

MINUTES OF PLANNING COMMISSION MEETING

July 10, 2023

Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at City Hall on the 10th day of July, 2023 at 6:30 PM

THE FOLLOWING WERE PRESENT: Chairman Ferris, Commissioner Buckingham, Commissioner Fitch, Commissioner Egger, Commissioner Tinsley and Commissioner Johnson

THE FOLLOWING WERE ABSENT: Commissioner Hanson

THE FOLLOWING WERE ALSO PRESENT: Ian Albers, Planning/EDA Assistant, Sheldon Juhl, Brenda Juhl, Mike Sinner, Stacy Sinner

CALL TO ORDER AT 6:30PM

MINUTES OF THE PREVIOUS MEETING – June 12, 2023 Motion to Approve made by Commissioner Johnson, second by Commissioner Buckingham with All Voting Aye

PUBLIC HEARING – Conditional Use Permit for Fence – Juhl

Community Development Assistant Ian Albers gave a background on the request. The applicants are proposing a chain link fence no more than 6 feet in height. It would extend from the rear wall of the house to the property line and then along the side property line. There is a complication with the neighbor's garage and the property line. Part of the neighbor's garage encroaches on the Juhl's property. A remedy to this encroachment could be included as a condition of approval for the CUP. The easiest option would be for the Juhl's to grant an easement to the neighbors allowing for continued use of the property. The other option is for the Juhl's to split their lot and sell it to the neighbors. Access agreements with each of the neighbors should be included as a condition along with acknowledgement of the utility easement. Commissioner Egger asked how much of the garage is on the Juhl's property. Albers stated he didn't see a survey report. Mr. Juhl added that he had Massey do a four-corner survey and that the GIS map with property lines is pretty accurate. The property line is angled and goes through the front part of the neighbor's garage.

Public hearing opened

No comments

Public hearing closed

Commissioner Ferris stated he has no issue with the fence so long as it doesn't exasperate the issue with the property line. There needs to be some consensus on how they are going to address the issue before they put the fence in. Ferris recommended that this should be added as a condition of approval.

Motion to Approve with the added condition to address the property line issue made by Commissioner Egger, second by Commissioner Fitch with All Voting Aye

Further discussion followed regarding the property line issue. Commissioners recommended that the Juhls consult with the neighbor, the surveyor, and/or a real estate attorney. Albers stated he would follow up with the City Attorney for recommendations on possible solutions.

PUBLIC HEARING – Conditional Use Permit and Variance for Fence – Sinner

Albers stated that staff is recommending to table both the CUP and variance requests. The Sinner household is a corner lot and the City considers corner lots to have two front yards. The Sinners are requesting to build a privacy fence in their front yard. The ordinance only allows for fences in front yards if the transparency is less than 50% or the height is less than 3 feet. The CUP would be to allow the fence within 3 feet of the property line, and the variance would be to allow the privacy fence in the front yard. Albers went through the criteria for variances and stated that the request could be considered reasonable and there are other examples of privacy fences built in front yards. The uniqueness factor is the most difficult to justify since every other property on a corner lot would also need a variance. Albers recommended that the zoning ordinance could be amended instead, and it is not uncommon in other cities to have exceptions made for corner lots. Albers included sample language of the ordinance change in the staff report. The public hearing for the zoning amendment could take place at the next meeting. If the ordinance is changed, there would not be a need for a variance. Commissioner Egglar asked why the proposed location for the fence is considered a front yard if the front door of the house and the driveway are on a different side. Commissioner Johnson asked for a definition of a front yard and proposed changing this definition rather than making an exception to the transparency rule. Albers stated that not all corner lot properties look as neat as the Sinner's – some have more than one driveway, for example. Commissioner Johnson is in favor of tabling the discussion to the next meeting and asked Albers to provide some examples of ordinances from other cities. Commissioner Fitch is also in favor of tabling the discussion. Commissioner Ferris asked if the Sinners had any comments to share. Ms. Sinner stated she would not be in favor of the 20 foot setback for the fence since that would place the fence right outside her kitchen window and would make much of their yard unusable. Ms. Sinner also stated that the sight line from the neighbor's driveway would be clear to the corner if the fence is built in the proposed location. Mr. Sinner stated that a 3 foot fence would not be adequate for privacy.

Motion to Table made by Commissioner Egglar, seconded by Commissioner Johnson with All Voting Aye

NOISE ORDINANCE – Discussion

Albers went through the memo included in the meeting packet. The City Council asked the Planning Commission to discuss the noise ordinance because of an event permit request from the Legion that included several dates. The ordinance states that excessive noises between the hours of 11:30 pm and 7:00 am are considered to be nuisances. The current event permit process is a nice way for the City to review requests and notify any necessary emergency services in advance. Event permits are still requested even if street closures or emergency services are not needed. There are no restrictions on the number of event permits that can be requested, though there are a number of residents who live in/near downtown where most of the events take place. Commissioner Egglar stated that if a change is made, it would affect the whole city and not just downtown. Commissioner Johnson stated that it is possible for an exception to be made to the C-1 Central Business District. Commissioner Egglar is in favor of keeping it how it is so that events are publicly posted. Commissioner Buckingham asked if there were any complaints. Albers stated that he has received complaints about noise downtown in the past. Commissioner Fitch stated that some complaints come from the apartment building across the street from the Legion, and asked if there is some sort of notification that could come with approval of an event permit. Discussion followed on possible notification methods, such as mailing letters, sending out with utility bills, or posting online. Commissioner Ferris asked if the complaints received were tied to normal operations vs special events. Albers stated they seem to be tied to special events. Commissioner Fitch asked to get thoughts from the rest of the staff and stated that he did not think the ordinance needed to be changed. Commissioner Tinsley stated that requesting an event permit could be an incentive if the City sends out a notification. No further discussion.

WILKER'S CUP REVIEW – Update

Albers stated he went out to the property the previous week to observe the site and met with an employee who is familiar with the CUP and the review process. Albers took photos of the site and left a permit application with the employee for the addition to the building – allowed as a condition of the CUP. Albers went through the photos and the conditions included in the CUP. There is room for improvement, though the employee acknowledged this. Commissioner Egger stated that you can tell work is being done to clean up the property and they are trying to abide by the conditions. No further discussion.

OTHER – Commissioner Ferris asked how “fence” is defined in the ordinance. Commissioner Egger stated that Linda had provided a definition at a previous meeting. Albers stated he would investigate.

ADJOURN – 7:18pm

Respectfully Submitted,

Ian Albers, Community Development Assistant