

**INVER GROVE HEIGHTS
PLANNING COMMISSION AGENDA**

**Tuesday, March 20, 2018 – 7:00 p.m.
City Council Chambers - 8150 Barbara Avenue**

- 1. CALL TO ORDER**
- 2. APPROVAL OF PLANNING COMMISSION MINUTES FOR FEBRUARY 20, 2018 AND MARCH 6, 2018.**
- 3. APPLICANT REQUESTS AND PUBLIC HEARINGS**
 - 3.01 CITY OF INVER GROVE HEIGHTS (SMALL CELL WIRELESS) - CASE NO. 18-12ZA**
Consider a Zoning Code Amendment relating to allowing small cell wireless facilities within the public right-of-way.

Planning Commission Action _____
- 4. OTHER BUSINESS**
- 5. ADJOURN**

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PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, February 20, 2018 – 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
Pat Simon
Annette Maggi
Elizabeth Niemioja
Joan Robertson
Brett Kramer

Commissioners Absent: Armando Lissarrague (excused)

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

JAYME QUINNELL – CASE NO. 18-05V

Reading of Notice

Commissioner Simon read the public hearing notice to consider a request for a variance from the side yard setback to locate a porch addition six feet from the property, whereas 10 feet is required, for the property located at 9304 Avalon Court. 5 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant is requesting a variance from the side yard setback to allow for the construction of a porch to be six feet from the side property line whereas 10 feet is required. The applicants are proposing to construct a three-season porch in place of the existing deck. The existing deck meets the five-foot setback for an accessory structure. A porch is considered a principle structure; however, and therefore must meet a 10-foot setback. Staff believes a practical difficulty can be found due to the irregular shape of the lot which is on a cul-de-sac, and the placement of the house on that lot. Staff recommends approval of the request with the condition listed in the report. Staff did not hear from any of the surrounding property owners.

Opening of Public Hearing

Jayme Quinnell, Outdoor Spaces, 5378 – 193rd Street W, Farmington, advised he was available to answer any questions.

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

Mr. Quinnell replied in the affirmative.

Chair Maggi closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Scales, second by Commissioner Wippermann, to approve the request for a variance from the side yard setback to locate a porch addition six feet from the property line,

whereas 10 feet is required, for the property located at 9304 Avalon Court, with the practical difficulty as defined in the staff report and the listed condition.

Motion carried (8/0). This item goes to the City Council on February 26, 2018.

GREGORY GROVER – CASE NO. 18-06V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance from the front yard setback to construct a garage 26 feet from the front property line whereas 50 feet is required, for the property located at 7231 Cahill Avenue. 3 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant would like to construct a 1,000-square foot detached garage 26 feet from the front property line. 50 feet is required on this property as Cahill Avenue is considered a minor arterial street. There is a steep incline in the front yard and there are currently 12 steps leading from the parking pad to the front door. The proposed garage would eliminate nine of those steps and be almost level with the front entrance way. Aesthetically the view from Cahill and surrounding properties would change as the garage would be in front of the house. Cahill provides a number of different land uses along this corridor, including commercial, churches, multi-family, and single-family homes. The applicant has other alternatives, such as reducing the size of the structure or changing the dimensions of the proposed building. Staff would support a 30-foot setback based on the other land uses along Cahill, some of which allow for the 30-foot setback. Staff would not be in support of the proposed 26-foot variance. Staff heard from one neighbor, whose email was distributed to Commissioners, who had concerns regarding engineering and the location of the proposed structure. If the variance is approved the applicant would work with the City's engineering department to make sure there would be no adverse effect to the abutting property owners regarding drainage, grading, and erosion control.

Chair Maggi asked if there was room to add the garage to the north side of the house.

Ms. Botten replied in the affirmative, stating the garage would be much smaller however.

Chair Maggi asked how much space was proposed between the existing house and the proposed garage.

Ms. Botten replied six feet.

Commissioner Weber asked if the property to the north had a garage in front of their house as well.

Ms. Botten replied in the affirmative.

Commissioner Weber asked how far that garage was from the front property line.

Ms. Botten replied that from the aerial it looked like 27 feet, which would include the overhang.

Chair Maggi asked if that was original.

Ms. Botten replied that they could not find any permits for the structure, but in looking at aerials it appears to have been there from at least back in the 90's.

Commissioner Simon asked if the minimum setback would have changed from the 90's.

Ms. Botten replied she did not believe so; likely the setback had always been greater than 30 feet.

Opening of Public Hearing

Ms. Botten advised that she did not see the applicant in the audience.

There was no public testimony.

Chair Maggi closed the public hearing.

Planning Commission Recommendation

Commissioner Niemioja asked if there was a drawing showing the proposed structure and, if so, was it aesthetically complimentary to the house.

Ms. Botten replied she had not yet seen any building elevations, and added that the zoning code does not regulate exterior colors, design, etc.

Chair Maggi asked if the house originally had a tuck-under garage that was subsequently enclosed.

Ms. Botten replied in the affirmative.

Commissioner Scales asked if the proposed garage would have to match the existing house in regard to exterior building materials.

Ms. Botten replied it did not have to match the house but did have to comply with exterior building material requirements (i.e. no sheet metal, etc.).

Commissioner Robertson asked who converted the garage space to non-garage space.

Ms. Botten believed it was the current owner.

Commissioner Scales asked if a 30-foot setback was required for both attached and detached garages.

Ms. Botten replied that structures need to be at least 50 feet from the property line, whether attached or detached. Another option is to table the request to give the applicant a chance to come to the next meeting.

Commissioner Niemioja stated she would like to table the request as she had some questions for the applicant.

Chair Maggi asked if tabling the request would delay the Council date.

Ms. Botten replied that Mr. Grover could keep the same Council date.

Planning Commission Recommendation

Motion by Commissioner Niemioja, second by Commissioner Weber, to table the request for a variance from the front yard setback to construct a garage 26 feet from the front property line whereas 50 feet is required, for the property located at 7231 Cahill Avenue, to March 6.

Motion carried (8/0).

INDUSTRIAL EQUITIES, LLP – CASE NO. 18-09PUD

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a preliminary plat and preliminary PUD development plan for a one lot plat to construct a 95,250 square foot industrial warehouse building, for the property located at Auburn Path and Argenta Trail. 12 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, City Planner, explained the request as detailed in the report. He advised that the Planning Commission recently recommended approval of a comprehensive plan amendment and rezoning for this property, which is located on Auburn Path on the Eagan border. The site plan review is contingent upon Council approval on February 26. The request is for a preliminary plat and preliminary PUD approval. The applicant is proposing to combine Outlots A and D into one lot and develop the site with a 95,250 square foot office warehouse building. The applicant is proposing to utilize Outlot D as a private drive to the site. The applicant is requesting flexibility from the required amount of undisturbed open space. Staff acknowledges that it is difficult to achieve the open space performance standards in the Northwest Area with this type of development on a smaller lot. The County is requiring a 30-foot trail and utility easement along the western property line and is requesting a 14-foot trail bench in the final grading plan. Park dedication would be through a cash contribution. The final landscape plan must be modified to provide the necessary tree reforestation or Council could approve a cash contribution in lieu of that. The applicant is proposing to connect to the Eagan system for water and sewer through the existing Joint Powers Agreement. Outlot D must either be dedicated as public right-of-way or the road easement should be vacated, and the entrance road be a private road should Council determine a future road extension is not needed. Staff would like input from the Planning Commission on the road easement and utilities. Staff recommends approval of the request with the listed conditions.

Commissioner Scales asked if there was a rough estimate of when City sewer and water was anticipated to be brought to the area.

Mr. Hunting replied that the extension of sewer and water to this area would be development driven. Because there have not been any inquiries from landowners in this area wanting to develop, he would expect it to be many years off in the future.

Commissioner Simon asked if water were brought in from Eagan via the joint powers agreement, would it be just to serve this property or others in the area as well.

Mr. Hunting replied that the Engineering Department would recommend that the utilities be extended to serve more than just the parcel in question.

Commissioner Simon asked why Auburn Path would not be extended along existing property lines rather than going through the middle of parcels.

Mr. Hunting replied most likely they would want to avoid adding more intersections on Argenta Trail but rather to intersect with Alberta Way.

Commissioner Robertson stated that the cemetery being due east of the subject parcel would likely impact where the road extension could go, and she supported taking advantage of the joint powers agreement to facilitate faster development of this area.

Commissioner Weber stated it was his understanding that the joint powers agreement only allowed the extension of utilities to the properties west of Argenta Trail; everything east of Argenta Trail had to be served by Inver Grove Heights. He asked what the existing industrial use south of the subject property had for sewer and water.

Mr. Hunting replied that he was unsure.

Commissioner Wippermann asked if the 30-foot easement being requested for the County trail would be the full width of the trail or would there be an additional 30-feet in Eagan.

Mr. Hunting replied that 30 feet would be the full width of the trail.

Chair Maggi asked why staff was not concerned about the parking shortage.

Mr. Hunting replied that staff believes the proposed parking spaces will be enough for the anticipated tenant mix of this building.

Commissioner Robertson stated the report lays out that only a small percentage of the total space is anticipated to be office space which would be people intensive; therefore, fewer parking spaces were likely necessary.

Commissioner Wippermann stated if the City wants this development to happen the utilities must come from Eagan.

Opening of Public Hearing

Matt Allan, 321 – 1st Ave N, Minneapolis, advised he was available to answer any questions.

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

Mr. Allan replied in the affirmative.

Commissioner Weber asked if the applicant planned to grant access back to the cemetery, such as that shown on the E.G. Rud drawing.

Mr. Allan replied that would have to be addressed.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Chair Maggi asked if the Planning Commission should add a condition requiring access to the cemetery.

Mr. Hunting replied that the Planning Commission could add such a condition and noted that the final plans would have to provide an access similar to the one shown in the E.G. Rud drawing.

Planning Commission Recommendation

Motion by Commissioner Robertson, second by Commissioner Scales, to approve the request for a preliminary plat and preliminary PUD development plan for a one lot plat to construct a 95,250 square foot industrial warehouse building, for the property located at Auburn Path and Argenta Trail, with the added condition that appropriate access to the cemetery be provided.

Motion carried (8/0).

Motion by Commissioner Wippermann, second by Commissioner Weber, to recommend to City Council that the applicant be given access to sewer and water through the Joint Powers Agreement with the City of Eagan.

Motion carried (8/0).

Commissioner Weber believed that a vacation would be the best option for Outlot D.

Commissioner Scales asked if Auburn Path would be a private road.

Mr. Hunting replied in the affirmative.

Motion by Commissioner Weber, second by Commissioner Scales, to vacate the right-of-way easement on Auburn Path.

Motion carried (8/0). This item goes to the City Council on March 12, 2018.

MWF PROPERTIES – CASE NO. 18-08PA

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a comprehensive plan amendment to change the land use designation from CC, Community Commercial to HDR, High Density Residential, for the property located at Outlot B, Valley View 4th Addition. 61 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the subject property is located on the corner of 65th Street, Buckley Circle, and Buckley Way and is zoned B-3, General Business. The applicant is proposing to change the land use designation from Community Commercial to High Density Residential as they would like to develop the parcel with a 55-unit three-story affordable housing apartment complex. If the comprehensive plan amendment is successful, an application for a rezoning, final plat and conditional use permit would be required. The property is vacant and located on an abandoned dump site. If the property is approved for development, the owner would need to work with the Dakota County Environmental Services and the MPCA to clean up the site. The landfill was discontinued in 1971. The lack of activity at this site may indicate that commercial is not suitable for this location. Staff recommends approval of the request due to the lack of visibility from Cahill Avenue for retail, it would create additional shopping demand for the Cahill Corridor, it would be a good land use transition between multi-family and commercial property, would provide affordable housing, and would result in the cleanup of a contaminated vacant piece of property. Staff received a phone call from a neighbor who seemed to be in support of the request but had concerns about the height of the proposed building. Commissioners were also given two emails from neighboring property owners who were not in support of the request, with their main concerns being the impact on the existing open space and the additional traffic that would be brought to this area.

Chair Maggi asked who owned the property.

Ms. Botten believed it was still tax forfeit; however, if the request was approved the interested party would purchase the property and move forward with development of the site.

Commissioner Weber asked if the property to the south was condominiums.

Ms. Botten replied in the affirmative.

Opening of Public Hearing

Chris Stokka, MWF Properties, 7645 Lyndale Ave S, Richfield, advised he was available to answer any questions.

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

Mr. Stokka replied in the affirmative. He advised that the site plan presented was conceptual at this point.

Chair Maggi asked the applicant to address their commitment to affordable housing.

Mr. Stokka advised that historically the Dakota County CDA has developed this type of housing, but recently they changed their stance and are delegating it to other developers. They are a Richfield developer who has developed 26 similar housing projects. He explained how the program works, stating they apply for housing tax credits, if approved they would sell those tax credits to a bank which would fund part of the construction costs and allow for a lower mortgage on the property. In return for those tax credits they agree to keep rents at 60% of the area median income and rent to households at or below 60% of the area median income. Their developments are primarily for workforce housing, and their development will include a children's play area and community space.

Victoria Fenlon, 6630 Buckley Circle, stated she had concerns with the fact that areas adjacent to this former landfill site were not proposed to be cleaned up as part of this request, the proposed 50-55 unit building would essentially triple the population in the area, and the potential for guests parking in her townhome neighborhood.

Beth Marshall, 6640 Buckley Circle, stated her biggest concern was the number of units being proposed and how the traffic associated with that would impact her neighborhood. She stated many seniors use that area with their walkers and/or wheelchairs.

Janice Garceau, 6610 Buckley Circle, was concerned about the safety of the children living in the proposed building, stating they would likely play in Buckley Circle, their driveways, etc.

Marie Gadway, 6601 Buckley Circle, #104, stated she would prefer a two-story building to a three-story, questioned how such a large project would fit on the subject property, and was concerned about where they would put snow during the winter, stating they already had an issue with that in her neighborhood.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Chair Maggi noted that tonight's request was only for the land use change. If approved by Council there would be additional discussions regarding the plat, parking, setbacks, etc. at a later date. In her opinion, this is a logical location for affordable housing and it would result in a contaminated site being cleaned up.

Commissioner Weber supported the request for the development of a difficult piece of property.

Commissioner Scales supported the request, stating the subject property has been for sale for years and he believed this would be a good use of the site.

Commissioner Robertson supported the request, stating unless an action such as this is taken the site would remain contaminated. She clarified that the only thing being discussed at this point was the land use change, and that if approved there would be an opportunity in the future for neighbors to comment on specific issues regarding number of units, etc.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Robertson, to approve the request for a comprehensive plan amendment to change the land use designation from CC, Community Commercial to HDR, High Density Residential, for the property located at Outlot B, Valley View 4th Addition.

Motion carried (8/0). This item goes to the City Council on March 12, 2018.

INTERSTATE DEVELOPMENT CORPORATION – CASE NO. 18-07PDA

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for an ordinance amendment to change the Arbor Pointe PUD ordinance to allow Special Education School as a permitted use in the CSC, Community Shopping Center District, and a planned unit development amendment to amend the approved site plan to allow for a special education school in the existing building, for the property located at 9015 Broderick Boulevard. 14 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicant is proposing to purchase the former Rainbow site and lease the building to Intermediate School District 917. The building would be remodeled, there would be a small playground area created on the back side of the building, and there would be minor changes to the exterior of the building. The buses would line up on the east side of the building and the entrance will be on the south side. Staff prepared rationale both for and against the request. Rationale for the project includes the project would bring daily activity to the area, they would be filling a building that has been vacant for many years, would provide goods and employment opportunities, the existing commercial zoning could remain in place for future commercial opportunities, investment in the building would result in a higher valuation and increased taxes, would not impact parking, and would provide a unique service to the community and school districts. The rationale against the request includes taking away possible commercial opportunities for a re-use of the building for other retail, could negatively impact possible redevelopment of the area, and could potentially become tax exempt should the school district ever want to purchase the property. Staff does not have a strong recommendation either way.

Commissioner Weber asked if the applicant had been made aware of the comments listed in the memo from the City Engineer.

Mr. Hunting replied in the affirmative.

Commissioner Niemioja asked if staff was aware of other inquiries regarding multi-family uses on the subject property.

Mr. Hunting replied he was not aware of any such inquiries.

Commissioner Robertson asked for more information regarding the proposed school.

Mr. Hunting replied that the applicant could best answer that question.

Commissioner Weber asked if the property to the north was used for stormwater ponding.

Mr. Hunting replied in the affirmative.

Commissioner Weber asked if the northern property would be purchased at the same time as the subject property.

Mr. Hunting replied that was his understanding.

Opening of Public Hearing

Lonnie Provencher, Interstate Development, 6390 Carlson Drive, Eden Prairie, advised he was available to answer any questions.

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

Mr. Provencher replied in the affirmative.

John Christiansen, Superintendent of Intermediate School District 917, stated the school has been in existence since 1970 and serves low incidence needs of students of member districts receiving special education services. 917 specializes in addressing the needs of children who require intensive educational services utilizing unique teaching approaches. There is likely a small number that might need this service in a school district, so they allow the intermediate school to provide those services, which is more efficient and cost effective. They have similar facilities in Rosemount, Apple Valley, and Eagan and currently have a waiting list.

Commissioner Niemioja asked how many students they currently serve from the Inver Grove Heights schools.

Mr. Christiansen replied he was not sure of the exact number.

Commissioner Niemioja asked where those students would currently be going to school.

Mr. Christiansen replied either the Rosemount, Apple Valley, or Eagan site.

Commissioner Wippermann asked if this would replace one of the other sites or be in addition to.

Mr. Christiansen replied that it was be in addition to their other sites and would help eliminate the wait list.

Commissioner Wippermann asked how many students they were anticipating.

Mr. Christiansen replied 90-100.

Chair Maggi asked if the applicant's group had gone through an approval process for the site location.

Mr. Christiansen replied they met with the superintendents of the member districts, the business manager, and elected officials, who were supportive of the request.

Commissioner Robertson asked if some of the students they hoped to serve would currently be in Inver Grove schools.

Melissa Schaller, Director of Special Education for Intermediate School District 917, stated they would be serving students who come from their member districts and would also be moving a program from the Apple Valley site to this location. The building would be for students K-12, who would be grouped by grade levels. Their students could have neurobiological disorders, mental health needs, or behavioral issues that make it difficult for them to be in traditional classrooms. They would also use some of the space to house their itinerant staff.

Commissioner Robertson asked if this was the type of facility where schools could place students who have behavioral concerns and can no longer remain in a traditional school.

Ms. Schaller replied in the affirmative, stating instead of member schools providing for the specialized needs of these few students it is done collectively at their school.

Commissioner Robertson asked if this building would have security and oversight.

Ms. Schaller replied that they have secure measures in terms of limited access, social workers on site, staff trained in professional crisis management, a board-certified behavior analyst, and they work collaboratively with a crisis service.

Commissioner Niemioja asked how long the wait list was.

Ms. Schaller replied the last time she checked there were 46 students on the list.

Commissioner Robertson asked what the general protocol would be if an older student was non-compliant and wanted to leave.

Ms. Schaller replied that students do not get to leave without some action happening on the school's part. At the lowest level they would contact the parents, but typically they would have police or sheriff involvement as well, and staff will follow students to make sure they are safe until their guardian or the police arrives.

Rex Jordan, 8851 Broderick Boulevard, stated his biggest concern was the safety of neighboring residents should a student with behavioral problems leave the premises, and he questioned what measures were in place to protect the neighboring residents.

Commissioner Niemioja asked if the children attending this school could currently be at mainstream schools, such as Simley, and would already have the ability to leave the premises and venture into surrounding neighborhoods.

Ms. Schaller replied in the affirmative and noted that historically they have had no confrontation between their students and residents.

Commissioner Niemioja asked if they were planning on hiring a liaison officer.

Ms. Schaller replied that it is a possibility.

Mr. Christiansen clarified that if a student is wanting to leave the building staff contacts the guardian, who may or may not head to the school to intervene. Staff then shadows the student wherever they may go until the police or others get there and they are sure the student is safe.

Commissioner Scales stated he was comfortable with the request, noting that the students that would be at this school are currently in schools that are mostly in residential areas.

Commissioner Niemioja stated it sounded to her as if they were even more attentive at this school than they would be at a standard school.

John Lacasse (spelling?), Pope Architects, advised that schools like these have a delayed egress system on the door. An alarm will go off and they must hold the bar down and stand there for 30 seconds before the door will open. Alarm pulls are not in a place where students can get to them.

Commissioner Robertson asked if someone in the school district had looked at the building and determined it would meet the requirements for the proposed school.

Mr. Christiansen replied in the affirmative, stating they have had board members at the building during walk-throughs with the developers and some of their experts. Some of the school staff are familiar with the building as well and everyone is supportive.

Commissioner Weber asked the applicant if they would be purchasing the property to the north as well as the building parcel.

Mr. Christiansen replied in the affirmative, stating they were aware of the City's needs regarding the stormwater pond on that property.

Mr. Hunting asked for clarification of the bus pick up and drop off location.

Mr. Christiansen replied that the buses will stack along the Broderick side of the building, the buses will be called up one at a time to the entrance on the front side of the building where they will drop students off and then circle out.

Commissioner Robertson asked how the buses would likely leave the site.

Mr. Christiansen replied that the member districts provide the transportation, and after dropping students off they would disperse in various directions to their home districts.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Chair Maggi stated she supported the request, hoped that the proposed 75 staff members would visit neighboring businesses and help revitalize that area, and felt it was an appropriate land use for this property.

Commissioner Wippermann questioned whether this would have a positive or negative impact on the Arbor Pointe commercial area.

Commissioner Scales supported the request, was happy to see something fill the vacant space, and believed it was necessary to think creatively about filling vacant space rather than waiting for retail to come.

Commissioner Niemioja supported the request, stating it would provide a needed service, commercial was unlikely to come to the building, and it would hopefully bring customers to the existing businesses in the area.

Commissioner Robertson stated this was an opportunity to drive the change for this area rather than wait for something to happen.

Commissioner Weber asked if Arbor Pointe Green was required for all buildings in this area.

Chair Maggi replied in the affirmative.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Scales, to approve the request for an ordinance amendment to change the Arbor Pointe PUD ordinance to allow Special Education School as a permitted use in the CSC, Community Shopping Center District, and a planned unit development amendment to amend the approved site plan to allow for a special education school in the existing building, for the property located at 9015 Broderick Boulevard, with the conditions listed in the report.

Motion carried (8/0). This item goes to the City Council on February 26, 2018.

PINE BEND LANDFILL – CASE NO. 17-36NCUC

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a zoning code amendment to allow a side slope capacity expansion of an existing sanitary landfill as a conditional use permit providing the landfills have a non-conforming use certificate, are in compliance with that certificate, and meet other conditions regarding final cover, liners, leachate collection, gas extraction, height, property boundaries, waste capacity, and acceptable wastes, a conditional use permit amendment to allow a side slope capacity expansion of the Pine Bend Landfill of 4.1 million cubic yards, including 3.5 million cubic yards of waste, and any other variances related thereto, and a non-conforming use certificate amendment to allow the capacity expansion, for the property located at 2495 – 117th Street. 29 notices were mailed.

Chair Maggi thanked Pine Bend Landfill for hosting a tour of the landfill and to Mr. Link for getting the report to Commissioners early per their request.

Presentation of Request

Tom Link, Community Development Director, explained the request as detailed in the report. He advised that the Pine Bend Sanitary Landfill currently has a permitted capacity of 29.8 million cubic yards; they are proposing to increase that by 4.1 million cubic yards. The expansion would not increase the height or footprint of the landfill but would increase the slopes from 5:1 to 3:1. The operations would remain the same, with the exception of the 3-4 month period it would take to construct the expansion. He provided background of the site, stating they received their first conditional use permit (CUP) in 1975. In 1991 the ordinance was changed, and these types of landfills were no longer allowed, but existing ones could continue. In 1995 there was an agreement between Pine Bend Landfill and the City called a Non-Conforming Use Certificate. A number of small requests have been approved since 1995 for accessory or minor uses such as a compost facility, electrical generation facility, truck and trailer storage, etc. In 2004 the City approved an expansion. In 2015 the MPCA conducted an Environmental Assessment Worksheet for the expansion. The conclusion was that there were no significant environmental affects and that an Environmental Impact Statement was not necessary. Pine Bend Landfill then made application to the MPCA for this side slope expansion. The application has been reviewed in part by the MPCA; however, they will not take final action until the City and Dakota County have approved the request. The zoning ordinance amendment would continue to prohibit sanitary landfills but would allow an exception by conditional use permit. That exception would only allow a side slope capacity expansion of an existing non-conforming sanitary landfill if the landfill has an NCUC. Staff found the requests to be consistent with the purpose and intent of the Comprehensive Plan and Zoning Ordinance, compatible with the surrounding land uses, do not pose an undue burden on

City facilities and services, are suitable to the property, and have minimal potential for increased environmental impacts. Barr Engineering reviewed the request and provided recommendations for amendments to the NCUC and CUP; these modifications have been incorporated into the documents. Barr also concluded that there are potential environmental benefits to the landfill's proposed expansion, including a reduction in the amount of leachate migrating into the groundwater, the generation of additional gas to be converted to electricity, and increased extraction of gas. Staff recommends approval of the requests.

Opening of Public Hearing

Jeff Brown, Pine Bend Landfill Operations Manager, 2495 – 117th Street, advised he was available to answer any questions.

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

Mr. Brown replied in the affirmative. He introduced the Republic Services team and explained their electrical generation facility operation in which gas from the landfill is converted into electricity.

Aaron Janusz, Environmental Engineer, Republic Services, summarized the request, explained the proposed side slope modification, and noted that installation of the proposed enhanced geosynthetic cover/liner (GCL) over the unlined areas will reduce infiltration and increase gas collection efficiency.

Commissioner Niemioja asked if the entire new area would have a geosynthetic cover liner over it.

Mr. Janusz replied in the affirmative, stating the expansion would extend the life of the landfill to 2030. He explained the extensive permitting process, with the four main issues being slope stability, leachate collection, gas system construction, and surface water management. They will be building four new cells about 20 acres in size, with the final cell holding the existing office building and scale.

Commissioner Niemioja asked of the potential for garbage slides and whether the grade of the slope could increase during filling.

Mr. Janusz replied it would never be steeper than a 3:1 slope, even during filling. He explained that they do extensive modeling of the slope design and do not anticipate any issues.

Commissioner Niemioja advised that garbage slides are typically due to foundation weaknesses, and asked how they have ascertained that the old fill is stable.

Tom Shustarich, Wenck Associates, stated that garbage slides are typically due to silty soil which loses its strength when it gets saturated. Pine Bend Landfill; however, has sand and gravel which is a good base for building a landfill.

Mr. Link advised that Barr Engineering researched soil stability and their concerns were satisfied.

Commissioner Weber asked staff to address the landfill height not changing since it appeared to be increasing in the diagram.

Mr. Link advised that he believed the maximum height allowed was 1019 feet.

Mr. Janusz explained that they would be increasing some of the areas from their existing height, but at no point would it be higher than 1018 feet.

Commissioner Wippermann asked what actions were anticipated to address landfill gas migrating off the landfill site.

Mr. Janusz replied that they have gas monitoring probes along the perimeter of the landfill which are monitored quarterly, particularly on the east side of the landfill where they are seeing exceedances. Several years ago they started working with the MPCA on addressing that. They purchased the property to the east and are step-by-step looking at ways to intercept the gas before it gets to the probes. They are currently working with the City and Barr Engineering on a timeline for addressing that issue.

Commissioner Niemioja asked if there were any specific percentages of the potential for environmental benefits from the expansion.

Mr. Shustarich replied that putting the proposed liner over the landfill would likely have a 99% chance of reducing the leachate.

Chair Maggi closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Scales, to approve the request for a zoning code amendment to allow a side slope capacity expansion of an existing sanitary landfill as a conditional use permit providing the landfills have a non-conforming use certificate, are in compliance with that certificate, and meet other conditions regarding final cover, liners, leachate collection, gas extraction, height, property boundaries, waste capacity, and acceptable wastes, a conditional use permit amendment to allow a side slope capacity expansion of the Pine Bend Landfill of 4.1 million cubic yards, including 3.5 million cubic yards of waste, and any other variances related thereto, and a non-conforming use certificate amendment to allow the capacity expansion, for the property located at 2495 – 117th Street, with the conditions listed in the report.

Motion carried (8/0). This item goes to the City Council on February 26, 2018.

OTHER BUSINESS

Comprehensive Plan Update

Mr. Hunting advised that the consultant will be incorporating the comments from last week's open house into the documents, then they will take it to Council for authorization to distribute to the abutting cities, and they are anticipating a public hearing in late Fall and submitting it to the Metropolitan Council by year end.

Commissioner Simon asked if the previously discussed zoning change from commercial to residential on Cahill Avenue would be included.

Mr. Hunting replied in the affirmative.

The meeting was adjourned by unanimous vote at 9:28 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, March 6, 2018 – 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
Pat Simon
Annette Maggi
Elizabeth Niemioja
Armando Lissarrague
Joan Robertson

Commissioners Absent: Brett Kramer (excused)

Others Present: Allan Hunting, City Planner

APPROVAL OF MINUTES

The minutes from the February 7, 2018 meeting were approved as submitted.

GREGORY GROVER – CASE NO. 18-06V (tabled from February 20, 2018)

Presentation of Request

Allan Hunting, City Planner, stated this request was tabled at the last meeting because the applicant was not present to answer questions. He noted that the applicant was not in the audience tonight but had provided a letter which was distributed to Commissioners.

Opening of Public Hearing

There was no public testimony.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Chair Maggi reminded Commissioners that the request was for a variance to allow the building to be 26 feet from the property line whereas 50 feet is required, and staff recommended a compromise of 30 feet.

Commissioner Niemioja stated she had hoped to speak with the applicant regarding the proposed plans, and because she was unable to get those questions answered she would prefer going with staff's recommendation.

Commissioner Scales stated he would support the staff recommendation as well since there was nothing in the applicant's narrative clarifying why he wanted 26 feet versus 30 feet.

Commissioner Lissarrague asked staff why the applicant was requesting to be 26 feet from the property line rather than 30.

Mr. Hunting replied the applicant indicated it was because of the desired location and garage size.

Commissioner Lissarrague asked how far the garage north of the subject property was from Cahill.

Mr. Hunting believed it was approximately 30 feet.

Commissioner Robertson stated without more understanding from the applicant she would not support a variance.

Chair Maggi asked if anyone could define a practical difficulty for the variance.

Commissioner Robertson struggled to see a practical difficulty knowing there was a garage on the property that was in compliance but was subsequently changed to living space by the applicant.

Commissioner Lissarrague stated he would support the staff recommendation for a 30-foot variance as the applicant was trying to improve his home and perhaps needed the additional living space of the former garage.

Commissioner Niemioja stated she could not find a practical difficulty.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Robertson, to deny the request, due to lack of a practical difficulty, for a variance from the front yard setback to construct a garage 26-feet from the front property line whereas 50-feet is required, for the property located at 7231 Cahill Avenue.

Motion carried (7/1 - Lissarrague). This item goes to the City Council on March 12, 2018.

ADAM MILLER – CASE NO. 18-10V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance to allow a 27-foot high accessory building whereas 25 feet is the maximum allowed, and a side yard setback of 35 feet for an accessory building, whereas 50 feet is required for structures larger than 1,000 gross square feet, for the property located at 1358 Courthouse Boulevard. 5 notices were mailed.

Commissioner Simon asked if the height variance noted in the public hearing notice had since been withdrawn.

Mr. Hunting replied in the affirmative.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicant is proposing to construct a new accessory building consisting of a metal shipping container with a wood framed structure around it. The footprint of the barn is 1,000 square feet, but there would be a second story, resulting in an overall 1,320 square feet. The applicant plans to use this to store personal property. The building would be built on an existing slab foundation which is 35 from the side property line. A 50-foot setback is required because the building exceeds 1,000 square feet. The applicant changed his plan and a variance from the height requirement is no longer required. The steep topography of the lot limits the location of structures thus providing a practical difficulty. Staff recommends approval of the request with the five conditions listed in the report.

Commissioner Wippermann asked if the accessory structure on the east side of the shared driveway belonged to the neighboring property owner.

Mr. Hunting replied in the affirmative.

Commissioner Wippermann asked how close the house to the east would be from the proposed structure.

Mr. Hunting replied approximately 140 feet.

Chair Maggi asked if Condition D was necessary since it was a Zoning Code requirement.

Mr. Hunting replied that they would still like to have that condition to make it clear to that the building could not be used for commercial or home occupations.

Opening of Public Hearing

Adam Miller, 1358 Courthouse Boulevard, advised he was available to answer any questions.

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

Mr. Miller replied in the affirmative. He noted that the slab they were using as the foundation for this building was properly permitted and inspected.

Chair Maggi closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Scales, to approve the request for a variance to allow a side yard setback of 35 feet for an accessory building, whereas 50 feet is required, for structures larger than 1,000 gross square feet, for the property located at 1358 Courthouse Boulevard, with the conditions listed in the report.

Motion carried (8/0). This item goes to the City Council on March 12, 2018.

GWEN LYSNE – CASE NO. 18-11Z

Reading of Notice

Commissioner Simon read the public hearing notice to consider a request for a rezoning of the three parcels from R-1C, Single-family to B-3, General Business, for the property located west of 6591 Concord Boulevard. 14 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the property is approximately .45 acres and is guided for Mixed Use. The intent is to sell the parcels to Inver Grove Auto for an expansion of their auto sales lot. If approved, a conditional use permit amendment would then be required. A couple of studies have been done of the Concord Boulevard Neighborhood. The latest study was done in 2012 and it looked at the area as concentrating more on commercial uses. A car sales lot has minimal site improvements and therefore could be easily redeveloped in the future. Staff recommends approval of the request.

Commissioner Simon asked if the three subject lots were large enough to be sold individually.

Mr. Hunting replied that the 40-foot wide lots would not meet the minimum lot width requirement

and staff would recommend that they be combined into one tax parcel.

Chair Maggi asked if that would typically be done after the rezoning.

Mr. Hunting replied in the affirmative.

Commissioner Robertson asked what was directly north of the three subject parcels.

Mr. Hunting believed there was a home on the residential property.

Commissioner Robertson asked what was west of the subject lot.

Mr. Hunting replied that was a residential home as well.

Commissioner Simon asked if this section of Delilah Avenue would be built if this request was approved.

Mr. Hunting replied this portion of Delilah Avenue would never be built. Likely it would be vacated and the right-of-way would go back to the adjacent properties.

Opening of Public Hearing

Gwen and Michael Lysne, 5774 Piney Road S, St. Paul Park, stated they were available to answer any questions.

Chair Maggi asked the applicants if they read and understood the report.

The Lysne's replied in the affirmative.

Ms. Lysne stated she believed the right-of-way vacation had been approved 7-8 years ago.

Mr. Lysne advised that the building on the property directly to the north included a small implement sales/repair shop and a residential home.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Commissioner Weber asked if the vacated Delilah Avenue right-of-way would be split evenly and redistributed back to the abutting parcel owners.

Mr. Hunting believed so.

Commissioner Scales felt it was a good use of the property.

Planning Commission Recommendation

Motion by Commissioner Scales, second by Commissioner Lissarrague, to approve the request for a rezoning of the three parcels from R-1C, Single-family to B-3, General Business, for the property located west of 6591 Concord Boulevard.

Motion carried (8/0). This item goes to the City Council on March 26, 2018.

The meeting was adjourned by unanimous vote at 7:25 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary

DRAFT

PLANNING REPORT CITY OF INVER GROVE HEIGHTS

REPORT DATE: March 16, 2018

CASE NO.: 18-12ZA

HEARING DATE: March 20, 2018

APPLICANT AND PROPERTY OWNER: City of Inver Grove Heights

REQUEST: Zoning Code Amendment relating to allowing small cell wireless facilities within the public right-of-way.

LOCATION: N/A

COMP PLAN: N/A

ZONING: N/A

REVIEWING DIVISIONS: Planning

PREPARED BY: Allan Hunting
City Planner

BACKGROUND

In 2017, the Minnesota Legislature passed legislation that recognizes wireless service providers as “telecommunications right of way users” and requires cities to permit them to install small wireless facilities in the public right-of-way. The new law grants access to use the right-of-way, city poles and structures within the right-of-way throughout the city. These small cell wireless facilities are the next generation of cellular equipment. The facilities are designed to add capacity to the network, fill in small coverage gaps, and provide more data bandwidth. Installation of these facilities are anticipated to first occur in more dense commercial and retail areas. Since these are allowed in the right-of-way, the city should recognize in the zoning ordinance and establish some performance standards.

These small wireless facilities and antennas are typically found on utility or light poles and are small antennas that may contain a ground mounted or pole mounted equipment cabinet.

Last year, the Council adopted a collocation agreement for use on any city owned buildings or poles in the right-of-way. The Department of Public Works will be responsible for reviewing and approving any applications for these facilities.

The new legislation allows the location of small cell facilities as a permitted use in the right-of-way except that a city may adopt rules to require a conditional use permit when such facilities are in right-of-way abutting single family residential zoned property.

ANALYSIS

Staff has prepared an ordinance amendment that modifies the existing "Towers and Antennas" section of the code and adds regulations governing small wireless facilities. The amendment will incorporate all the new regulations from the public rights of way management chapter of the city code and require a conditional use permit for those locations abutting single family residential neighborhoods. Location of these small wireless facilities outside the right-of-way would be required to comply with the existing standards for cell towers and antennas. The listed definitions are taken from the new statute and would be incorporated into city code.

ALTERNATIVES

The Planning Commission is to make a recommendation to City Council regarding the proposed ordinance amendment which addresses the following:

A. Recommend amending Article G. Towers and Antenna to allow for small wireless facilities in the right-of-way and to require a conditional use permit when location is in front of and abutting a single family residential use, and add necessary definitions relating to small wireless facilities.

Attachments: Draft Ordinance Amendment
Photos of small wireless facilities (stock photos)
Existing Article G. Towers and Antennas

DRAFT SMALL WIRELESS FACILITY ORDINANCE AMENDMENT

ARTICLE G. TOWERS AND ANTENNA

10-15G-1:

F. Allow location of small wireless facilities and support structures within the public right-of-way.

10-15G-8: **SMALL WIRELESS FACILITY:** The placement of small wireless facilities and wireless support structures to accommodate small wireless facilities shall meet the following:

A. Small wireless facilities and wireless support structures are allowed as a permitted use within the public right-of-way, except that;

1. A conditional use permit is required to install a new wireless support structure for the siting of a small wireless facility in a right-of-way directly in front of and abutting an area zoned for single family residential use including the A, E-1, E-2, R-1A, R-1B, R-1C Districts and Single Family Residential Planned Unit Development Districts.

B. A small wireless facility permit shall be required pursuant to the requirements of Title 7-3-7-1 of the City Code.

C. No new wireless support structure installed within the right-of-way shall exceed fifty (50) feet in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding fifty (50) feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.

D. No wireless facility may extend more than ten (10) feet above its wireless support structure.

E. Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.

F. Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.

G. Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

- H. The small wireless facility shall be installed at the residential lot's corner in the right-of-way.
- I. The small wireless facility application shall comply with all applicable local, state and federal ordinances, statues and regulations.
- J. Small wireless facilities and wireless support structures located outside the right-of-way shall comply with the standards found in Title 10-15G of the City Code.

RULES AND DEFINITIONS

10-2-2: Definitions

- SMALL WIRELESS FACILITY:** A. A wireless facility that meets both of the following qualifications:
1. each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements could fit within an enclosure of no more than six cubic feet; and
 2. all other wireless equipment associated with the small wireless facility, excluding electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment, is in aggregate no more than 28 cubic feet in volume.
- B. A micro wireless facility which consists of a small wireless facility that is no larger than 24 inches long, 15 inches wide, and 12 inches high, and whose exterior antenna, if any, is no longer than 11 inches.
- UTILITY POLE:** A pole that is used in whole or in part to facilitate telecommunications or electric service.
- WIRELESS FACILITY:** Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including:
- A. equipment associated with wireless service;
 - B. a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration; and
 - C. a small wireless facility.

Wireless facility does not include:

- A. wireless support structures;
- B. wireline backhaul facilities; or
- C. coaxial or fiber-optic cables (i) between utility poles or wireless support structures, or (ii) that are not otherwise immediately adjacent to or directly associated with a specific antenna.

WIRELESS SERVICE: means any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including a cable service under United States Code, title 47, section 522, clause (6).

WIRELESS SUPPORT STRUCTURE: a new or existing structure in a public right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the City.

WIRELINE BACKHAUL FACILITY: a facility used to transport communications data by wire from a wireless facility to a communications network.





CHAPTER 15

PERFORMANCE STANDARDS

ARTICLE G. TOWERS AND ANTENNAS

SECTION:

- 10-15G-1: Intent
- 10-15G-2: Permitted Zoning Districts; Exemptions
- 10-15G-3: Towers
- 10-15G-4: Antennas
- 10-15G-5: Additional Submittal Requirements
- 10-15G-6: Cost Of Plan Review Analysis
- 10-15G-7: Vertical Axis Wind Turbine (VAWT)

10-15G-1: **INTENT:** The regulation of towers and antennas is intended to:

- A. Provide for the appropriate location and development of towers and antennas to serve the residents and businesses in the city;
- B. Minimize adverse visual effects of towers and antennas through careful design, siting, and vegetative screening;
- C. Avoid potential damage to adjacent properties from structural failure through engineering and careful siting of tower and antenna structures;
- D. Require tower sites to be secured in order to discourage trespassing and vandalism; and
- E. Maximize use of existing towers and buildings to accommodate new wireless communication antennas in order to reduce the number of new towers needed to serve the city. (Ord. 1098, 11-8-2004)

10-15G-2: PERMITTED ZONING DISTRICTS; EXEMPTIONS:

- A. Towers and antennas, as defined in section 10-2-2 of this title, shall only be permitted in the zoning districts as listed in sections 10-6-1 and 10-6-2 of this title. (Ord. 1098, 11-8-2004; amd. 2008 Code)
- B. Antennas used for noncommercial purposes, such as television antennas, are exempt from the regulations found in this article. However, such exempted antennas must comply with the height restrictions established for the zoning district within which it is located. (Ord. 1098, 11-8-2004)

10-15G-3: TOWERS:

- A. New Personal Wireless Service Towers: A proposal for a new personal wireless service tower shall not be approved unless it can be documented by the applicant that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one mile radius of the proposed tower due to one or more of the following reasons:
 - 1. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified engineer, and the existing or approved tower cannot be reinforced or modified to accommodate the planned or equivalent equipment at a reasonable cost.
 - 2. The planned equipment would cause interference with other existing or planned equipment at the tower or building, as documented by a qualified engineer, and the interference cannot be prevented at a reasonable cost.
 - 3. Existing or approved towers and buildings within a one mile radius cannot accommodate the planned equipment at a height necessary to function reasonably, as documented by a qualified engineer.
 - 4. Other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
- B. Construction Requirements: All towers erected, constructed, or located within the city, and all wiring therefor, shall comply with the following requirements:

1. All applicable provisions of this article.
 2. Towers shall be certified by a qualified engineer to conform to the structural standards of the Minnesota state building code.
 3. Any tower proposed to accommodate personal wireless service facilities shall be designed structurally, electrically, and, in all respects, to accommodate both the applicant's antennas and comparable antennas, with antenna ports located at minimum ten foot (10') vertical intervals, for at least two (2) additional users.
 4. Metal towers shall be constructed of, or treated with, corrosive resistant material.
 5. No part of any antenna, tower, equipment, wires, braces, cables or similar devices shall at any time extend across or over any part of the public right of way or property line.
 6. Antennas and metal towers shall be grounded for protection against a direct strike by lightning and shall comply, as to the electrical wiring and connections, with all electrical code regulations and standards.
 7. All towers affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons. The bottom of the tower (measured from ground level to 12 feet above ground level) shall be designed in a manner to preclude unauthorized climbing to be enclosed by a six foot (6') high chainlink fence with a locked gate.
 8. All towers shall be constructed to conform with the requirements of the occupational safety and health administration.
- C. Design Requirements: All new and modified towers shall comply with the following design requirements:
1. Towers shall be designed to blend into the surrounding environment to the maximum extent possible through the use of color, camouflaging, and architectural treatment, except in instances where the color is dictated by federal or state authorities such as the federal aviation administration.
 2. Personal wireless service towers shall be of a monopole design.
- D. Setbacks: All new towers shall comply with the following setbacks as measured from the base of the tower to the nearest property line:

1. Equal to the height of the tower, including any antenna attachments, from any residential use, E or R zoning district, church or school.
 2. Equal to the principal structure setback of the base zoning district from all public rights of way and abutting property lines not specified in subsection D1 of this section, or equal to the specific "fall zone" of the proposed tower, as determined by a qualified professional engineer, whichever is greater. (Ord. 1098, 11-8-2004)
- E. Height: Towers may be of a height equal to one hundred fifty percent (150%) of the principal structure height permitted in the underlying zoning district for which the tower is located. Heights in excess of this requirement may be allowed by conditional use permit. Towers that are an accessory use as referenced in subsection 10-15G-2A of this article shall conform to sections 10-5-8 and 10-6-2; and chapters 7, 8, 9, 10, 11 and 12 of this title. (Ord. 1098, 11-8-2004; amd. 2008 Code)
- F. Lighting: Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is required by the federal aviation administration or other federal or state authority.
- G. Signs And Advertising: The use of any portion of a tower for signs and advertising purposes is prohibited except for applicable warning and equipment information signage required by the manufacturer or by federal, state, or local authorities.
- H. Accessory Utility Buildings: All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment to the maximum extent possible and shall meet the minimum accessory building setback requirements of the underlying zoning district. All utility buildings and ground mounted equipment shall be screened from view by suitable vegetation, except where the city finds that a design for non-vegetative screening better reflects and compliments the architectural character of the surrounding neighborhood. Lighting on accessory utility buildings or equipment shall be limited only to that which is needed for security purposes. All exterior lighting shall be diffused or directed away from all property lines and public rights of way. The direct source of light shall not be visible from any abutting property or the public right of way.
- I. Obsolete, Unused Towers: All obsolete or unused towers and accompanying accessory facilities shall be removed within twelve

(12) months of the cessation of operations at the site unless a time extension is approved by the city council. After the facilities are removed, the site shall be restored to its original or to an improved state. (Ord. 1098, 11-8-2004)

10-15G-4: **ANTENNAS:**

A. Antennas Mounted On Buildings And Existing Towers:

1. The placement of antennas on proposed or existing buildings shall be a permitted accessory use, provided the antenna does not extend more than fifteen feet (15') above the top of the building.

2. The placement of antennas on existing or proposed towers shall be a permitted accessory use, provided the antenna does not extend above the allowed tower height.

B. Interference With Public Safety Telecommunications: No new or existing antenna shall interfere with public safety telecommunications. The owner of any antenna creating interference with public safety telecommunications is required to remove the source of interference immediately. (Ord. 1098, 11-8-2004)

10-15G-5: **ADDITIONAL SUBMITTAL REQUIREMENTS:** In addition to the information required elsewhere in this title, development applications for towers shall include the following information:

A. A report from a qualified engineer which:

1. Describes the tower height and design including a cross section and elevation of the structures;

2. Demonstrates the tower's compliance with the structural requirements of this article;

3. Describes the tower's capacity, including the number and type of antennas that it can accommodate;

4. If applicable, documents indicating the steps the applicant will take to avoid interference with established public safety telecommunications; and

5. Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distances between antennas.

- B. A letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an applicant agrees in writing to pay any reasonable charge for shared use.
- C. In the case of an antenna mounted on an existing structure or tower, a report prepared by a qualified engineer shall be submitted which indicates the existing structure's or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure or tower. Complete details of all fixtures and couplings, and precise point of attachments, shall be indicated.
- D. Certification by the engineer for the information required herein shall be made both to the city and the telecommunications company. (Ord. 1098, 11-8-2004)

10-15G-6: **COST OF PLAN REVIEW ANALYSIS:** Any cost to the city associated with the review of plans for a tower or antenna application shall be borne by the applicant. The city may require an escrow be submitted with the application to cover the costs of review. (Ord. 1098, 11-8-2004)

10-15G-7: **VERTICAL AXIS WIND TURBINE (VAWT):** Shall be allowed as a permitted use in the A and E-1 districts provided the following criteria are met:

- A. Within all A and E-1 zoning districts, the maximum height for a free-standing VAWT shall be 52.5 feet. Heights in excess of those allowed shall be permitted by conditional use permit.

The maximum height of the VAWT shall be fifteen feet (15') if attached to or placed on the roof of the principal structure.

Property located in the shoreland and critical area districts are limited to a maximum VAWT height of thirty five feet (35'), per state regulations.

- B. The base of the turbine shall be set back from all property lines a distance equal to the turbine height, measured to the highest point of

the turbine or equal to the principal structure setback of the base zoning district, whichever is greater.

- C. On lots less than fifteen (15) acres in size, no more than one rooftop or one freestanding turbine is permitted. On lots greater than fifteen (15) acres additional turbines are allowed provided they do not exceed a density of fifteen (15) acres per turbine. The location of the VAWTs may be clustered together.
- D. VAWTs shall comply with all applicable state and federal regulatory standards including, but not limited to, the federal aviation administration (FAA), Minnesota pollution control agency (MPCA) and state building code. A building permit consisting of a completed application, site plan, two (2) sets of plans, and structural engineering is required for a VAWT prior to installation. VAWTs shall be certified by Underwriters Laboratories, Inc., the Small Wind Certification Council, Intertech, or other body as determined by the chief building official. The city reserves the right to deny a building permit for a VAWT deemed to have inadequate certification or testing for operation in a severe winter climate.
- E. The appearance of the VAWT shall be maintained throughout the life of the wind energy system pursuant to industry standards. The system shall not be used for displaying any advertising.
- F. All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect must be provided if required by the utility company.
- G. If the VAWT remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure including foundation to below natural grade and transmission equipment. (Ord. 1273, 11-25-2013)