

**PLANNING COMMISSION
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

The Ramsey Planning Commission conducted a regular meeting on Thursday, November 7, 2019, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Chairperson Randy Bauer
 Commissioner Bruce Anderson
 Commissioner Cheri Gengler
 Commissioner Eric Peters
 Commissioner Gary VanScoy
 Commissioner Matt Woestehoff

Members Absent: Commissioner Torrey Johnson

Also Present: Community Development Director Timothy Gladhill
 City Planner Chris Anderson
 City Planner Chloe McGuire Brigl

1. CALL TO ORDER

Chairperson Bauer called the regular meeting to order at 7:00 p.m.

2. CITIZEN INPUT

None.

3. APPROVAL OF AGENDA

Motion by Commissioner Anderson, seconded by Commissioner Peters, to approve the agenda as presented.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners Anderson, Peters, Gengler, VanScoy, and Woestehoff. Voting No: None. Absent: Commissioner Johnson.

4. APPROVE PLANNING COMMISSION MINUTES

4.01: Approve the Following Planning Commission Minutes:

4.01.1: Planning Commission Meeting Minutes Dated October 3, 2019

Motion by Commissioner VanScoy, seconded by Commissioner Woestehoff, to approve the following minutes as presented: Planning Commission Meeting Minutes dated October 3, 2019.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners VanScoy, Woestehoff, Anderson, Gengler, and Peters. Voting No: None. Absent: Commissioner Johnson.

5. PUBLIC HEARINGS/COMMISSION BUSINESS

5.01: Public Hearing: Consider Resolution #19-252 Denying a Home Occupation Permit for Garbage Hauling Company at 17030 Baugh St NW; Case of Allen and Joyce Birchem/Birchem Sanitation (Project #19-141)

Presentation

City Planner McGuire Brigl presented the staff report and recommendation to deny the request for a Home Occupation Permit for a Garbage Hauling Company at 17030 Baugh St. NW. She noted that this would be consistent with other recent home occupation denials in similar residential settings. There is no lawful, nonconforming protection for this use.

Chairperson Bauer asked for additional details on the outdoor storage items that would be allowed.

City Planner McGuire Brigl replied that the carts would not typically be counted on residential property but large items such as vehicles, and trailers would count. She noted that residential lots typically do not have this number of carts.

Commissioner VanScoy asked if the dumpsters are included in the limited items.

Community Development Director Gladhill stated that whether the dumpsters are counted or not counted, they would still be evidence of a home occupation and would be a violation of City Code. He referenced recent home-based business occupation permits noting that plumbing and landscaping businesses have recently been denied because of similar outdoor storage. He stated that this situation is unique in the duration it ran without a complaint but noted that when comparing this to other denied applications this would fall in line with those denials. He stated that when there are multiple vehicles and equipment, including storage of inoperable vehicles, those requests have been denied.

Public Hearing

Chairperson Bauer called the public hearing to order at 7:13 p.m.

Citizen Input

Mark Berglund, attorney representing applicant, stated that he is disappointed with the recommendation of staff. He stated that the Birchem's have operated this business on the property since 1977 and it is their position that this is a legal nonconforming use. He explained that the application was brought forward because the ordinance recognizing the violation was adopted by the City Council. He stated that this is a family owned business that has been in operation for 37 years on 1.6 acres. He stated that none of the activities on the property can be seen from other

properties during the summer months because of the screening provided by trees. He stated that there are two garbage hauling trucks that leave one time in the morning and return one time during the afternoon. He explained that all the waste that is collected is in Sherburne/Wright County and all the waste collected is disposed of in Sherburne County. He stated that the applicants own five garbage vehicles, three of which are not stored on site. He stated that he is not aware of any complaints related to odor. He stated that the staff report mentions mice on the property and noted that he is a resident of Ramsey and also has mice on his property. He stated that as part of the application process the applicants recognize that there are things on the property that need to be cleaned up. He stated that his clients agree to work with the City to address some items to clean up the property but did not realize that the intent of the City was to disrupt their livelihood that has run on the property for 37 years. He noted that not far from the Birchem's property is a sewage collection company that runs in a similar manner. He identified a commercial fabrication business located near the applicant's property that has large semi-trucks that also travel down the roadway. He stated that the applicant's business has run on the property without complaint for 37 years. He noted that when the business began the applicant was told that he would not need a permit from Anoka County because the hauling occurs in Sherburne and Wright County. He noted that only the storage of the vehicles and administrative efforts occur at the residential property.

Commissioner VanScoy asked if the inoperable vehicles are stored on the property.

Al Birchem, applicant, replied that the vehicles are located on the property but will not continue to be stored on the property.

Commissioner VanScoy asked and received confirmation that only the two trucks used for hauling would be stored at this property.

Mr. Birchem stated that there are currently five trucks on site, but not all of them are used. He noted that two trucks are used, one is a backup that is used only in emergency, and the remaining two will be removed from the property.

Commissioner VanScoy asked the status of the Anoka County permit.

Mr. Birchem replied that the permit is not required as long as hauling does not occur in Anoka County. He stated that in the past he spoke with Ramsey staff that stated a permit was not required because hauling is not occurring in Ramsey.

City Planner McGuire Brigl stated that staff has received confirmation from Anoka County that a base license would be required, which is different than a hauling license.

Community Development Director Gladhill stated that there is not a lawful nonconforming protection for a need for a license. He stated that if a license is needed, that would still be required regardless of when the activity began.

Commissioner Anderson asked if the cleaning of vehicles that is done offsite includes washing the vehicles.

Mr. Birchem replied that washing is done in Elk River and not onsite.

Commissioner Anderson stated that he has driven by the property noticed a fuel barrel.

Mr. Birchem replied that is an old fuel barrel that he purchased many years ago that is on a stand and there is nothing stored in the barrel.

Commissioner Anderson asked if the people on the property are Ramsey residents.

Mr. Birchem confirmed that to be true.

Chairperson Bauer asked staff for clarification on the site cleanup that was mentioned.

City Planner McGuire Brigl stated that the first complaint was dispatched to a community service officer for an off-street parking violation. She explained that once a determination is made that there is a home-based business, that is forward to Community Development for follow up. She described the process that was followed, noting that staff met with the applicant to discuss the off-street parking and home-based business violations.

Community Development Director Gladhill stated that the major issue is the commercial dumpsters and residential containers. He stated that staff is not comfortable with approving the request with those materials onsite.

Commissioner VanScoy asked the type of driveway.

Mr. Birchem replied that there is a class five gravel driveway for the trucks in addition to his paved driveway. He confirmed that the gravel could use a new layer added.

Commissioner Gengler asked if Mr. Birchem lives on the property.

Mr. Birchem replied that he lives on site, as does his son, and he also has a home in Brainerd.

Commissioner Woestehoff asked if the company has another location.

Mr. Birchem replied that the Ramsey home is the only location for the business.

John Dickes, 17020 Baugh Street, stated that he lives next door to the applicant and has since 1976. He stated that he has had no trouble with any of the items mentioned in the staff report. He stated that he was surprised as there is a lot of green barrier around the property, noting that he was not even aware those items were onsite. He stated that there are two trucks that go out each day and come back each day. He noted that he has more traffic coming and going from his home than the applicant does.

Terry Frauly, 17035 Driscoll Street NW, stated that he lives directly behind the applicant and has for 35 years. He stated that he has noticed the piling of the vehicles and dumpsters over the years and have let it go. He noted that two years ago he installed a fence to prevent his dog from going

onto the applicant's property and flushing out opossum and raccoons from under the junk vehicles. He stated that when they installed the fence, they had to trim their trees, which opened the view to the dumpsters, garbage trucks, junk vehicles, trailers and boat. He stated that he recently completed patio and deck improvements which now look out onto the applicant's property. He stated that his complaint is not with the business itself but the view from his property. He noted that perhaps a privacy fence could be installed to better screen the activity, along with cleanup of the site.

Mr. Berglund stated that the photograph on display right now is outdated as they have begun the cleanup process after the discussions with staff. He explained that the dumpsters are not holding trash but are provided to new customers.

Commissioner VanScoy referenced the dumpsters and asked the number of dumpsters on the property.

Mr. Birchem estimated six or seven dumpsters and 50 trash bins.

Commissioner VanScoy asked if those could be stored in a different location.

Mr. Birchem stated that he could find a place to put the dumpsters and most of the carts. He noted that the neighbor behind him allows his dog to run wild. He stated that the dog is not supposed to be on his property.

Motion by Commissioner VanScoy, seconded by Commissioner Anderson, to close the public hearing.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners VanScoy, Anderson, Gengler, Peters, and Woestehoff. Voting No: None. Absent: Commissioner Johnson.

Chairperson Bauer closed the public hearing closed at 7:38 p.m.

Commission Business

Commissioner Woestehoff stated that this would set a very bad precedent in terms of outdoor storage and the number of items allowed onsite. He commented that this property could not be compared to the commercial property across the street because that property is most likely not zoned R-1.

City Planner Anderson commented that the property across the street is zoned R-1. He noted that about ten years ago that property came to the attention of the City in a similar manner through code enforcement and that applicant went through a similar process. He noted that the City Council ultimately approved a home occupation permit for that site.

Chairperson Bauer asked for clarification on what was done in that case, as there seems to be some similarities between the two and specifically why this request would not meet the same standards.

City Planner Anderson replied that the biggest difference on the surface was that the other property's home occupation was entirely indoors at that time. He noted that the current request tonight includes a significant amount of exterior outdoor storage.

Community Development Director Gladhill noted that property also has ongoing code enforcement issues and therefore would hesitate to use that as an example of compliance.

Commissioner VanScoy stated that it is his understanding that a property can have more than one commercial vehicle onsite if it is there less than eight hours in a day.

City Planner Anderson confirmed that to be true but noted that in this case the vehicles would be parked onsite for longer than that.

Chairperson Bauer asked what would be needed from the applicant in terms of removing items of outdoor storage to come into compliance for a home occupation permit.

City Planner McGuire Brigl replied that one commercial vehicle would be allowed that could be parked on an appropriate parking surface, the applicant would need to own and occupy the subject property, and all exterior evidence of the home occupation would need to be removed. She stated that a license from Anoka County would be needed along with additional information such as where the trucks are being cleaned. She stated that the applicant previously stated that they live offsite when not operating the business, which was a red flag for staff.

Mr. Berglund replied that the residence is the applicant's homestead. He noted that the applicant's son, who also operates the business with them lives on the property full-time as well.

Commissioner VanScoy asked for clarification on the applicant's living situation noting that it appears the applicants stay at their home in Brainerd for four days and then return to the property to operate the vehicles for the remainder of the week.

Mr. Berglund replied that the business has been in operation for 37 years and built the home in Brainerd one year ago, although they have owned that property for a longer duration. He confirmed that as the applicants are nearing retirement age, they have been spending more time in Brainerd than they had previously.

Commissioner Woestehoff stated that the calendar shows the tax liability of the business as 1996 while on the Better Business Bureau it shows a start date of 1996. He noted that the business does not appear to exist on the Secretary of State information and asked if there is another name the business uses.

Mr. Berglund replied that Birchem Drywall was established in 1977 and Birchem Sanitation has operated under that same corporate entity.

Community Development Director Gladhill asked at what point Birchem Sanitation began, aside from Birchem Drywall.

Mr. Birchem explained that Birchem Sanitation is a division of Birchem Drywall and started in 1982.

Chairperson Bauer asked if it would be appropriate to table this request with the objective to have the exterior items cleaned up by a certain date, as specified in the code enforcement plan. He noted that after that date the item could be reconsidered, and the decision would then depend upon the site conditions and whether the site had been cleaned up.

City Planner McGuire Brigl stated that would be a question for the applicants. She was unsure if that would be a reasonable plan for the applicant as there does not appear to be another location for the applicant to store the materials.

Community Development Director Gladhill stated that there is a policy decision related to the number of vehicles that the Commission would be comfortable with. He stated that if the Commission wants to go in that direction, he would want assurance from the applicant that another site would be found for the dumpsters and residential containers.

Chairperson Bauer stated that he would be uncomfortable putting a business out of business that has been operating for this length of time. He stated that he would prefer to give standards that need to be met in order to keep operating and if those are not met, the request could then be denied.

Commissioner Woestehoff stated that he would only be comfortable with a maximum of two vehicles, with no dumpsters or carts onsite.

Commissioner VanScoy stated that he would like to see the applicant in compliance with the ordinance, specifically one vehicle and improved driveway, obtaining a license from Anoka County, assurance that the vehicle kept on site would be clean, and all inappropriate exterior storage items removed.

Community Development Director Gladhill confirmed the consensus that dumpsters and trash containers should be stored off-site and at least one commercial vehicle could remain on a proper surface. He agreed that the request could be tabled, and additional discussion could occur with the applicant.

Chairperson Bauer referenced the storage shed on the site and asked what could be stored in that building.

City Planner McGuire Brigl stated that staff would not be comfortable allowing those materials to be stored onsite.

Chairperson Bauer asked if one truck could be stored in the storage shed and one could be outside.

City Planner McGuire Brigl confirmed that she would feel comfortable with having a vehicle parked indoors but noted that staff would not support storage of the dumpsters or trash containers onsite.

Community Development Director Gladhill noted that there is most likely space available that could be leased in an industrial area for storage of those materials. He stated that perhaps that is the compromise that the two vehicles could remain, but the dumpsters and trash containers would need to be removed from site and stored in an appropriately zoned area.

Commissioner VanScoy asked if the applicant would even be interested in attempting to meet the requirements.

Mr. Birchem confirmed that he would attempt to get everything done according to a timeline and would attempt to find a place to store the additional truck. He stated that he would prefer to keep at least the two trucks onsite if possible. He confirmed that he plans to clean up the outdoor items.

Chairperson Bauer asked how much time the applicant would realistically need to clean up the site.

Mr. Birchem hoped that he could have it completed by the end of December, dependent upon the weather.

Commissioner Woestehoff asked if that would be okay to table the request for that period of time.

Community Development Director Gladhill confirmed that the request could be extended 60 days from November 8th.

Mr. Berglund noted that they would be willing to waive the 60-day requirement for the City to take action if necessary.

Motion by Commissioner Anderson, seconded by Commissioner VanScoy, to table consideration of Resolution #19-252 Denying the Request for a Home Occupation Permit to Operate a Garbage Hauling Business on the Property Located at 17030 Baugh Street NW to the January meeting and directing the applicant to work with the City to remove all required items from the property, having one truck stored in the building and one allowed outdoors, improving the impervious surface of the driveway, and work with City staff to come into compliance with the ordinance.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners Anderson, VanScoy, Gengler, Peters, and Woestehoff. Voting No: None. Absent: Commissioner Johnson.

City Planner McGuire Brigl asked and received confirmation that the Planning Commission would like staff to reinspect the subject property prior to the January meeting.

6. COMMISSION BUSINESS

6.01: Review Sketch Plan for Odyssey Homes Townhomes on Nowthen Boulevard and 146th Avenue

Presentation

City Planner McGuire Brigl presented the Staff Report and stated that staff recommends that the application proceed to the preliminary plat phase.

Commission Business

Chairperson Bauer asked where these homes would have access.

City Planner McGuire Brigl explained that a private roadway would run parallel to Nowthen Boulevard and connect to 146th. She stated that if the southern property did develop, it would also be a private road that would connect to this. She stated that the City would attempt to facilitate the discussions between the property owners. She provided examples of similar situations, noting that there are mutual maintenance and snow removal agreements.

Commissioner VanScoy asked how the private road would be terminated.

City Planner McGuire Brigl replied that at this time it is shown as a hammerhead.

Commissioner VanScoy stated that he would be concerned in the case of an emergency or with trash pickup as to how large vehicles would turn around.

City Planner McGuire Brigl confirmed that there should be sufficient turnaround space in the hammerhead.

Commissioner VanScoy stated that he would want to ensure that large service vehicles would be able to turnaround.

Commissioner Woestehoff referenced the density and asked if the private roadway is included in the acreage.

City Planner McGuire Brigl replied that she did not believe the density calculations include the private roadway. She identified additional area that was included in the boulevard.

Jason Bebeau, 15363 Radium Street, stated that he had attempted to purchase the two properties to the south but has been unable to do so and therefore is looking to move forward on development of this property.

Commissioner Anderson stated that if the 20-foot rule is followed that would lose one home. He asked if that would still be economically feasible for the applicant.

Mr. Bebeau stated that they have already lost some density through this process, as they began with 11 and have reduced to eight.

Commissioner Anderson stated that his concern would be related to safety and having as much space between the homes would provide benefit.

City Planner McGuire Brigl stated that these are the proposed lot lines and do not include the footprint of the buildings, therefore the setbacks could potentially be met.

Mr. Bebeau explained that he proposes the footprint to fill the lot lines.

City Planner McGuire Brigl noted that attaching the townhomes would be another manner in which the request could meet the guidelines.

Chairperson Bauer clarified that rather than having two four-unit structures, there could be one eight-unit structure.

Mr. Bebeau replied that he would be okay with that.

Commissioner Anderson stated that he is not opposed to the idea but simply wants to ensure that safety is taken into consideration.

Mr. Bebeau stated that he could reduce the footprint slightly if desired. He noted that he could also do a full cul-de-sac if desired.

City Planner McGuire Brigl asked if the Commission would prefer to have the eight units connected rather than considering a variance for two four-unit buildings.

Commissioner Woestehoff noted that the applicant stated that he could reduce the widths which would provide the required amount of separation. He stated that he would be comfortable with the two buildings with the required amount of separation or having all eight units connected.

Commissioner VanScoy stated that there are other zones where the setbacks are reduced and therefore, he would be fine with the variance.

Chairperson Bauer noted that he would not be opposed to a variance either.

Commissioner Gengler stated that she would support connecting all eight units or having the smaller footprint with the required amount of separation between the two buildings.

Chairperson Bauer confirmed a split consensus on whether a variance would be supported.

Community Development Director Gladhill suggested that this sketch plan move forward to the City Council on that policy related discussion.

Chairperson Bauer asked if those not in favor of the variance are simply not in favor of a variance or whether they favor the additional separation.

The three members of the Commission stated that their decision was because of both of those factors.

Patrick Hampton, 15551 Potassium Street NW, stated that he has been a resident of Ramsey since 1963 and is the current owner of the property. He stated that this proposal would be almost identical with what he wanted to do with the property and was told that he could build up to 11 units on the property. He stated that unfortunately he has to sell the property because of medical issues. He stated that he has been patiently waiting for this and needs the funds. He asked if the process could be streamlined so that the project can move forward and he can receive some relief from his financial situation.

7. COMMISSION / STAFF INPUT

7.01: Receive Staff Update

The Staff Update was noted.

Community Development Director Gladhill provided a brief update on recent development activity.

8. ADJOURNMENT

Motion by Commissioner Anderson, seconded by Commissioner VanScoy, to adjourn the meeting.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners Anderson, VanScoy, Gengler, Peters, and Woestehoff. Voting No: None. Absent: Commissioner Johnson.

The regular meeting of the Planning Commission adjourned at 8:29 p.m.

Respectfully submitted,

Tim Gladhill
Community Development Director

ATTEST:

JoAnn Shaw
Community Development Assistant

Drafted by Amanda Staple
TimeSaver Off Site Secretarial, Inc.