

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, November 19, 2024 - 7:00 p.m.
City Council Chambers - 8150 Barbara Avenue

1. CALL TO ORDER

Chair Weber called the Planning Commission Meeting to order at 7:00 p.m.

The Pledge of Allegiance was recited.

2. ROLL CALL

Commissioner's Present: Jonathan Weber (*Chair*)
Trisha Presley (*Secretary*)
Jason Teiken
Lance Twedt
Aida Schaefer
Robert Heidenreich
Amy Hunting
Dennis Wippermann

Commissioner Absent: Scott Clancy (*Vice-Chair*) - *excused*

Staff Present: Jason Ziemer, Community Development Director
Kris Wilson, City Administrator
Bridget Nason, City Attorney
Ally Sutherland, Environmental Specialist
Stacy Bodsberg, Community Development Support Specialist

3. CONSENT AGENDA

A. Minutes of November 6, 2024, Planning Commission Meeting.

Motion by Hunting, Second by Teiken, to approve the minutes with the changes requested by Commissioner Wippermann.

The amended lines now read as follows, with changes in boldface type:

- Commissioner Wippermann said that **the requested changes** would open up this use to any Agricultural property.
- Motion by Wippermann, Second by Hunting, to Deny the request for a Comprehensive Plan Amendment from RDR, Rural Density Residential to LI, Light Industrial subject to the conditions listed in the staff report; and **Deny** the Rezoning of the property from A, Agricultural to I-1, Limited Industry District; and **Deny** the Zoning Code Amendment to allow Commercial Yard Waste and Composting Facilities as a Conditional Use in the I-1 District with the reason that it would be spot zoning, and also the reasons listed in the staff report.

4. PUBLIC HEARING

A. Zoning Code Amendment, Conditional Use Permit, and Non-Conforming Use Certificate Amendment to allow the proposed vertical expansion of the Pine Bend Sanitary Landfill located at 2495 117th Street East. (BFI Waste Systems of North America, LLC - Case No. 24-21NCUC)

Reading of Public Notice

Secretary Presley read the Public Hearing Notice.

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Presentation of Request

Community Development Director Ziemer and City Administrator Wilson presented the staff report.

Pine Bend Sanitary Landfill are seeking authorization to accept additional cubic yards of waste, grow taller, and operate longer than currently permitted by the State, Dakota County, and Inver Grove Heights.

The city's role involves:

1. Zoning Code Amendment
2. Amendment to Pine Bend Sanitary Landfill's Non-Conforming Use Certificate
3. Conditional Use Permit for Vertical Expansion
 - a. Environmental Advisory Commission recommended approval earlier in November
4. Host Community Agreement
 - a. City Council

The Planning Commission is tasked with reviewing the first three items, and all four will then go before the City Council for action.

Staff requests that the Planning Commission continue tonight's public hearing to the December 3rd meeting, as the public notice was published a day short, and needs to be republished in the Pioneer Press for the required amount of time.

Community Development Director Ziemer provided some background on the request. The reason for the proposed expansion is that the landfill is nearing capacity. Current projections show that the landfill would reach capacity in 2030. Therefore, in June 2022, Pine Bend Landfill filed an initial expansion request with the Minnesota Pollution Control Agency (MPCA). In 2023, MPCA reviewed the Environmental Assessment Worksheet and determined that no Environmental Impact Statement (EIS) was needed. In June 2024, Pine Bend Landfill submitted the zoning application to the City.

If the expansion is approved, the capacity would be 42,123,300 cubic yards, including 7 million cubic yards of additional waste and a final cover. This would extend the life of the landfill by 13.6 years.

The footprint of the landfill would not change. The height of the landfill would increase by 86.8 feet, maintaining the current slope of 3:1.

Under the proposed Zoning Code Amendment, the land use and zoning would not change (General Industrial and I-2, General Industry, respectively). Pine Bend Landfill is in the Integrated Resource Management Overlay District; the zoning changes would involve revisions of the size and height allowed in this Overlay District.

Proposed City Code revisions:

- Subparagraph F: Final height not to exceed 1,105.8 feet
- Subparagraph H: Capacity not to exceed 42,123,200 cubic yards
- Subparagraph J: Remove

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Community Development Director Ziemer explained the Non-Conforming Use Certificate (NCUC) process and briefly reviewed the history of Pine Bend Landfill's initial NCUC in 1995 and Amendments that occurred in 2002, 2004, 2018.

Showed visual side-by-side pictures of the existing views and projected 2042 views for seven surrounding sites of the landfill.

Chair Weber clarified that the zoning is I-2. Ziemer confirmed that.

City Administrator Wilson presented on the proposed Conditional Use Permit, that would approve an additional 86.8 feet of height to a new maximum elevation of 1,105.8 feet and an increase in the capacity of the landfill.

Conditions 1 and 2:

- Outline the previous height and capacity maximums.
- Note that the terms of the two previous Conditional Use Permits remain in effect, but state that the most recent CUP will prevail in the event of conflicting terms.

Conditions 3 and 4:

- Require that the expansion be constructed and operated in accordance with the application materials and plan documents submitted, as well as information provided in follow-up letters.

Conditions 5 and 6:

- Provide the list of past City actions and approvals, which remain in effect and which the Landfill must continue to comply with, including the Landfill's Non-Conforming Use Certificate.

Conditions 7 and 8:

- Indicate the types of waste that may be disposed of in the Landfill (no change from current list).
- Require that the Landfill connect to the City's sanitary sewer system and pay the applicable connection and hook-up charges (once the sanitary sewer is extended to the property as part of the 117th Street reconstruction project).
 - This allows leachate to be piped rather than trucked to the Metropolitan Council's wastewater treatment facility.

Chair Weber inquired if extending the sanitary sewer was at the City's expense. City Administrator Wilson responded that it is listed as such, but the benefiting property owners were assessed for the sanitary sewer portions.

Ms. Wilson noted that the previous condition 8 from the 2018 CUP would be removed, which prohibited traffic queueing on 117th Street. This is no longer necessary given that the 117th Street reconstruction project will add a turn lane. Additionally, 117th Street is now a Dakota County road, and the County is responsible for regulating the use of the street.

Conditions 9 and 10:

- Establish hours for construction of the expansion (installing liner, extending leachate and gas extraction systems, etc.).
 - Hours will be identical to those from the last approved expansion

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- State that the landfill must comply with all applicable federal laws and regulations, Minnesota statutes and rules, Dakota County rules, and terms of their Solid Waste Permit, as amended.

Conditions 11 and 12:

- Indicates requirements related to surface water and groundwater requirements.
 - No change from the existing Conditional Use Permit.
- Indicates requirements related to dual gas/leachate extraction system.
 - No change from the existing Conditional Use Permit, but with the annual report now due March 1 instead of February 1 to align with state deadlines.

Conditions 13, 14, and 15:

- Address subsurface gas migration as a safety concern.
 - Require compliance with MN Rule 7035.2815, Subpart 11 regarding landfill gas management.
 - The existing CUP required Pine Bend Landfill to have six months of compliance by January 1, 2025. This condition has not been met. However, the Minnesota Pollution Control Agency has said that there is still no foolproof way of containing landfill gas.
 - Require continued annual reporting to the Environmental Advisory Commission on progress, with added trend analysis.
 - Require continued oversight by the Minnesota Pollution Control Agency.
 - Extend the deadline for compliance to 2027 or until 35 million cubic yards of capacity is reached, with authority given to City Council to waive the requirement if adequate progress is being made.
 - Require Pine Bend Landfill to identify the outer boundaries of the subsurface gas plume.

Commissioner Heidenreich inquired about methane gas migration coming from an older landfill to the north. City Administrator Wilson stated that while there is an older, closed landfill to the north (Crosby American) it is the property and maintenance responsibility of the Minnesota Pollution Control Agency.

City Administrator Wilson provided some background information on current efforts to address subsurface gas migration: annual reports to the City and presentations to the Environmental Advisory Commission; source control including 242 gas collection points that connect to the renewable natural gas plant; monitoring including 39 probes around the perimeter of the landfill, which are monitored quarterly or monthly if exceedances are detected; and ongoing efforts to identify new methods of containing gas. The issue is not expected to worsen as a result of the expansion. The gas is coming from the unlined portion of the landfill, and the expansion would be over the top of the lined portion.

Commissioner Twedt inquired about gas threats to nearby residents or livestock. City Administrator Wilson stated that probes at a nearby recycling plant have not detected gas, and fortunately, there are not many residential buildings nearby. There is no reason to believe that there's a current public safety threat. Twedt asked about efforts to address the problem. Wilson stated that the Minnesota Pollution Control Agency has suggested actions but does not have solutions to offer. The MPCA believes Pine Bend is taking reasonable steps to address the issue. At this time, MPCA is not taking any enforcement actions. Twedt stated that he would like to hear more about these steps and progress made on the issue.

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Conditions 16, 17, 18, and 19 (all consistent with existing CUP):

- Require compliance with the MPCA air emission permit for the Renewable Natural Gas facility.
- Make both the owner and the operator of the Landfill responsible for compliance with the Conditional Use Permit (CUP).
- Document that any breach of the Host Community Agreement is a violation of the CUP.
- Indicate that the effective date of the CUP is the effective date of the new Host Community Agreement.

Condition 20:

- Makes this CUP effective only if a valid Host Community Agreement is in place.
 - The Host Community Agreement is still being negotiated; it is possible that it would need to be renegotiated after five years.

Planning Commission Discussion

Commissioner Schaefer questioned when the landfill would cease to operate without the expansion. Wilson stated this was based on capacity. However, the Host Community Agreement has historically had a closure date, and the current closure date is December 31, 2030. The proposed closure date is approximate but estimated to be 2042.

Commissioner Schaefer inquired as to what the worst-case scenario is for gas migration. Wilson stated that Barr Engineering consultants and/or landfill representatives would be able to answer that question.

Commissioner Schaefer inquired about the benefit of the landfill to the City. Wilson stated that waste needs to go somewhere, and since 1971, it has been coming to Inver Grove Heights. Under the Host Community Agreement, the landfill pays per-ton fees that cover services; half of these go to the Veterans Memorial Community Center, including the cost of capital improvements and operations. She mentioned that usually, these costs are covered via property taxes. The remaining half of the fees are used in Public Works, including the Pavement Management Program. Portions of these fees have also been set aside for a new Public Works Maintenance Building and stormwater and sanitary sewer needs. Because Host Community fee revenue is General Fund revenue to the City, the City Council can direct it for any city government purpose.

Commissioner Schaefer questioned what the trend in fee revenues has been. Wilson stated that fee revenue has decreased in the last few years for two reasons. The 2018 CUP Amendment had a different fee structure that took effect after Pine Bend Landfill got a Certificate of Need from the MPCA in late 2021, so the impacts were felt in 2022 and 2023. Secondly, the landfill made a business decision to accept less tonnage from haulers, so their tonnage went down.

Chair Weber inquired about the specifics on changes to the fee structure, and whether it switched from a tonnage fee to a guaranteed annual payment. Wilson stated that this was out of the jurisdiction of the Planning Commission, but that there is a three-tier structure, with a moderate fee for the first (approximate) 260,000 tons landfilled annually, a much lower fee for 260,000 to 400,000 tons, and then a higher fee for tons above 400,000. There is also an annual payment to the city.

Commissioner Schaefer summarized that the revenue received from the landfill through the Host Community Agreement is needed to continue funding the VMCC without raising property taxes and that the fees have been decreasing in the last two years. She asked how this funding

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gap is being addressed. Wilson stated that account reserves were being used. There has not been a change in property taxes as a result of decreased fee revenues over the last two years.

Opening of Public Hearing

Aaron Janusz, Environmental Manager with Republic Services, introduced Ethan Ketelsen with Stantec; Megan Goldstein, Environmental Specialist; and Katie Lindholm, Operations Manager, stated that he had read and understood the report. He thanked the Commission and the City for their time and efforts reviewing the application. He said that progress is being made on the gas migration issue; last month, there were only four or five spots of concern with gas migration, down from 18 in prior months. He said the issue is the unlined portion. He said monitoring is ongoing on nearby properties, and gas is not being detected on properties to the east or west. He said that methane is potentially explosive, and that if there were a basement in the area, there is the potential for a buildup of gas, but there aren't really any buildings nearby.

Commissioner Heidenreich inquired about a plume map. Mr. Janusz stated that they do not have this; they have not tested other people's properties.

Commissioner Heidenreich inquired if there was any airborne gas. Mr. Janusz stated no, it was not on the surface.

Commissioner Hunting inquired about an expansion of natural gas collection. Mr. Janusz stated yes; with the landfill expansion, there will be a longer period for collection of natural gas.

Commissioner Schaefer inquired about the average daily tonnage being estimated at 1,600. Mr. Janusz stated that there are fluctuations, and 1,600 is their best guess. If the Hennepin Energy Recovery Center (HERC) closes, the average daily tonnage may increase. Schaefer inquired about the potential for increased tonnage due to population growth in the area, and what the effect would be on the landfill's expansion. Mr. Janusz stated that the permit is constrained by volume, not tonnage of waste accepted; he clarified that it's not a one-to-one comparison. The lifespan of the landfill would decrease if the rate of waste accepted increased.

Commissioner Schaefer inquired as to whether monitoring would increase if the landfill was built out faster than projected. Mr. Janusz stated that they would monitor areas as they were built out.

Commissioner Hunting inquired about efforts to burn waste. Mr. Janusz stated that HERC in downtown Minneapolis burns waste. At the Newport facility, waste is shredded, then trucked to Mankato or Red Wing, where it is burned for electricity. Burning is not being done at Pine Bend. Hunting inquired about issues with burning waste. Mr. Janusz stated that issues include pollution from exhaust and ash disposal.

Chair Weber inquired about an increase in leachate from 2017 to 2022. Mr. Janusz stated that this was due to the last expansion being a side slope expansion, meaning more area for runoff to generate leachate. Weber inquired about the distance this leachate is trucked. Mr. Janusz stated that it is trucked to Saint Paul. Weber questioned if the leachate will increase further with the expansion. Mr. Janusz stated that they are not expecting it to increase further.

Commissioner Schaefer inquired about the Certificate of Need. Mr. Janusz stated that the Certificate of Need is based on counties' waste volume tracking and predicted waste generation metrics. Schaefer questioned whether it would be possible for Dakota County or the City of Inver Grove Heights to limit the origin of waste that Pine Bend Landfill accepts. Mr. Janusz stated

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that it would be an interesting discussion, as the company currently works with the whole metro area.

Commissioner Schaefer inquired as to what would happen with the City's waste in 2042. Mr. Janusz stated that there were ongoing efforts to reduce, reuse, and recycle that could help with decreasing waste, but that's an open question.

Chair Weber stated that while he's aware the Host Community Agreement is under City Council's purview, he would find it helpful to see a copy of it, particularly given the connection to the Conditional Use Permit.

Commissioner Schaefer stated that if demand for landfill space is increasing, there should be more revenue, including fees to the City.

Chair Weber inquired as to who has been involved in Host Community Agreement negotiations. City Attorney Nason stated that the negotiations have occurred between Pine Bend's representatives and legal counsel and the City's staff and legal counsel.

Chair Weber inquired about the potential for Planning Commission review of the Host Community Agreement. City Attorney Nason stated that the City Council would make the decision; the Host Community Agreement is not scheduled to come before the Planning Commission.

Commissioner Hunting inquired about the 2018 change in the Host Community Agreement fee structure. City Attorney Nason stated that she believed the fee structure changed as a result of the landfill bringing financial constraints to the City. In all the Host Community Agreements before that, there was a per-ton fee, and the city is not putting the current fee structure on the table for consideration in this round of negotiations.

Community Development Director Ziemer pointed out that the Planning Commission is asked to consider strictly the land use and zoning perspective, not economic aspects.

Chair Weber inquired about other aspects of the Host Community Agreement that might apply. City Administrator Wilson stated that the current Host Community Agreement is a public document and that she would share it with the Commission. It includes fees paid to the city and the closure date. There is also information about fire suppression/emergency preparedness and management plans.

Chair Weber stated that by being able to read the current agreement, this would help the Commission with a fuller understanding of the item under consideration.

City Administrator Wilson reiterated that the Planning Commission is concerned with land use.

Commissioner Schaefer stated that there are budgetary considerations involved with land use. Wilson stated that the Planning Commission is asked to weigh in on the Capital Improvement Plan because it involves infrastructure, but ultimately, budgetary considerations are under the purview of City Council.

Motion by Heidenreich, Second by Presley, to Continue the Item to the December 3, 2024, Planning Commission meeting.

Ayes: 8

Nays: 0

Motion Carried.

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5. REGULAR BUSINESS

None.

6. ADJOURN

Motion to adjourn the meeting at 8:20 p.m.

Respectfully submitted by Will Cl Ashe, Recording Secretary.