

## **PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS**

Tuesday, November 21, 2017 – 7:00 p.m.  
City Hall Chambers - 8150 Barbara Avenue

Chair Maggi called the Planning Commission meeting to order at 7:00 p.m.

Commissioners Present:     Tony Scales  
                                        Dennis Wippermann  
                                        Jonathan Weber  
                                        Joan Robertson  
                                        Pat Simon  
                                        Annette Maggi  
                                        Elizabeth Niemioja  
                                        Brett Kramer

Commissioners Absent:     Armando Lissarrague (excused)

Others Present:              Tom Link, Community Development Director  
                                        Allan Hunting, City Planner

### **DAWNWAY LANDFILL – CASE NO. 17-35NCUC**

#### **Reading of Notice**

Commissioner Simon read the public hearing notice to consider the request for a non-conforming use certificate amendment to allow for a 15-year time extension for the demolition landfill located at 5965 Dawn Way. 36 notices were mailed.

#### **Presentation of Request**

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the landfill is in both Inver Grove Heights and South St. Paul, and has been a demolition landfill since 1986. Since the time of the original approval, the City passed an overlay ordinance that limits all landfill type activities to the southern portion of the City. Since the proposed site is not within the approved overlay district, the site is a legal non-conforming site which requires a Non-Conforming Use Certificate (NCUC). That NCUC expires on December 31, 2017, so the applicant is requesting a 15-year extension to continue operating under the existing City and MPCA approvals. The City hired Barr Engineering to do some analysis on the site. Barr Engineering did not find any issues with the fill limits or type of materials. Barr used a different methodology than the applicant's surveyor and came up with a different amount of remaining volume than the Frattalone's had listed. Staff recommends that Barr's number be used as the official remaining volume. The applicant is requesting a 15-year extension. Using Barr's calculations for remaining volume, the lifespan of the landfill would be 11.5 years and only a 12-year extension would be needed.

Commissioner Niemioja asked who the City Administrative Officer could be.

Mr. Hunting replied it could be a number of different people; currently there is no position at the City with that exact title.

Commissioner Niemioja asked if there was a broad scope of City staff who could oversee the landfill's operation.

Mr. Hunting replied in the affirmative.

Commissioner Robertson asked if there was a long-term plan for what would happen in this

location once the landfill was filled.

Mr. Hunting replied in the affirmative, stating an approved end use plan was included in the packet. Essentially landfills have to remain as open space; however, there might be some light industrial development.

Commissioner Robertson asked if South St. Paul had to conduct a review as well.

Mr. Hunting replied that South St. Paul would approve their portion of the site under a grading permit, but he was not sure of their timeframe.

**Opening of Public Hearing**

Tony Frattalone, Dawnway Landfill, 14259 May Ave N, Stillwater, advised he was available to answer any questions.

Chair Maggi asked the applicant if he read and understood the report.

Mr. Frattalone replied in the affirmative. He advised there is not necessarily a finalized end use plan but rather different options that were suggested for various areas of the site. Although they are asking for a 15-year extension, if the site fills up in ten years they will be done. Demolition seems to have slowed down; however, so they are asking for 15 years so they do not have to come back for another approval.

Chair Maggi asked where South St. Paul was in the approval process.

Mr. Frattalone advised that the South St. Paul portion falls under the same NCUC, so they are working with the Inver Grove Heights City Administrator and will follow suit once Inver Grove Heights has completed their process.

Commissioner Niemioja asked if the limited hours of operation affected how much material they were able to take in.

Mr. Frattalone replied that the limited hours of operation were not an issue.

Commissioner Niemioja asked the applicant if he felt they would reach the targeted capacity in 15 years with the current hours of operation.

Mr. Frattalone replied that would depend on the amount of demolition being done and how much came to their facility.

Claire Hostetler, 5929 Concord Boulevard, questioned how they would ever get the site filled when they were also taking material out.

Mr. Hunting advised that Frattalone is allowed to take out the sand material and sell it.

Mr. Hostetler asked if there was another way to get in and out of the site besides Dawn Avenue.

Mr. Hunting replied that was the only access point to the site.

Greg Grover, 5975 Concord Boulevard, stated there is a dust issue and Frattalone has not been addressing it.

Joe McBride, 4055 - 59<sup>th</sup> Street East, summarized a letter he distributed to Planning

Commissioners. He noted that in 2011 the City asked Frattalone to stop excavating in the southeast corner of the landfill due to overmining, in June 2015 the City sent Frattalone a Cease and Desist letter for overmining the south and west side of the landfill, in November 2014 Frattalone submitted a drawing to the City of Inver Grove Heights that was not accurate, and in 2015 Frattalone admitted to overmining at a City Council meeting.

Chair Maggi asked Mr. Hunting to address Mr. McBride's statements.

Mr. Hunting stated the engineering department, who was involved with the landfill in 2011, sent out a Cease and Desist letter because the City Attorney recommended that as standard protocol. The City then reviewed the information and took it to City Council. The minutes from that meeting state that the County found no evidence of the operator exceeding the debris limits and it was concluded that the landfill was in compliance with the terms of the permit.

Chair Maggi asked staff to clarify the terms of a Cease and Desist order.

Mr. Hunting replied that it requires the operator to stop work while they investigate the issue.

Mr. McBride advised that the Cease and Desist letter was based on a Dakota County aerial photo which showed they were 30-40 feet beyond where they were allowed to be mining.

Chair Maggi asked Mr. Hunting if there was anything in the meeting minutes regarding Mr. McBride's claims.

Mr. Hunting replied that he did not look for that specifically; however, Dakota County inspects the mine quarterly and indicated that it is standard practice to excavate out further to get the soils and slopes and it is not a violation of the NCUC.

Mr. McBride showed a diagram of the base grade of the landfill and how far they were allowed to excavate. He advised that Frattalone submitted a drawing of debris limits which should comply with a 1:1.5 slope; however, it does not. Frattalone states that is because they have to knock it back for safe working conditions. They admitted to overmining; however, the drawings they submitted indicate they were not in there. He stated Frattalone violated their previous NCUC, the City has not enforced it, and he suggested the Planning Commission recommend denial of the extension. He stated the areas that have been overmined have unregulated material going in there as no one oversees it.

Chair Maggi advised that Mr. Hunting stated it was inspected four times a year.

Mr. Hunting confirmed that Dakota County inspects the site quarterly and their reports are included with the packet.

Mr. McBride questioned whether they inspected the backfill.

Mr. Hunting was not sure, but stated they identify that the site was inspected and that there were no violations.

Mr. McBride stated their role is to inspect the material that is placed in the landfill; however, there is no government agency overseeing the material that has been mined out and is not part of the landfill.

Jeff Ubl, Barr Engineering, Bloomington, stated the City hired his company to look at the fill volume calculations. He advised that they looked at if the waste filling was within the permitted boundary,

if the waste types complied with the definition of demolition debris, and they reviewed the 2014 drawings. He is not aware of any requirement to look for what the boundary was for the landfill to mine sand and gravel from. He advised that when he did his site visit all the waste was within the boundary, with the exception of materials waiting to be recycled, which was not a violation.

Commissioner Robertson asked if there were any dust control measures in place.

Mr. Ubl replied that he did not look for a specific requirement for dust control, but typically there is a requirement for sweeping, watering, or the application of another dust suppressant.

Mr. Frattalone advised that they have a sweeper and water truck on site which sweeps and sprays as needed. He advised they respond to complaints immediately and likely do more than what is required. He explained that the reason they had overmined in 2011 was because of the way they have to excavate to hold the slope. He advised that they consistently do shots to make sure they are within the limits of the demolition debris.

Luke Dahn, 5645 Annette Avenue East, stated that analyticals are done on materials coming into the landfill and they follow up on where it goes as well.

Mr. McBride disagreed that the overmining was due to safe construction practices to build a slope, but rather it was to mine and sell the materials.

Chair Maggi asked Mr. Ubl to discuss the discrepancy between 12 years versus 15 years to complete the project.

Mr. Ubl explained the process they used, and stated the discrepancy was due to Frattalone using a different method.

Commissioner Robertson asked if Frattalones would have to request another extension should the certificate be approved for 12 years and there ended up being additional room at the end of that timeframe.

Mr. Hunting replied in the affirmative.

Commissioner Robertson asked how the City would be informed if the landfill filled up prior to the NCUC expiration, and what actions would the City have to take.

Mr. Hunting stated he was unsure, but would assume the year end reports to the MPCA would identify when they were full.

Commissioner Scales asked if the 12-15 years was just an estimate of when it would be filled.

Mr. Hunting replied in the affirmative.

Nick Frattalone, 11647 – 58<sup>th</sup> Street North, Lake Elmo, advised that their business is heavily regulated by three bodies of government (City, County, and State).

Mr. McBride asked if the other uses at the landfill could continue once the NCUC had expired (i.e. recycling, black dirt, etc.).

Mr. Link stated that staff would do more research on this prior to it going to City Council; however, his initial reaction was that once the landfill closed the accessory uses would go away as well.

Chair Maggi stated that for the purpose of this meeting they would assume that was true.

Chair Maggi closed the public hearing.

**Planning Commission Recommendation**

Commissioner Wippermann asked if Frattalones could ask for additional volume space in the future.

Mr. Hunting replied in the affirmative.

Commissioner Niemioja stated she would prefer a 15-year extension versus 12 as they could not predict how long it would take to fill the landfill, the City had several enforcement options available to them, and the business had a good track record of complying with the NCUC.

Motion by Commissioner Niemioja, second by Commissioner Weber, to approve the request for a non-conforming use certificate amendment to allow for a 15-year time extension for the demolition landfill located at 5965 Dawn Way.

Motion carried (8/0). This item goes to the City Council on December 11, 2017.

The meeting was adjourned by unanimous vote at 7:47 p.m.

Respectfully submitted,

Kim Fox  
Recording Secretary