

CC Regular Session**4. 9.****Meeting Date:** 07/24/2012**By:** Kathy Schmitz, Administrative Services

Information**Title:**

Request for an Interim Use Permit for Grading and Mining Activities on Outlots A & B Elmcrest Sanctuary; Case of Oakwood Land Development Inc.

Background:

The City has received an application from Oakwood Land Development, Inc. for an Interim Use Permit (IUP) for grading and mining activities on Outlots A & B Elmcrest Sanctuary. The Applicant is requesting the IUP to export approximately 60,000 cubic yards of soil to create a wetland on these parcels for the purposes of a wetland mitigation bank. Per City Code Section 117-359, all excavations in excess of 400 cubic yards of material require an interim use permit.

Notification:

All property owners within 350 feet of the Subject Property were notified of the Public Hearing via Standard US Mail. A Notice of Public Hearing was also published in the Anoka County Union.

Observations:

The purpose of creating the wetland is to establish a wetland mitigation bank. A wetland mitigation bank is a wetland, stream, or other aquatic resource area that has been restored, established, enhanced, or (in certain circumstances) preserved for the purpose of providing compensation for unavoidable impacts to aquatic resources permitted under Section 404 or a similar state or local wetland regulation. A mitigation bank may be created when a government agency, corporation, nonprofit organization, or other entity undertakes these activities under a formal agreement with a regulatory agency, in this case the Lower Rum River Watershed Management Organization (LRRWMO), under the requirements of the Wetland Conservation Act (WCA). The Applicant proposes to create the wetland by excavating upland area down to water depths of six (6) feet or less and then re-vegetate the created wetland and adjacent upland with native herbaceous species. The area to be graded is approximately eleven (11) acres. The subject property seems to be an ideal site for a wetland bank due to its challenging development potential. The wetland bank would provide the property owner with some monetary return on the property.

The Applicant is proposing to complete the project in a single phase. The grading is anticipated to be completed within three (3) months, with the restoration (plantings) completed as areas are final graded. Through the wetland bank procedure requirements, maintenance and monitoring is required for a period of five (5) years after project completion. This monitoring will be completed by the LRRWMO. Due to this, Staff does not see any reason to require a landscape surety/guarantee; however, the IUP will be conditioned upon collection of an erosion control escrow of \$1,500 (per the standard rates and charges).

The Applicant provided plans for dust and noise control during excavating activities. Plans call for watering and sweeping of roads as needed to minimize dust. Any associated noise will be from the excavating equipment and trucks hauling soil away. Existing single family residences are located southwest, west and north of the subject property. Due to the proximity to existing residential homes, the IUP stipulates that the

grading/excavating activities be limited to 7:00am and 7:00pm Monday through Friday and 8:00am to 7:00pm on Saturdays.

The Applicant has indicated that the project is currently under review by other agencies, as required by the WCA, and that that review process is taking longer than initially anticipated. The Applicant is hopeful that the wetland bank plan will receive approval from the LRRWMO in August or September of 2012. City Engineering Staff reviewed the application and provided comments to the LRRWMO expressing support for the proposed wetland bank, with a request for some revisions to address potential overflow issues north of 167th Avenue. Properties north of 167th Ave NW and west of Sodium St NW have an unmapped wetland extending across the rear of several properties and they have experienced high water conditions in 2011 and 2012. City Engineering Staff have requested the plans be revised to provide greater separation between the existing homes and the 100 year HWL of the North Wetland. Staff recommends a condition requiring that these existing water issues be addressed in the plans and that no proposed excavation and restoration activity to create the wetland bank shall negatively impact existing drainage patterns. In addition, City Engineering Staff have identified an outlet ditch downstream from the main wetland that will require cleaning to be able to pass the proposed 100 year flow. The City proposes that this could be a joint City and Oakwood Land Development project.

The Planning Commission held a public hearing concerning this request on July 12, 2012 and there were no written or verbal comments received.

Recommendation:

The Planning Commission discussion focused mostly on two elements of the request. First, they discussed the days and hours of operation of the permit, with the one concern being the start time on Saturdays (originally proposed to be 7:00am). Secondly, they discussed the expiration date of the permit with the concern of whether it provided sufficient time to complete the project, considering the uncertainty of when the wetland bank plan would receive approval from the LRRWMO.

The initial draft of the interim use permit identified January 24th, 2013 as the expiration date (6 months); however, with the wetland bank approvals process taking longer than initially anticipated, it appears that the work may not commence until possibly September or October of this year (at the earliest). Therefore, after conferring with the engineering firm that prepared the plans, Staff suggested a revised expiration date of August 1, 2013. The Planning Commission still expressed concern that since the excavating work cannot begin until the wetland bank plan is approved and there is no certainty when that may be, the applicant may still need to possibly come back and request an extension to complete the work, which has added costs for the applicant and takes up more Staff time. Ultimately, the Planning Commission recommended approval of the interim use permit contingent upon the start time on Saturdays be 8:00am and that the term of the permit begin upon approval of the wetland bank plan by the LRRWMO and expire on August 1, 2013 or six (6) months following the LRRWMO approval, whichever occurs later.

Funding Source:

All costs associated with the application are the responsibility of the Applicant.

Council Action:

Motion to adopt Resolution # _____ adopting Findings of Fact relating to the request for an Interim Use Permit.

-and-

Motion to adopt Resolution # _____ approving the request for an Interim Use Permit and declaring the terms as proposed

Attachments

Site Location Map

Existing Conditions Map

Wetland Construction Plan

End Use Plan

Proposed Haul Route

Proposed Findings of Fact

Proposed Interim Use Permit

Form Review

Inbox	Reviewed By	Date
Len Linton	Kathy Schmitz	07/18/2012 12:27 PM
Tim Gladhill	Kathy Schmitz	07/18/2012 12:27 PM
Kurt Ulrich	Kurt Ulrich	07/18/2012 11:35 PM

Form Started By: Kathy Schmitz Started On: 07/18/2012 11:59 AM

Final Approval Date: 07/18/2012