

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

MARCH 11, 2009

Approved Minutes

The meeting was called to order at 7:00 p.m.

Those present were: Chair Conn; Commissioners Jechorek, Johansen, Johnson, Lessard, Nguyen, and Sullivan; Council Member Gates, Planning Director Sherman, and Planner Gross.

Those absent and excused were: Commissioners Holm and Spooner.

2. ROLL CALL

3. EXPLANATION BY CHAIR

4. APPROVAL OF AGENDA

MOTION JOHANSEN, SECOND JOHNSON TO APPROVE THE MARCH 11, 2009 MEETING AGENDA AS SUBMITTED. *MOTION PASSED UNANIMOUSLY.*

5. CONSENT ITEMS

6. PUBLIC HEARING

- A. Ditter Property – Case #09-103 – Waiver of Platting to permit conveyance of wetland property to the City of Brooklyn Park. Location: 7340 Xerxes Avenue North.**

Planning Director Sherman reviewed the staff report and staff recommendation to approve with conditions.

Kyle Olson, a representative for Ms. Ditter, introduced himself and stated he would be willing to answer any questions the Commission may have.

The hearing was opened for public comment.

Timothy Hanson, 7336 York Avenue North, stated his property abuts this site, at Parcel A and indicated he was in favor of the land donation. He thanked the Ditters for their donation and stated the wetland was an attractive area for the residents of Brooklyn Park.

No one else appeared in favor or opposition and the hearing was closed and comments confined to the Planning Commission members.

APPROVED MINUTES

Commissioner Johansen thanked the Ditters for this land donation as well, stating the wetland was an asset to the City.

MOTION JOHNSON, SECOND JOHANSEN TO RECOMMEND APPROVAL OF PLANNING CASE #09-103 WAIVER OF PLATTING FOR THE DITTER PROPERTY TO PERMIT CONVEYANCE OF WETLAND PROPERTY TO THE CITY OF BROOKLYN PARK AT 7340 XERXES AVENUE NORTH, SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION, INCLUDING:

1. The applicant shall be required to record a copy of this resolution with the Hennepin County Recorder and/or Register of Titles within one year of approval of this resolution and to pay all fees for said recording and shall provide proof of said recording with the City.
2. Parcel B is being created to be deeded to the City of Brooklyn Park for tax purposes of the Ditter estate. If parcel A is ever to be subdivided for development, park dedication, as required by City Code Section 151.061 will be required on Parcel A.
3. Deeds for Parcels B and C must be given to the Cities of Brooklyn Park and Brooklyn Center, respectively. Upon receipt, the City Councils will acknowledge the gifts with separate resolutions at the next available City Council meetings.
4. If a deed for Parcel B is not obtained within one year of approval of this resolution, an easement must be granted for public access to the existing trail that lies across it (correcting the error in the legal description of Document 1724108).

MOTION PASSED UNANIMOUSLY.

Planning Director Sherman advised this application will be considered by the Council on March 23, 2009.

B. Excell Academy for Higher Education/Mighty Fortress – Case #09-104 – Conditional Use Permit to lease classroom and office space for charter school students. Location: 6400 85th Avenue North.

Planning Director Sherman reviewed the staff report and staff recommendation to approve with conditions.

Candace Dunbar and Sabrina Williams from Excell Academy for Higher Education, along with Brenda Colton from Mighty Fortress Church, were present to address questions of the Commission.

The hearing was opened for public comment.

No one else appeared in favor or opposition and the hearing was closed and comments confined to the Planning Commission members.

Commissioner Johansen congratulated the academy on their growth and questioned if there was a timeline for this conditional use permit. Planning Director Sherman stated conditional use permits were not able to be limited under State law, but must operate under the limits within the permit.

APPROVED MINUTES

Commissioner Nguyen asked the operating hours of the school and if the school would be offering after school activities. Sabrina Williams, Excell Academy for Higher Education stated the school hours are from 9:00 a.m. to 4:00 p.m. Ms. Williams explained that Excell Academy does offer after school programs but that they would not be running out of this facility.

Chair Conn questioned how many children would be transported to the church site on a daily basis and what would be the maximum students allowed. Ms. Williams stated there would be 80 children at this time with two sixth grade classes, one seventh grade and one eighth grade class. She noted that the maximum number would be 88 students.

Chair Conn asked how many bus loads of children would be brought to the church location. Ms. Williams stated the 80+ students would require two buses.

Commissioner Jechorek questioned how the gym classes would function and if it would require students to be bussed back and forth from the church location. Ms. Williams stated the plan was to have gym classes held first thing in the morning at the main building after which time, the students would be transported to the church.

Commissioner Jechorek asked how the neighborhood meeting went. Planning Director Sherman stated the report was positive, with concerns about how many buses would be traveling back and forth. Ms. Williams indicated the meeting went very well and that several members present volunteered to assist the academy.

Commissioner Sullivan questioned if the traffic engineer had reviewed this plan as it shows the traffic would be entering and exiting off 85th Avenue. Planning Director Sherman indicated this was reviewed by the traffic engineer and that 85th Avenue does have a curb cut in and out of this site.

Commissioner Lessard asked if additional signage would be added to the church property. Ms. Williams stated no additional signs would be added since this would be a temporary location.

Commissioner Sullivan questioned if the school would offer a ninth grade class in the future. Ms. Williams stated she did not foresee this as a plan going into the future.

MOTION JOHANSEN, SECOND JECHOREK TO RECOMMEND APPROVAL OF PLANNING CASE #09-104, CONDITIONAL USE PERMIT FOR EXCELL ACADEMY FOR HIGHER EDUCATION/MIGHTY FORTRESS TO LEASE CLASSROOM AND OFFICE SPACE FOR CHARTER SCHOOL STUDENTS AT 6400 85TH AVENUE NORTH SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION, INCLUDING:

1. Any future expansion of the charter school outside Grades 6 through 8 requires the submittal and approval of an amendment to this Conditional Use Permit.
2. The site shall be kept in a neat and clean condition at all times. No outdoor storage shall be permitted.
3. All required building improvements must be made and a new Certificate of Occupancy must be in place before classes commence.
4. All school traffic must enter and exit the site from 85th Avenue only.

MOTION PASSED UNANIMOUSLY.

Planning Director Sherman advised this application will be considered by the Council on March 23, 2009.

C. AT&T – Case #08-129 – Conditional Use Permit for a telecommunications tower facility. Location: 8570 Edinburgh Center Drive.

Planner Gross reviewed the staff report and staff recommendation to approve with conditions.

Steve Trueman, a representative from AT&T Wireless was present to address comments or questions of the Commission. Mr. Trueman noted the antennas would be placed inside the canister as requested by the landowner.

The hearing was opened for public comment.

No one else appeared in favor or opposition and the hearing was closed and comments confined to the Planning Commission members.

Chair Conn questioned if other carriers could use this tower. Mr. Trueman stated one additional carrier could be added to this stealth pole but would be limited by the height of the pole.

Commissioner Lessard asked if there were security measures for the building to keep it protected from vandals. Mr. Trueman stated the building was prefab concrete, six inches thick and was virtually impossible to penetrate. He indicated it would not be fenced but could be if requested by the City.

Commissioner Johansen indicated he was not against the cell tower but questioned if AT&T could co-locate on an existing tower. Mr. Trueman stated his first search was for an existing tower, tall building or light pole to meet the needs of AT&T. He indicated this would be cheaper and easier for all parties involved but that this did not meet the needs of the current indoor dead zone in the surrounding area.

Commissioner Johansen explained he would have liked to have received an RF map to show the percentage increase in cell service with the proposed tower. He stated this could have also been done for the existing T-Mobile tower to show the difference in service provided between the two sites. Mr. Trueman indicated their first option was to use the T-Mobile tower, but explained the dead zone was not completely covered with this antenna location, providing only 55-60% of the coverage needed. He explained that the Critical River Area greatly limits where towers can be located near the Mississippi River.

Commissioner Johansen questioned if co-location would work on this pole or the T-Mobile pole. Mr. Trueman indicated he has worked on several co-location projects and that they do work, depending on the needs of the network with respect to their dead zones.

Commissioner Johansen asked if the McDonalds sign could be used for the cell tower. Planning Director Sherman indicated this was expressed but that the sign would need to be reconstructed to support the weight of the antennas.

Mr. Trueman explained that the long-term solution to these towers would be a low orbit satellite which would eliminate the need for the numerous cell towers.

APPROVED MINUTES

Commissioner Johnson questioned if the pole could be located elsewhere on the park land. Planning Director Sherman stated much of Brook Oaks Park was wetland and MnDOT right-of-way which limited the location. She noted the location was selected to be on City property due to the financial implications.

Commissioner Johnson asked if cell towers could be located in private property and if so, what requirements were in place to assure they were properly maintained. Planning Director Sherman stated the current ordinance directly addresses these concerns and prioritizes the order at which properties are to be selected for cell towers. She explained there were currently six towers on private property, with the remaining on public sites and existing buildings. Planning Director Sherman indicated the need around 252 was great due to the Critical River Area.

Commissioner Johnson expressed frustration that the T-Mobile site could not be used as a co-location site at this time and questioned if an increase in height would improve the situation. Mr. Trueman indicated this was his first choice but this site did not meet the needs of AT&T. Mr. Trueman predicted that the T-Mobile and AT&T tower would have co-locaters on their towers in the near future due to the growing demand for cell phones in this area.

Commissioner Jechorek questioned why there were changes made to the equipment shelter. Mr. Trueman indicated a person representing the landowner misspoke initially which led to changes within the original plans, moving the shelter from indoors to outdoors.

Commissioner Sullivan expressed concern due to the fact each cell tower had different conditions placed on them, being painted different colors, etc. and that the City was being inconsistent. Planning Director Sherman stated the conditions and paint color were based on the location of the tower to remain consistent with the towers in the area.

Commissioner Lessard asked if it would benefit the City to increase this tower height to 125 to accommodate an additional user. Planning Director Sherman explained that the original application requested a 75 foot pole and that this was increased to 100 feet to allow for co-locator. Mr. Trueman added that the landowner did not want the pole to be over 100 feet but that the pole would be engineered in such a manner to increase the height in the future if the need were to arise.

Chair Conn requested a map be brought back to the Commission with the location of all current cell towers within the City. Planning Director Sherman stated this was discussed at a staff level and they would bring this information, tower height and the number of carriers on each tower, to a future work session meeting.

MOTION JOHANSEN, SECOND NGUYEN TO RECOMMEND APPROVAL OF PLANNING CASE #08-129, CONDITIONAL USE PERMIT, AT&T FOR A TELECOMMUNICATIONS TOWER FACILITY AT 8570 EDINBURGH CENTER DRIVE SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION, INCLUDING:

1. Per plans dated 01-28-2009.
2. The applicant will make the tower available for co-location.
3. This Conditional Use Permit is subject to suspension or revocation if the site does not comply with all City Codes.
4. That the petitioner shall be required to record a copy of this resolution with the Hennepin County Recorder and/or Registrar of Titles and to pay all fees for said recording and shall

file proof of said recording with the City. The building permit shall not be issued until or unless the recording is made within one year from the date of this approval.

Further Discussion:

Commissioner Johansen suggested the tower co-location issues be discussed further at the Council level with a detailed RF map.

MOTION PASSED UNANIMOUSLY.

Planning Director Sherman advised this application will be considered by the Council on March 23, 2009.

7. DISCUSSION ITEMS

None.

8. OTHER BUSINESS

A. Approval of Minutes – February 11, 2009

MOTION JOHNSON, SECOND LESSARD TO APPROVE THE MINUTES OF FEBRUARY 11, 2009 AS PRESENTED. *MOTION PASSED UNANIMOUSLY.*

9. INFORMATIONAL ITEMS

A. City Council Liaison for March 23, 2009 Meeting

It was noted that Commissioner Sullivan was the Council Liaison for the March 23, 2009 meeting. Planning Director Sherman stated she felt there was not a need for representation from the Commission to attend as the items were all straight-forward.

Planning Director Sherman indicated there were no additional planning cases at this time. She explained the April Planning Commission meeting would allow the group to elect officers, address zoning ordinances and adopting the work rules.

10. ADJOURNMENT

MOTION JOHANSEN, SECOND JOHNSON TO ADJOURN THE REGULAR BROOKLYN PARK PLANNING COMMISSION MEETING. *MOTION PASSED UNANIMOUSLY.*

Adjournment time was 8:16 p.m.

Respectfully submitted,

Heidi Guenther
Recording Secretary
TimeSaver Off Site Secretarial, Inc.