

**City of Columbus
Regular Planning Commission Meeting
October 16, 2013**

The October 16, 2013 regular meeting of the Planning Commission for the City of Columbus was called to order at 7:00 p.m. by Vice Chair Garth Sternberg at the City Hall. Present were Commission members Andy Anderson, Myron Organ, Pam Wolowski, Jesse Preiner, and Jody Krebs; City Administrator Elizabeth Mursko, Planner Dean Johnson, and Recording Secretary Karen Boland.

Also in attendance were City Council members Dennis Peterson, Jeff Duraine, Bill Krebs (7:20), and Mayor Dave Povolny (8:20); Michael Madden, Cecilia Woodrich, Andi Moffatt, Breanne Rothstein, Mark Kiperstin, Steve and Sue Wagamon, Sherri and Roger Nase, Pat Bergin, Perry Wagamon, Michelle Daubs, Fran Peterson, Dave Crowder, David Waldoch, Virginia Waldoch Mitchell, Tom Waldoch, Frank Wagamon, Jeff Joyer, Erik Olson, Ronnie Bowman, Todd and Sue Voelker, Don Waldoch, Michael Schaal, Nancy and Brenda Herubin, and Christine and Brian Dumke.

AGENDA APPROVAL

Motion by Krebs to approve the Agenda as presented. Second by Anderson. Motion carried.

APPROVAL - JOHN KAASA IUP PUBLIC HEARING MINUTES OF OCTOBER 2, 2013

Motion by Organ to approve the minutes from the John Kaasa Public Hearing held on October 2, 2013. Second by Krebs. Motion carried.

APPROVAL - BUETOW BROTHERS (CITY VIEW ELECTRIC) CUP AMENDMENT PUBLIC HEARING MINUTES OF OCTOBER 2, 2013

Motion by Krebs to approve the minutes from the Buetow Brothers (City View Electric) CUP Amendment Public Hearing held on October 2, 2013. Second by Wolowski. Motion carried.

APPROVAL - WESTMOR FLUID SOLUTIONS SITE PLAN AND CUP APPLICATION PUBLIC HEARING MINUTES OF OCTOBER 2, 2013

Motion by Krebs to approve the minutes from the Westmor Fluid Solutions Site Plan and CUP Application Public Hearing held on October 2, 2013. Second by Wolowski. Motion carried.

APPROVAL - REGULAR PC MEETING MINUTES OF OCTOBER 2, 2013

Motion by Anderson to approve the minutes of the October 2, 2013 regular Planning Commission meeting as written. Second by Krebs. Motion carried.

PUBLIC HEARING – INSURANCE AUTO AUCTIONS, INC. COMPREHENSIVE PLAN AMENDMENT (PC-13-111), REZONING AMENDMENT (PC-13-112) AND CUP APPLICATION (PC-13-113)

At this time a public hearing was held to receive testimony regarding requests by Insurance Auto Auctions, Inc. (IAAI) for a Comprehensive Plan Amendment, a Rezoning Amendment, and a

CUP application at the Vacant Land north of 13452 Lake Drive NE, Columbus, MN. Separate minutes are prepared.

INSURANCE AUTO AUCTIONS, INC. COMPREHENSIVE PLAN AMENDMENT, REZONING AMENDMENT AND CUP APPLICATION DISCUSSION

PC members discussed the history of zoning along Lake Drive, the need for the City to bring in businesses, and resident's concerns about noise levels.

Motion by Preiner to continue discussion of IAAI's application for a Comprehensive Plan Amendment, a Rezoning Amendment, and a Conditional Use Permit to the next Planning Commission meeting on November 6, 2013. Second by Anderson. Votes as follows: Krebs - aye, Preiner - aye, Wolowski - aye, Organ - nay, Anderson - aye, Sternberg - nay. Motion carried.

Madden asked if there is anything PC members would like IAAI to provide for the next meeting. PC members indicated a need to read and process all the information presented, including that received just before or at tonight's meeting.

IAAI presented a demonstration of what they have implemented in different parts of the country where they are near single family homes to minimize the noise of loaders moving the cars around their property. They recreated the sound of a typical back-up warning sound, and then the modified sound that they employ. It is still OSHA compliant.

PUBLIC HEARING – 17566 XINGU STREET VARIANCE APPLICATION (PC-13-114)

At this time a public hearing was held to receive testimony regarding a variance request for 17566 Xingu Street, Columbus, MN. The property owners are Daniel and Michelle Selfors and the applicant is Ronnie Bowman. Separate minutes are prepared.

17566 XINGU STREET VARIANCE DISCUSSION

The following questions were considered by the Planning Commission in determining whether the variance request meets the criteria to cause a practical difficulty:

1. The landowner proposes to use the property in a reasonable manner.

Question: Does the proposal put property to use in a reasonable manner? **Yes.**

Finding: Do the requirements in the Zoning Ordinance prohibit the property from being used in a reasonable manner? **Yes** or No

2. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

Question #1: What are the unique physical characteristics of the particular piece of property? **Topography.**

Question #2: How is it not like other pieces of property? **Topography.**

Question #3: Did the landowner create the circumstances? **No.**

Examples:

- Topography
- Wetlands
- Trees
- Irregularly shaped or sized lot
- Shape or size of existing buildings
- Placement of existing structures on lot

Finding: Are the circumstances unique to the property? **Yes** or No

3. Granting the variance is in harmony with the purpose and intent of the Zoning Ordinance.

Question: Will the resulting use or structure be compatible with the underlying purpose and goals of the Zoning Ordinance? **Yes.**

Finding: The variance, if granted, will not alter the essential character of the neighborhood or City. **Agree** or Disagree?

4. Granting the variance is consistent with the City's Comprehensive Plan.

Finding: The variance will not create a conflict between the Comprehensive Plan and the proposed use or structure. **Agree** or Disagree?

5. The variance if granted, will not alter the essential character of the neighborhood or City.

Question: Will the resulting structure be out of scale, out of place, or otherwise inconsistent with surrounding area? **No.**

Finding: The variance, if granted, will not alter the essential character of the neighborhood or City. **Agree** or Disagree?

6. The practical difficulty is not created solely by economic considerations.

Finding: Economic considerations are not the only reason for the practical difficulty. **Agree** or Disagree?

A variance shall not be granted unless the Planning Commission makes specific findings of fact based directly on the particular evidence presented to it, and the City Council determines that these support conclusions that the standards and conditions as stated above have been met by the applicant.

Planning Commission Recommendation:	Approval: 10/16/13
(Insert dates of action)	Denial:
City Council Action:	Approval:
	Denial:

Motion by Anderson to forward to the City Council the application for a variance for the property at 17566 Xingu Street, to permit and construct a mound type septic system of “other construction” with a recommendation for approval based on findings that the Zoning Ordinance causes a practical difficulty. Second by Krebs and Organ. Motion carried.

PUBLIC HEARING – 14609 LAKE DRIVE N.E. VARIANCE APPLICATION (CEMSTONE PRODUCTS CO. – OWNER) (PC-13-115)

At this time a public hearing was held to receive testimony regarding a variance request for 14609 Lake Dr. N.E., Columbus, MN. The property owner and applicant is Cemstone Products Company. Separate minutes are prepared.

14609 LAKE DRIVE N.E. VARIANCE DISCUSSION

The following questions were considered by the Planning Commission in determining whether the variance request meets the criteria to cause a practical difficulty:

1. The landowner proposes to use the property in a reasonable manner.

Question: Does the proposal put property to use in a reasonable manner? **Yes**

Finding: Do the requirements in the Zoning Ordinance prohibit the property from being used in a reasonable manner? **Yes** or No

2. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

Question #1: What are the unique physical characteristics of the particular piece of property? **They are prevented from enclosing permanent structures by zoning ordinance.**

Question #2: How is it not like other pieces of property? **See above.**

Question #3: Did the landowner create the circumstances? **No.**

Examples:

- Topography
- Wetlands
- Trees
- Irregularly shaped or sized lot
- Shape or size of existing buildings
- Placement of existing structures on lot

Finding: Are the circumstances unique to the property? **Yes** or No

3. Granting the variance is in harmony with the purpose and intent of the Zoning Ordinance.

Question: Will the resulting use or structure be compatible with the underlying purpose and goals of the Zoning Ordinance? **Yes.**

Finding: The variance, if granted, will not alter the essential character of the neighborhood or City. **Agree** or Disagree?

4. Granting the variance is consistent with the City's Comprehensive Plan.

Finding: The variance will not create a conflict between the Comprehensive Plan and the proposed use or structure. **Agree** or Disagree?

5. The variance if granted, will not alter the essential character of the neighborhood or City.

Question: Will the resulting structure be out of scale, out of place, or otherwise inconsistent with surrounding area? **No.**

Finding: The variance, if granted, will not alter the essential character of the neighborhood or City. **Agree** or Disagree?

6. The practical difficulty is not created solely by economic considerations.

Finding: Economic considerations are not the only reason for the practical difficulty. **Agree** or Disagree?

A variance shall not be granted unless the Planning Commission makes specific findings of fact based directly on the particular evidence presented to it, and the City

Council determines that these support conclusions that the standards and conditions as stated above have been met by the applicant.

Planning Commission Recommendation:	Approval: 10/16/13
(Insert dates of action)	Denial:
City Council Action:	Approval:
	Denial:

Motion by Preiner to forward to the City Council the application for a variance from the 75-foot height requirement to a 100-foot height for the property at 14609 Lake Drive to allow Cemstone Products Company construction of a 100-foot enclosure surrounding the mixing towers, with a recommendation for approval based on the findings, considerations and recommendation below, from the Planner’s memo dated October 10, 2013, and the determination that the Zoning Ordinance causes a practical difficulty. Second by Anderson. Motion carried.

Findings:

1. Cemstone Products Company (“Cemstone”) applied for a variance for height exceptions in the C/I District in a complete application received on September 23, 2013.
2. The 60-day review deadline is November 22, 2013. The 120-day review deadline, if necessary, is January 21, 2014.
3. Cemstone received a CUP and constructed a ready-mix concrete plant in 2011 on Lot 1, Block 1, North Pine Addition, 14609 Lake Drive (“Property”).
4. Cemstone proposes to enclose the existing ready-mix plant in a building as described in the 2011 CUP.
5. The maximum building enclosure height for bins, silos, conveyors and accessory equipment in the C/I District is 75 feet.
6. The maximum height for uncovered silos and accessory equipment is 100 feet
7. The existing ash and cement silos and accessory equipment are approximately 95 feet in height.
8. A building enclosure for the aggregate bin and central mixer can be constructed within the 75 feet height limit; however, the existing silos would extend above such enclosure by about 20 feet.
9. Cemstone has requested a variance to allow the building enclosure to be at 75 feet in height on either side of the silos and construct an enclosure over the silos, not to exceed 100 feet.
10. A condition of the current CUP included “Any proposed site lighting or security lighting shall require plan review and approval by the City and shall include shrouded fixtures to prevent direct lighting on adjacent properties or public right-of-way.”
11. Any variance consideration should address site lighting consistent with this condition.
12. The Planning Commission held a public hearing on October 16, 2013, to consider the variance application on behalf of Cemstone.

Considerations

2012 Minnesota Statutes 462.357, subdivision 6, provides the authorization for considering and granting variances:

Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties... Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan... The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located.

1. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.

Cemstone is currently using the property in a manner consistent with the zoning ordinance. The height limitations in the ordinance allow the 95-foot-tall silos and accessory structures, but not an enclosure of the permitted uses. It would appear to be a "reasonable manner" to enclose the existing structures to better protect them and to better shield them from view.

2. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

Cemstone is prevented from enclosing the permitted structures as a result of standards in the zoning ordinance, which were created by City and not the landowner. What is unique is that the silos and accessory structures are allowed at a height not to exceed 100 feet in height; yet, the ordinance does not accommodate a building enclosure at that height. The size and height of the silos and accessory equipment are manufactured by others, based on industry standards and are not created by Cemstone.

3. The variance, if granted, will not alter the essential character of the locality.

The silos and accessory structures currently exist at approximately 95 feet in height. A building enclosure is allowed for a portion of the improvements at 75 feet in height. A total enclosure not to exceed 100 feet in height will not alter the essential character of the area.

4. Economic considerations alone do not constitute practical difficulties.

It would appear to be less expensive not to construct a total enclosure around the Cemstone facilities. Economic considerations are not the only factors applicable in the variance review.

5. *The variance is in harmony with the general purposes and intent of the ordinance and is consistent with the comprehensive plan.*

Granting the variance would be in harmony with the general purposes of the zoning ordinance and is consistent with the comprehensive plan for uses in the area.

6. *The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located.*

Granting the variance will not allow a use that is otherwise not allowed in the C/I District. It will only vary a dimensional standard for an allowable use.

Recommendations

It appears that the findings required in Minnesota Statutes for granting variances can be met in the application and consideration for Cemstone. If the Planning Commission agrees, it should recommend that the City Council approve the variance. As noted in the initial Findings of Fact, one of the CUP conditions regards City approval of site lighting and the requirement for shrouded fixtures that prevents direct lighting on adjacent properties and public streets. Minnesota Statutes allow reasonable conditions to be placed on variances. I recommend that this lighting provision be a condition of granting the variance.

PUBLIC HEARING – CITY OF COLUMBUS PRELIMINARY/FINAL PLAT (SOUTHEAST QUAD 35) APPLICATION (PC-13-116)

At this time a public hearing was held to receive testimony regarding a preliminary/final plat (Southeast Quad 35) subdividing one lot into two lots. The property owner and applicant is the City of Columbus. Separate minutes are prepared.

CITY OF COLUMBUS SOUTHEAST QUAD 35 PRELIMINARY/FINAL PLAT DISCUSSION

Motion by Krebs to forward to the City Council the application of the City of Columbus for a preliminary/final plat with a recommendation for approval based on the findings of fact and recommendations below, from the Planner's memo dated October 14, 2013. Second by Organ. Motion carried.

Findings:

1. The City has completed the realignment of Hornsby Street in the southeast quadrant of Interstate 35.
2. The street realignment was contained entirely within property owned by the City Economic Development Authority ("EDA").
3. The 21.06 gross acre plat is necessitated by the establishment of new right-of-way and the creation of two lots from one lot, resulting from the street realignment. Total right-of-way in the plat is 4.02 acres.

4. The plat is not created for development purposes at this time; although, future development is not precluded. Public sewer and water are currently available within the plat.
5. There no additional public improvements proposed at this time.
6. Proposed Lot 1, Block 1 is 6.33 acres, of which 4.37 acres is wetland area.
7. Proposed Lot 1, Block 2, is 10.71 acres, of which 9.56 acres is wetland area.
8. The Planning Commission held a public hearing on October 16, 2013 to consider the plat application for the City.

Recommendation

I recommend that the Planning Commission adopt the above Findings of Fact and recommend that the City Council approve the SE Quad 35 Preliminary and Final Plat, subject to the following:

1. Final recommendations of the City Engineer.
2. Title review and recommendations of the City Attorney.

PUBLIC OPEN FORUM

There was no topic raised for discussion for Open Forum.

CITY ADMINISTRATOR'S REPORT

Mursko reported that the legal description for the property involved in the IAAI application was obtained from the Anoka County GIS system. She will check with the City attorney as to whether there are any problems with the description in the public notice. State Statute says the property must be described in a way that allows people to identify it. That intent appears to have been met.

The PC will have more applications in both November and December.

PLANNING COMMISSION MEMBERS' REPORT

KREBS COMMENT

At the last City Council meeting, all PC recommendations re: applications were approved. A donation was accepted from Xcel Energy for the Business Retention and Expansion Program.

Krebs said Mattamy Homes is building 150 homes in Hugo and some in North Oaks as well.

PREINER COMMENT

Preiner commended Vice Chair Sternberg on a good job.

ANDERSON COMMENT

Anderson said he was impressed by the presentations and public commentary at tonight's meeting. He appreciated everyone's civility.

ATTENDANCE - NEXT CC MEETING

Sternberg is scheduled to attend the City Council meeting on October 23, 2013.

Motion by Krebs to adjourn. Second by Preiner. Motion carried.

Meeting adjourned at 10:20 p.m.

Respectfully Submitted:

Karen Boland, Recording Secretary