

City of Columbus
Regular Planning Commission Meeting
07.17.19

The July 17th, 2019 regular meeting of the Planning Commission for the City of Columbus was called to order at 7:00 p.m. by Chair Ron Hanegraaf at the City Hall. Present were Commission members: Kris King, Pam Wolowski, Barb Bobick and Jody Krebs; City Administrator Elizabeth Mursko; Haila Maze; City Planning Technician Ben Gutknecht; and Recording Secretary Rochelle Busch.

Also in attendance were Mayor Jesse Preiner; City Council Members Denny Peterson, Shelly Logren and Janet Hegland; Richard Kowarsch, Vern M. Osterbauer, Rodney Kowarsch and family, Dan Mike, John Young, Erin and Ryan Zwonitzer, Bradley Boudreau, Tom and Carol Mike, Bill Sieben, John Arnt, Mark Huus, Cecelia and Peter Neihart, Phil Hoey and Tom Palmquist.

AGENDA APPROVAL

Motion by Krebs to approve agenda as written. Second by Bobick. Motion carried unanimously.

APPROVAL – PUBLIC HEARING MINUTES – ACES HOTEL AND RACETRACK SIGN VARIANCE REQUEST (19-109) ON 06.19.19

Motion by Wolowski to approve the Public Hearing minutes for Aces Hotel and Racetrack Sign Variance, as written. Second by Krebs.

APPROVAL – PUBLIC HEARING MINUTES – THURNBECK PRESERVE PRELIMINARY PLAT AND CUP FOR PUD (PC19-110 and PC19-111) ON 06.19.19

Motion by Krebs to approve the Public Hearing minutes for Thurnbeck Preserve Preliminary Plat and CUP for PUD, as written. Second by Bobick.

APPROVAL – PLANNING COMMISSION MINUTES ON 04.17.2019

Motion by Krebs to approve the minutes of the April 17th, 2019 regular Planning Commission meeting as written. Second by Bobick.

PUBLIC HEARING – 9623 192nd AVE NE POOL SAFETY COVER VARIANCE REQUEST (PC19-112)

At this time a public hearing was held to consider a request for a variance request from the required 5-foot fence for a swimming pool installation to allow an ASTM Certified “Pool Safety Cover” in the RR Rural Residential zoning district. Separate minutes for the public hearing are prepared.

9623 192nd AVE NE POOL SAFETY COVER VARIANCE REQUEST

Following the Public hearing Commission members discussed the safety requirements listed in the City code for pools. King stated she believed the safety cover met the state requirements, therefore it should be allowed. Wolowski commented that investing in a safety cover is safer than a fence. Krebs agreed that the cover meets what is needed. She also stated that adding the safety pool cover would be something she would like to explore adding to the pool ordinance. Hanegraaf, stated that Hastings adjusted a variance to allow a safety cover. He also agreed with Krebs regarding adding the safety cover to the code.

Motion to recommend approval to the City Council for the variance request at 9623 192nd Ave to install an ASTM verified that meets or exceeds the standards outlined in ASTM F11346-91 pool safety cover in lieu of the required 5' safety fence for a private swimming pool at this address. Second by Wolowski. Votes as followed: King – Aye. Wolowski – Aye. Hanegraaf - Aye, Bobick – Ney, Krebs – Aye. Motion carried.

City of Columbus Variance Staff Report 9623 192nd Ave

Project Name: Pool Installation Safety Standards Variance
Applicant: Amy and William Sieben
Property Owner: Amy and William Sieben
Legal Description of property: Lot 2 Block 1 Delmonico Preserve
Property Identification #(s): 25-33-22-41-0003
Property Zoning: Rural Residential (RR) District
Report approved by: Elizabeth Mursko, City Administrator

Date of Application: 05.29.19

1. **Date Application found incomplete:** N/A

Materials missing: None

Date Application complete: 05.29.19

Date of Public Hearing: 07.17.19

Date notice published: 07.04.19

Date notice mailed / posted: 07.04.19

60-limit for action: 07.29.19

2. **60-day extension / letter sent:** N/A

Project Description:

The property owner is seeking a variance to City Code section 7A-807.K. for residential pools, which requires that a “Structure or safety fencing of a non-climbable type at least five (5) feet in height shall completely enclose the pool or Yard area containing the pool.” The applicant is requesting a variance to install an ASTM Certified “Pool Safety Cover” as an alternative to the required safety fence. The proposed Pool Safety Cover is automatic, load bearing, and secured with a lock, which requires a key to operate. The ASTM F1346 specifications applicable to the Pool Safety Cover require that the cover be able to hold a minimum of 485 pounds and is track-guided to prohibit entry into the water when closed.

3. Variance Findings:

A variance is a legally permitted deviation from the literal requirements of the City Zoning Ordinance. Variances may be granted in instances where the landowner establishes that there are practical difficulties in complying with the Zoning Ordinance and the landowner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance. The Planning Commission, acting as the Board of Adjustment, must hold a public hearing and make a recommendation on the application to the City Council. In examining practical difficulties, pursuant to City Code Section 7A-525 the Board of Adjustment and City Council must make the following findings:

1. The landowner proposes to use the property in a reasonable manner.
2. The practical difficulty or plight of the landowner is unique to the subject property and is not created by the landowner.
3. The variance, if granted, will not alter the essential character of the neighborhood or City.
4. The terms of the variance are consistent with the Comprehensive Plan.
5. The variance, if granted, is in harmony with the purpose and intent of the Zoning Ordinance.
6. The practical difficulty is not created solely by economic considerations.

4. Staff has analyzed the following variance application: A variance to allow a Pool Safety Cover in lieu of a Structure or Safety Fencing.

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

Staff finds that the landowner proposes to use the property in a reasonable manner. The proposed safety cover is intended to act as a horizontal safety fence to reduce and prevent accidents regarding pool safety. The cover will have locking capabilities to ensure that only a few individuals will have access to the pool. To qualify for ASTM Standard Performance the cover must hold a weight of at least 485 lbs. The cover also has to meet surface drainage test and demonstrate that any opening is sufficiently small and strong enough to prevent the test subject from being passed through. The proposed pool is approximately 600 feet from the ROW and the property itself is situated at the end of 192nd street and directly south east of Carlos Avery Wildlife Management Area.

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

The use of a pool cover rather than a fence is due to circumstances not created by the property owner. Due to the topographic nature of the lot, there is little area in which to install a pool, and most of the lot remains low-lying wetland. A fence compliant with the City Code would require additional unnecessary expenses for stabilization and footings due to the wetlands and spongy soils present.

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

The City Code (7A-807 (k.)) acknowledges that the structure or fencing is required for the public safety of the residents, which is the intent of the proposed pool cover. An ASTM Certified Pool Safety Cover can accomplish the same level of safety if operated in compliance with the operation instructions, along with the proposed conditions of approval.

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

The City's Comprehensive 2040 Draft Plan includes the following goal for pools and water resources:

6. Require swimming pools to be covered (to prevent evaporation).

The cover helps to prevent evaporation and adding more than necessary chemicals to the water. Based on manufacturer's statistics, the Pool Safety Cover can decrease evaporation up to 90%. Granting the variance to allow a pool cover would reduce the amount of water used for recreational private pools. The proposed variance is consistent with the City's Comprehensive Plan.

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

The character of the neighborhood is a mix of > 5 acre lots and low-lying wet forest land in between each lot. Looking specifically at the lot in questions, due to the dwelling and its immediate area being 550 feet from the roadside and shielded almost entirely by vegetation this would have very little impact on the character of the neighborhood. The variance, if granted, will not alter the essential character of the neighborhood or the city.

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

The practical difficulties necessitating the variance request are not created solely by economic considerations, but rather the functionality and aesthetic appeal of the applicant's property as well as the timing of various projects that revolve around a pool being installed.

7. Staff Recommendation(s):

Staff recommends that the Planning Commission and City Council adopt the above findings and **approve** the application for a variance to install a Pool Safety Cover subject to the following conditions of approval:

1. The Pool Safety Cover must be ASTM Certified and meet or exceed the standards outlined in ASTM F1346-91.
2. The Pool Safety Cover must be closed when unsupervised, including, but not limited to overnight periods of non-use.

This matter will go before the City Council at their meeting on July 24th, 2019.

PUBLIC HEARING – 7162 & 7222 167th AVE NE – JOHN ARNT- EXCAVATION, IUP AND VARIANCE REQUEST (PC19-113 and PC19-114)

At this time a public hearing was held to consider a request for an excavation, IUP and variance request for an aquaculture fish pond. Separate minutes for the public hearing are prepared.

7162 & 7222 167th AVE NE – JOHN ARNT- EXCAVATION, IUP AND VARIANCE REQUEST

King stated she believed that the Planning Commission had no problem with fish pond, in which Hanegraaf agreed. In the variance report listed below, she believes that Statue is not meant to grant the variance. Furthermore, the IUP shall not be granted because Arnt is not able to meet the recommendations.

Krebs stated the trucking and excavating ordinance was adopted because of the major complaints in the past. It was put in place to further protect residents. Krebs stated that by not granting this variance they will be setting the precedence set that it's not allowed.

Bobick commented to the applicant that no one is saying that he cant expand his pond. However, the trucking will cause a major disruption. She believes the applicant is causing his own problem, and this is not a circumstance unique to the property. It will now alter the nature of the area. Bobick also stated the size is the issue.

Motion by Hanegraaf to recommend to the City Council to adopt the findings of the Staff Report, as well as the City Engineers memo dated 07.15.19 and deny the application for a variance request to the requirements of the City Code Section 7A-822D that the IUP for mineral extraction at the Property have direct access to a minor arterial or collector roadway and the all haul routes shall be similarly be limited to minor arterials or collector roadways. Second by Bobick. Motion carried unanimously.

Motion by Hanegraaf to recommend to the City Council to adopt the findings of the Staff Report dated 07.15.19 as well as the City Engineers memo dated 07.15.19 and deny the application for an Interim Use Permit for 90 days to allow mineral extraction for the properties at 7162 and 71222 167th Ave. Second by Bobick. Motion carried unanimously.

City Engineer Memo dated 07/15/19:

The applicant has applied for an Excavation Permit and an Interim Use Permit to excavate approximately 16,000 – 18,000 cubic yards of material to deepen and connect two existing ponds. We have reviewed the engineering features of the Excavation Permit and Interim Use Permit applications for the proposed Arnt fish pond improvements and offer the following comments:

Excavation Permit:

1. The City Attorney's memo dated April 15, 2019, which is part of the application packet, provides a detailed background of the Excavation Permit criteria. Since no storm water ponding is required for this pond excavation project, all the proposed upland excavation (10,251 cubic yards per the applicant's grading plan) is in excess of the amount necessary to accommodate required stormwater ponding. As such, an Interim Use Permit is required pursuant to Section 7A-822 Mineral Extraction, of the City Code. (See comments related to the IUP below.)
2. The Excavation Permit Application packet includes a letter dated 3/1/19 that the City Administrator prepared listing eight items required for processing the Excavation Permit Application. The applicant prepared a response dated 3/8/19 addressing these eight items. Engineering has the following comments on the following items:
 - a. Item 2. The applicant indicates they will be installing several 20' deep sand point wells to dewater the area within 2 – 3 days. If the excavation is estimated to take up to 90 days (as noted in the Project Description in the IUP Application), will these wells be pumping for the entire 90-day period to keep the excavation areas dry?
 - b. Item 3. Update the proposed construction schedule based on the anticipated permit approval dates.
 - c. Item 6. Provide a copy of the soils borings.
 - d. Item 7. The applicant lists five Permits that are needed for this project (USACOE, RCWD, MPCA, DNR, City). There are actually six, as two are needed from the DNR; an Aquaculture Permit and a Water Appropriation (Dewatering) Permit. Permits/Approvals for Items iii., iv., and vi. below are still required:
 - i. USACOE – Approval (No permit required) letter dated 9/10/18 is provided.
 - ii. RCWD – A permit has been issued and is provided.
 - iii. MPCA – The applicant indicates it will be obtained through Arnt Construction (once permits are approved and prior to construction starting).

- iv. DNR Aquaculture – The applicant indicates this can be obtained with the WCA (RCWD) Permit.
 - v. DNR Water Appropriation – A permit has been issued and is provided.
 - vi. City – Excavation Permit, Interim Use Permit, Variance Request.
- e. Item 8. The applicant has indicated they have equipment to regrade 167th Avenue and water it for dust control. A Letter of Credit will be required pursuant to City Code Section 9-104. The amount will be determined once the Excavation Permit, Interim Use Permit, and Variance Request have been approved by the City.

Interim Use Permit:

3. An Interim Use Permit Application has been submitted including a Project Description. Some of the items in the Project Description include the following:
- a. It is stated that truck hauling will involve approximately 25 trucks per day over a 90-day period, with up to three trucks on site at one time. Hauling times are proposed to be from 8:00 am – 6:00 pm M-F and 8:00 am – Noon on Saturdays. The Planning Commission and City Council should decide whether to allow hauling on Saturdays in this residential area.
 - b. It is also stated that a DNR water appropriations permit has been granted for employing 20-foot long sand point wells and 3 low-noise diesel pumps for dewatering, and that this will be done “in a very localized manner that will not disturb any neighboring water wells.” Depending on the depth of neighboring residential wells, it is difficult to predict if there will be any impacts. The DNR Permit does include conditions such as:
 - i. “If notified by the DNR that a water use conflict is suspected and probable from your appropriation, based on confirmation of a formal well interference complaint or a preliminary hydrologic assessment, all appropriation authorized by this permit must cease immediately until the interferences is resolved. The permittee may be required to obtain additional data to support the technical analysis, such as domestic well information within a radius of one and one-half miles of the production well. The permittee and impacted party may engage in a negotiated settlement process and there may be modifications made to this permit in support of conflict resolution.” (In this case, it would be the sand point dewatering wells vs. a production well.)
 - ii. Also, Flow Meters, or other methods, for measuring the quantity of water appropriated shall be installed.
 - iii. Additionally, monthly records of the amount of water used shall be recorded for each installation.
4. Even if there are no impacts to neighboring residential wells, there will likely be impacts to adjacent/connected wetlands. A small portion of the existing southerly pond to be excavated lies on the adjacent property to the south (16524 MacKenzie St. NE), as does the delineated wetland is lies within. This wetland also lies on the adjacent property to the east (7260 167th Avenue NE). These wetlands will likely be drained during the dewatering period.

5. Will the dewatering sand point wells pump continuously for the duration of the excavation? The applicant states the wells will dewater the area within 2 – 3 days. However, to maintain the excavation areas stay dewatered during the duration of the excavation, will they be utilized over the entire 90-day period?
6. The applicant shall guarantee that no excavation/access/damage will occur to the property to the south (16524 MacKenzie Street NE). Property lines/corners shall be verified by a Professional Land Surveyor and clearly marked.

Miscellaneous:

7. Contour lines cannot “tee” or “fork”. The proposed 904 contours shown in the southeast and southwest areas on the grading plan should be corrected (as noted on the attached grading plan). This will also help to ensure the existing outlet elevation of the pond is maintained and does not impact existing water levels.
8. To ensure the pond does not encroach with the 167th Avenue road right-of-way, we also recommend the proposed 904 contour be added adjacent to the 902 contour (as noted on the attached grading plan.)
9. We are still unclear as to the ultimate use for this project. The applicant has stated in several meetings with City staff that the enlarged fish pond will be used only for recreational purposes, for himself and also for the neighborhood. However, in the applicant’s original backup documentation provided to the City, he states in two different places in a Joint Application Form for Activities Affecting Water Resources in Minnesota provided to the RCWD that “Arnt Construction Company is proposing to build one fish pond to grow and market largemouth bass, sunfish and yellow perch in the local area. A secondary purpose would be for recreational fishing for the landowner.” and that “The pond will be accessible to remove fish for marketing purposes from the driveway on the west, a 10 foot wide earthen haul road on the west, and 167th Avenue NE which is a gravel road on the north.” Will the pond be only for recreational purposes, or will fish be marketed for sale?

**City of Columbus
Staff Report
Variance and Interim Use Permit
7162 & 7222 167th Ave NE**

Project Name: Interim Use Permit for Mineral Extraction
Variance to Mineral Extraction Access Requirements

Applicant: John Arnt

Property Owner: John Arnt & Richard Kowarsch

Legal Description of “Property”: THE E 240 FT of SW1/4 of SE1/4 of SEC 09 TWP 32 RGE 22, EX RD, SUBJ TO EASE of REC.

AND

THE N1/2 or W1/2 or SE1/4 SEC 0 TWP 32 RGE 22, EX RD, SUBJ TO EASE of REC

Property Identification #(s): 09-32-22-43-0003 & 09-32-22-44-0004

Property Zoning: Rural Residential (RR) District

Report approved by: Elizabeth Mursko, City Administrator

Date of Application: 06.17.2019

Date Application found incomplete: N/A

Materials missing: None

Date Application complete: 05.29.19

Date of Public Hearing: 07.17.19

Date notice published: 07.04.19

Date notice mailed / posted: 06.28.19

60-limit for action: 08.16.19

60-day extension / letter sent: N/A

Project Description and Applicable City Ordinance Provisions:

The Property owner (“Applicant”) is seeking an interim use permit (IUP) for Mineral Extraction to remove approximately 16,000-18,000 cubic yards of sand from the Property to create an approximately 2.8-acre aquaculture pond for recreational purposes. Applicant is also seeking a variance to the City code of ordinances (“City Code”) provision requiring that mineral extraction activities occur only on properties that have direct access to a minor arterial or collector roadway.

Applicant has estimated the removal of sand from the Property to require approximately 25 trucks per day over a 90-day period. Hauling times would be 8:00 am to 6:00 pm Monday through Friday and 8:00 am to noon on Saturday, with no hauling on Sundays. Applicant is proposing the use of a water truck to control dust on the gravel road, and a letter of credit to be provided to the City to cover any costs for road repair or regrading. The project will require dewatering of the Property during the period of excavation.

City Code IUP Provisions

City Code section 9-102.B requires that excavation and removal of earthly deposits resulting in the loss of upland and in excess of the minimum amount required to accommodate stormwater ponding shall be subject to the Mineral Extraction permitting requirements under Chapter 7A of the City Code. City Code Section 7A-822 requires an IUP for mineral extraction subject to several findings and performance standards discussed further below.

The application is inconsistent with the following performance standards governing IUPs for mineral extraction under City Code Section 7A-822.G:

1. Hours of operation for Mineral Extraction, including hauling of material, shall be limited to 8:00 a.m. through 7:00 p.m., Monday through Friday, excluding federal holidays.

4. No Mineral Extraction activity may occur within one hundred fifty (150) feet of any adjacent property residence and within fifty (50) feet of any adjacent property line, road right-of-way or public utility. Screeners, crushers, other processing equipment or manufacturing equipment may not be located closer than five hundred (500) feet without berming or two hundred fifty (250) feet with berming from any adjacent property residence.

Applicant has not addressed performance standard No. 1 or No. 4 within the application, nor has a variance request been requested to either provision. Performance standard No. 1 requires hours of operation that are more restrictive than the hours of operation proposed by Applicant by prohibiting hauling on Saturdays. If approved, the Applicant would be able to comply by amending its hours of operation.

Performance standard No. 4 regulates the location of all mineral extraction activities and prohibits extraction within 150 feet of any adjacent property residence and within fifty (50) feet of any property line, road right-of-way or public utility. **As proposed, the application would violate this performance standard. The application indicates the pond adjacent to 167th Avenue NE will be excavated. Applicant must amend the application to request a variance to this requirement or to modify the location of the mineral extraction activities.**

City Code Variance Provisions

Applicant is seeking a variance from Section 7A-822.D of the City Code, which states:

Property on which mineral extraction may be considered must have direct access to a minor arterial or collector roadway as defined and illustrated in the City of Columbus Comprehensive Plan. Transportation access or haul routes for Mineral Extraction vehicles shall similarly be limited to minor arterials or collector roadways as defined and illustrated in the City of Columbus Comprehensive Plan.

City Code Sec. 7A-822. The Applicant's Property is located on 167th Avenue NE, a gravel road, and does not have direct access to a minor collector roadway as defined and illustrated in the Comprehensive Plan.

Variance Findings:

A variance is a legally permitted deviation from the literal requirements of the City Zoning Ordinance. Variances may be granted in instances where the landowner establishes that there are practical difficulties in complying with the Zoning Ordinance and the landowner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance. The Planning Commission, acting as the Board of Adjustment, must hold a public hearing and make a recommendation on the application to the City Council. In examining practical difficulties, pursuant to City Code Section 7A-525 the Board of Adjustment and City Council

must make the following findings:

1. The landowner proposes to use the property in a reasonable manner.
2. The practical difficulty or plight of the landowner is unique to the subject property and is not created by the landowner.
3. The variance, if granted, will not alter the essential character of the neighborhood or City.
4. The terms of the variance are consistent with the Comprehensive Plan.
5. The variance, if granted, is in harmony with the purpose and intent of the Zoning Ordinance.
6. The practical difficulty is not created solely by economic considerations.

Staff has analyzed the following variance application: A variance to allow the truck hauling of large quantities of sand on gravel local city roads.

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

The City Code offers diversity regarding reasonable uses for a Property in the Rural Residential district. The proposed use of the Property is a single-family dwelling with an accessory aquaculture pond. A single-family dwelling is a permitted use in the Rural Residential District. The proposed pond is intended for recreational purposes. A recreational pond accessory to a single-family dwelling is reasonable use of the Property.

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

The plight to the landowner is due to circumstances unique to the property and not created by the Applicant. The circumstances necessitating the variance are due to the function classification of the roadway in the City of Columbus Comprehensive Plan. The Property is accessed from a rural gravel street and does not have direct access to minor arterial or collector roadway, which is required for Mineral Extraction permits. Given the Property's location and the adjacent roadways, the Property is uniquely situated so that it could not comply with the requirements mandating direct access to a minor arterial or collector roadway under any circumstances.

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

The purpose and intent of the mineral extraction standards are as follows:

It is the intent of these provisions to allow limited opportunities for Mineral Extraction in special circumstances and under specific conditions that minimize the impact on neighboring properties, minimize the impact on public streets, and minimize the loss of buildable, upland acreage in the City.

City Code Sec. 7A-822.A. The current mineral extraction performance standards were established in December 2016 in response to concerns regarding mineral extraction activities within City limits that resulted in the loss of upland and significant truck traffic in residential

areas. The intent was to limit the impact of truck traffic on residential roads and ensure that only minor arterial or collector roadways would be utilized for truck traffic. The nearest minor arterial or collector roadway is Potomac Street NE, which is classified under the 2030 comprehensive plan as a minor arterial. Potomac Street NE is located 0.25 miles to the east, which would require truck traffic to pass six separate properties adjacent to the roadway. It should be noted that under the 2040 Draft Comprehensive Plan, which has been adopted by the City Council but not yet in effect, Potomac Street NE is neither a minor arterial nor a collector roadway.

Furthermore, the application indicates that mineral extraction would occur adjacent to 167th Avenue NE, in violation of performance standard No. 4 under City Code Sec. 7A-822.G. Staff finds that given the intensity of the proposed trucking levels on residential roadways and the proximity of the proposed mining to 16th Avenue NE, the application would not be in harmony with the purpose and intent of the zoning ordinance.

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

The City's Comprehensive Plan classifies 167th Street as a local residential street, as described under finding No. 3, the nearest minor arterial or collector roadway is Potomac Street NE, which is classified under the 2030 comprehensive plan as a minor arterial. Potomac Street NE is located 0.25 miles to the east, which would require truck traffic to pass six separate properties adjacent to the roadway. Under the 2040 Draft Comprehensive Plan, which has been adopted by the City Council but not yet in effect, Potomac Street NE is neither a minor arterial nor a collector roadway. Staff finds that given the intensity of the proposed trucking levels on residential roadways, the application would not be consistent with the City's Comprehensive Plan

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

The hauling of material is proposed to take no more than 90 days, and the applicant states that they will provide a water truck to control dust. However, the traffic levels on 167th Street NE are currently very low as it is a rural residential roadway. The proposed level of trucking will be approximately 25 trucks per day for 90 days. Staff finds that given the intensity of the proposed trucking levels on residential roadways, the application would alter the essential character of the neighborhood, even if only on a temporary basis.

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

The practical difficulties necessitating the variance request are not created solely by economic considerations, but rather the classification system of the road in which the property resides.

Interim Use Permit Findings:

An Interim Use Permit (IUP) is a land use approval subject to the requirement that it is temporary in nature. The Planning Commission must hold a public hearing and make a recommendation on the IUP application to the City Council. In examining the application, the City Council must make the following findings pursuant to City Code Section 7A-530:

1. That the use is allowed in the District and conforms to the regulations of this Section;
2. That the date or event that will terminate the use can be identified with certainty;
3. That permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
4. That the user agrees to any conditions that the City Council deems appropriate for permission of the use.

An IUP shall terminate upon the termination date of the permit, upon the violation of the conditions of the permit, or a change in zoning regulations. The maximum term for a Mineral Extraction Interim Use Permit shall be twelve (12) months, including all site restoration. City Code Sec. 7A-822.

Staff has analyzed the IUP Application as follows:

1. That the use is allowed in the District and conforms to the regulations of this Section.

The proposed use of mineral extraction is allowed as an IUP in the Rural Residential District where the mineral extraction will result in the loss of upland and in excess of the minimum amount required to accommodate stormwater ponding. The IUP will eliminate upland to allow for excavation of an approximately 2.8 acre aquaculture pond for recreational purposes accessory to a single-family dwelling, which is a permitted use in the Rural Residential district.

However, a mineral extraction permit is subject to a requirement that that Property on which Mineral Extraction must have direct access to a minor arterial or collector roadway as defined and illustrated in the City of Columbus Comprehensive Plan. Further, transportation access or haul routes for mineral extraction vehicles shall similarly be limited to minor arterials or collector roadways as defined and illustrated in the City of Columbus Comprehensive Plan. As detailed above, staff recommends denial of the Applicant's request the mineral extraction access and haul route requirements. Staff finds that without approval of the variance, this finding cannot be met.

2. That the date or event that will terminate the use can be identified with certainty;

The date of the IUP termination can be identified with certainty, as the Applicant has proposed an IUP Term of 90 days, commencing upon approval of the IUP.

3. That permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.

The proposed excavation will result in the creation of an aquaculture pond on the Property which will serve recreational purposes. Staff does not foresee additional costs to the public if

the City were to take the Property in the future.

4. That the user agrees to any conditions that the City Council deems appropriate for permission of the use.

The IUP shall be subject to the performance standards under City Code Section 7A-822.G. In addition to the performance standards, should the City Council approve the application, staff has identified several conditions of approval.

Staff Recommendation(s):

Variance to Mineral Extraction Standards for Access Requirements

Staff recommends that the Planning Commission and City Council adopt the above findings and **deny** the application for an variance to the requirements of City Code Section 7A-822.D. that the IUP for mineral extraction at the Property have direct access to a minor arterial or collector roadways and that all haul routes shall similarly be limited to minor arterials or collector roadways.

Interim Use Permit for Mineral Extraction

Staff recommends that the Planning Commission and City Council adopt the above findings and **deny** the Application for an Interim Use Permit for 90 days to allow mineral extraction for the Property.

Should the Planning Commission and City Council approve the Application, staff recommends the following conditions of approval:

1. The IUP shall operate subject to all performance standards, including hours of operation, under City Code Section 7A-822.G.
2. Applicant shall implement all requirements of the City Engineer's report.
3. Any dewatering of the Property shall immediately cease upon a written order from the City in the event that the dewatering is determined to have adverse effects on properties within the vicinity of the Property.

This matter will go before the City Council at their meeting on July 24th, 2019.

PUBLIC HEARING – CHAPTER 8 SUBDIVISION ROAD SPECIFICATIONS ORDINANCE AMENDMENT

At this time a public hearing was held to consider an amendment to Chapter 8 Standard Road Specifications (Appendix A) for new roadway construction. Separate minutes for the public hearing are prepared.

CHAPTER 8 SUBDIVISION ROAD SPECIFICATIONS ORDINANCE AMENDMENT

Wolowski stated that this ordinance would be to establish the same guidelines as MNDOT. She believes that MNDOT standards should be followed when possible.

Krebs questioned Dan Mike, whom is on the Public Works Advisory Board if the Planners Memo looked appropriate. it sounded right. He believed it looked fine.

Commission members agreed with bringing up our ordinance to be in line with MNDOT guidelines.

Motion by Krebs to recommend to the City Council adoption of Ordinance 19-03, an ordinance amending Chapter 8 Subdivision Road Specifications as outlined in the agenda. Second by Bobick. Motion carried unanimously.

This matter will go before the City Council at their meeting on July 24th, 2019.

HAGERT PARK LAND DISPOSAL

In 1986 a landlocked parcel with no public access was dedicated to the City by Elmer and Lorine Hagert. This parcel was subject to a use restriction which only allowed the property to be used for “Park, park land, and open space purposes”. This parcel is located south of W. Broadway Avenue off an unimproved public right-of-way, informally named Volga Street NE. Under Minnesota law, such use restrictions cease to be valid 30 years after the date of the deed. This parcel was dedicated more than 30 years ago and as such the use restriction is no longer valid. Subject to a clean title and confirmation that the Hagert’s have not filed a notice against the property, the City may dispose of the parcel.

Hanegraaf questioned if the parcel is sold or donated back to the family. Mursko stated that may be the direction that the City Council would go. Krebs asked why it wouldn’t go back to the family. Mursko stated the City owns it currently, and she is unsure of whether it would go up for sale or be offered to the family first, based upon decisions made by the Park Board. as well as City Council. Statue states Park Board says whether they will improve or not, and after that decision is made the City may entertain offers on the property.

Motion by Krebs to the City Council that the sale of parcel 03-32-22-34-0006 as Rural Residential is consistent with Columbus’ 2040 Comprehensive Plan. Second Wolowski. Motion carried unanimously.

FUTURE MIXED-USE ZONING DISTRICT: DRAFT RECOMMENDATIONS

Haila Maze attended the meeting to further discuss the mixed-use districts and uses that will be allowed to be in each district.

In the Low Density Mixed Use District which is an area located off of Lake Drive near the Man Caves, the consensus was to remove agricultural uses, except animal feed lots, communication towers and broadcast towers, subject the requirements of 7A-816 and 7A-817, lumber yards and sales, greenhouses nurseries and retail sales of materials raised on the premises, implement and recreational vehicle sales and service, used automobile sales, adult sales and as well as remove gasoline sales and accessory convenience

retail store and food service facilities. In the LMU district the would like to see the following uses added attached residential dwellings, limited to eight or less per building, mixed -use dwelling units.

In the Medium to High-Density Mixed-Use District, the following changes would like to be added, attached residential dwellings (apartment, condominium, cooperative, or townhouse) at the prescribed densities, breweries, micro distilleries or taprooms, assisted living facilities.

City Administrator Mursko handed out a concept design from a proposed apartment building to get feedback on the building materials and design standards to be potentially used in the freeway district that will be part of the High-Density Mixed-Use District. The Commission members concluded they liked the layout of the property as well as the building appearance. They agreed that in the HMU a building height could be 6 stories or 70-75 feet. Further discussion on this topic will be held at the August 7th, 2019 Planning Commission Meeting.

PUBLIC OPEN FORUM

Nothing to report

CITY ADMINISTRATOR'S REPORT

Nothing to report

PLANNING COMMISSION MEMBERS' REPORT

Wolowski neighbors' approached her on how unsafe Kettle River is getting. She said there is a major concern of speeding, people looking down at the phone, and not looking before turning.

Hanegraaf noticed that "Columbus" was now painted on the 97 bridge as you pass south bound. He stated that it looked very nice.

ATTENDANCE - NEXT CC MEETING

Krebs is scheduled to attend the City Council meeting on July 24th, 2019.

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

Meeting adjourned at 10:02 p.m.

Respectfully Submitted:

Rochelle Busch, Recording Secretary

