is required to sign the application. In the case of a Conditional Use Permit it does not run with the tenant, it runs with the land. The conditions attached to the Conditional Use Permit are an incentive for the property owner to

comply with the ordinances. If the Conditional Use Permit is not granted the City would pursue the property owner about the violations.

Commissioner Lessard asked Planning Director Sherman if the applicant would have to move their business if the Conditional Use Permit was not granted. Planning Director Sherman stated yes, that is the case.

APPROVED MINUTES

Commissioner Lessard asked if the City had looked to parse off the land to the north of Lazarus and possibly work out something with the land owner to create some sort of parking there. Ms. Sherman stated that they had looked at that with the previous executive director of this business but that property is not improved; it is just dirt or gravel. The City advised that they would have to improve the parking lot to use it.

Commissioner Johansen asked Mr. Moore if the problems he has with the site stem from the owner of the property and if they began long before this applicant occupied or leased space. Mr. Moore stated that the building has been an eyesore for them for a long time. He confirmed that there is landscaping on the north side, but none on the south side, which faces their building. The trespassing since Lazarus took over is the other issue. He stated that what started their complaint was the day they showed up for work and there were cars all over the place. When they called the City and complained the cars were moved. Then the trespassing started. Mr. Moore stated that he likes the suggestions discussed, and agrees that parking across the street instead of on the other side of their business is a good idea. He also believes the suggestion that they do all of the work inside the building is a good one, though he thinks being between Lazarus' parking and their business will continue to create problems.

Commissioner Johansen asked Mr. Moore how many parking spots they added for future use. Mr. Moore stated that they added about twenty seven spaces. Commissioner Johansen asked if leasing that lot to Mr. Farrell was an option they would consider. Mr. Moore stated that he felt it would be an unworkable situation.

Commissioner Holm asked if the owner of this property is willing to pay to have a 450 foot sidewalk put in from Lazarus to the church. The cost to do this would be a significant investment. Planning Director Sherman stated that she does not know if the property owner or the applicant would put the sidewalk in. That would have to be something they discuss between them. Commissioner Holm stated that his concern is that when winter comes and the sidewalks are full of snow everyone is back to walking in the street anyhow. If they can't maintain the property they have now, who would maintain the sidewalk. Mr. Moore stated that there are Qwest and Comcast cables running underground in this area and the cost to put in the sidewalk may be more than the standard cost. Also, there is not room now for the snow between their driveway and the street and it has to be front end loaded and removed. When a sidewalk is built there will be even less room.

Commissioner Holm stated another option may be to put a fence up between the cable company and this business.

Council Member Gates asked what happens if the church has a funeral. He asked what they would do with forty five cars if they got a call to move the cars. Mr. Farrell said that they can take the cars to the Luther lot they spoke about previously. They did that when the church lot was re-surfaced. Council Member Gates asked where they wash their cars. Mr. Farrell stated that they take their cars to the Shell station to wash them as they have an agreement with

APPROVED MINUTES

them. He agrees that a fence should be erected to stop the trespassing, at the applicant's expense. He said that the storage of cars overnight, whether twenty four or forty eight hours, is a concern for him.

Commissioner Schmidt asked Planning Director Sherman if the cars get stored at the Luther lot and not at the church, would the sidewalk condition go away. Ms. Sherman stated that even if they did not park at the church, they still have a need for additional parking. They need six or seven more parking stalls to meet the requirement of eighteen. They would still need a parking agreement with someone. Commissioner Schmidt asked whether they could park some of the cars on the street. Ms. Sherman stated that this would not be allowed by the ordinance.

Chair Conn stated that this is a bad location for what they are doing. There are too many ifs and too many things that have not been done in the past. He stated that he cannot recommend approval of the CUP based on all of the issues and discussion.

MOTION CONN, SECOND JOHANSEN, TO RECOMMEND APPROVAL OF CONDITIONAL USE PERMIT 09-122 TO ALLOW AN AUTO DETAIL BUSINESS AT 7030 WINNETKA AVENUE NORTH SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION ADDING A CONDITION THAT ALL WORK BE PERFORMED INSIDE THE BUILDING, THAT A PARKING AGREEMENT BE WRITTEN BETWEEN THE CHURCH AND THE APPLICANT, AND THAT THERE WILL BE MAINTENANCE OF THE SIDEWALK

MOTION FAILED 0-7, COMMISSIONER SULLIVAN RECUSED HIMSELF FROM VOTING AS HE WORKS FOR COMCAST

DISSENT CONN, JECHOREK, HOLM, NGUYEN, JOHANSEN, LESSARD, SCHMIDT

Chair Conn stated that this application will be considered by the City Council on January 25, 2010

9. OTHER BUSINESS

A. Approval of Minutes – December 9, 2009

Chair Conn noted that the minutes were not complete. Planning Director Sherman stated that staff would bring them back for approval at the next meeting.

10. INFORMATIONAL ITEMS

A. City Council Liaison for January 25, 2010 Meeting

It was noted that Commissioner Johansen was the Council Liaison for the January 25, 2010 meeting.

11. ADJOURNMENT

APPROVED MINUTES

MOTION HOLM, SECOND LESSARD TO ADJOURN THE REGULAR BROOKLYN PARK PLANNING COMMISSION MEETING.

MOTION PASSED UNANIMOUSLY.

Adjournment time was 8:33 p.m.

Respectfully submitted,

Kathy Valez
Planning Assistant