



Shakopee Board of Adjustments and Appeals

Minutes

July 6, 2017

7:00 PM

Council Chambers

1. Presiding Chair Lori Brandon

Chair Brandon called the meeting to order

2. Roll Call

Commissioners present: Anita Botamer; Lori Brandon; Jody Brennan; Kent Robbins ; Mark McQuillan; Steve Mangan, Mark Seifert

Staff present: Director of Planning and Development Michael Kerski; Senior Planner Mark Noble

3. Approval of Agenda

Commissioner Kent Robbins made a motion to approve the agenda, seconded by Commissioner Steve Mangan and the motion passed.

7 - 0

4. Call for Notarized Affidavits, Proof of Neighborhood Meeting and Sign in Sheet for appropriate Public Hearings

Staff has received these items.

5. Recognition by Board of Adjustment and Appeals of Interested Citizens

No one responded.

6. Consent Business - (All items listed in this section are anticipated to be routine. After a discussion by the Chair there will be an opportunity for members of the BOAA to remove any items from the consent agenda for individual discussion. Those items removed will be considered following the Public hearing portion of the agenda. Items remaining on the Consent Agenda will not be discussed and will be approved in one motion.)

None.

7. General Business

A. PUBLIC HEARING: Conditional Use Permit for Overheight Fence

Commissioner Steve Mangan made a motion to open the Public Hearing, seconded by Commissioner Mark McQuillan and the motion passed.

Senior Planner Mark Noble presented Conditional Use Permit for an Overheight Fence in the Front Yard at 4446-50 Dean Lakes Blvd.

Chair Brandon asked for clarification from Mr. Noble about the style of fence recommended and if it had to do with a conflict with city code. Mr. Noble stated that her clarification was correct.

Mr. Seifert asked why the Trident fence was the one the applicant chose and Mr. Noble stated that security was a high concern, since this is a data center.

Mr. Mangan asked about city staff's research into other data centers and Mr. Noble explained the rationale. Mr. Mangan asked if the fence the city is recommending is more aesthetically pleasing and M. Noble answered that this was one of the reasons, but the priority was safety.

Mr. Robbins asked for clarification on where the fence would be located and if all of it would be over-height. Mr. Noble answered that fences up to 8 feet in height are allowed by code, except any portion of a fence located in a front yard setback. Those are only allowed to be 3 feet in height. The applicant is looking to keep the same height (8 ft) all around the facility.

Ms. Brennan asked where the gates would be located and Mr. Noble showed these locations on the the overhead. She asked him if he knew if there was any delay with the gate opening that could possibly create a traffic back-up and Mr. Noble stated that he was not sure of this, but that the applicant was present and could answer this. Mr. Noble stated that city staff is anticipating very low traffic flow at this site. Ms. Brennan asked about the fence being located behind the berm with an anticipated sight of the fence being 4 feet and Mr. Noble clarified this.

Mr. Clark Lorum, Representative for the applicant, addressed the Board. He wanted to address the Commissioner's questions about the berm, and why they picked the style of fence they did. He has discussed this with the applicant and the applicant is fine with all of the city's conditions. With regard to the berm and what is visible, Mr. Noble is correct in his statement that the berm is 4-5 feet high on a 3 to 1 slope. The building is at the bottom of that 4 foot berm, so that will be quite a jump if someone was considering trying to get over it and they are not too concerned about that. For the queuing and stacking that Ms. Brennan asked about on Coneflower, when this project was initially proposed, the access was restricted to passenger vehicles only. Semi-trucks have since been using it unfortunately, so the gate is going to be set up for what it was meant to be; for passenger vehicles only. There is room for 2 cars. He has been told the gate cycles every 13 seconds up and down, so relatively quickly. As Mr. Noble said, there are not a lot of employees on site, maybe between 8 and 15 at the most, but on average, between 3 and 7. The facility is

staffed 24 hours a day with security and there is talk about bringing in more security. There is always someone monitoring the gates with video, either remotely or at the facility. Shakopee Public Utilities has their own concerns about this, however, and there will be ways to enter and exit. There will be an emergency exit manned gate with a panic bar. The applicant has tried to accommodate everything that they could think of for this project.

Mr. Robbins asked Mr. Lorum if he was familiar with the Shakopee Women's Prison and if he had seen it. Mr. Lorum stated that he had. Mr. Robbins asked if the applicant had considered putting up something to break up the line of the fence; there are some stone segments in the fence at the prison. Mr. Lorum stated that this was not discussed with the applicant since there is a cost factor to consider when installing 1800 feet of linear fence and it would be difficult to add these kinds of additional features from a cost perspective. Mr. Robbins asked if there had been any incidents in the past on this property and why after all these years they would like to add a fence. Mr. Lorum answered that there were 2 reasons for the fence now. One reason is perception; this is about attracting quality tenants to lease the data center space. The other issue is that it is a relatively large site (11 acres) and there have been incidents in the past of trespassers from other businesses on the north side of the property. This will alleviate all of these concerns. Mr. Robbins asked what goes on inside this data center and Mr. Lorum answered that it is basically racks and racks of computers, with people that monitor them. This could include cloud storage, music libraries, etc.

Ms. Brandon stated that she knew that this project was planned in more than one phase, so she asked if this fence was anticipated as one of the phases. Mr. Lorum stated that in the first phase, this is essentially what was intended. Back at that time, the materials they would have used would be what would be considered a low budget option to see what the response would be. i.e., black vinyl-coated chain link fence. Now the applicant is willing to spend more and this is a high quality fence.

Commissioner Jody Brennan made a motion to close the Public Hearing, seconded by Commissioner Anita Botamer and the motion passed.

7 - 0

Commissioner Steve Mangan made a motion to approve Caselog No. 17-033 - Conditional Use Permit for an Overheight Fence in the Front Yard at 4446-50 Dean Lakes Blvd, seconded by Commissioner Mark Seifert and the motion passed.

7 - 0

Anita Botamer - aye

Jody Brennan - aye

Mark Seifert - aye

Steve Mangan - aye

Mark McQuillan - aye

Kent Robbins - aye

Lori Brandon - aye

B. PUBLIC HEARING: Conditional Use Permit for School for Southwest Metro Intermediate District #288

Commissioner Anita Botamer made a motion to open the Public Hearing, seconded by Commissioner Kent Robbins and the motion passed.

7 - 0

Mr. Kerski presented Conditional Use Permit for School for Southwest Metro Intermediate District #288.

Mr. Tom Wieczorek, Director of Finance for the Southwest Metro Intermediate District, addressed the Board. This intermediate district has only been in existence since July of last year, however have been operating as a school district since 1976. They are a combination of 2 other entities; MN River Valley was the original tenant in Shakopee Town Square, and then they merged with the Carver/Scott Educational Cooperative. They have been leasing at Shakopee Town Square since 2000. Their main programs are for Level 4, very needy kids. They also operate a day treatment center in conjunction with Scott County. They have had a good relationship with Shakopee Town Square and MN School of Business.

Mr. Robbins asked for clarification on what kind of students they serve. Mr. Wieczorek stated that this space would serve what they call "transition students". The age goes up to 21. The last time they tried to upgrade their permit, it triggered SAC and WAC fees. These fees ended up to be close to \$40,000 for adding 2500 square feet. When they added this square footage, one of the conditions of the lease was that the owner of the property was going to take care of any SAC/WAC upgrades, since they have different needs from the original tenant. Some of the students will be aged 18 - 21; after age 21 they essentially leave the education system that they provide services for and go out to other county services. Their 45 students will be there a portion of the time and then be out in the work force or learning a trade. Mr. Robbins clarified that these students would not be getting their GED or college. Mr. Wieczorek clarified that these are special education students that would be coming from their 11 member district. Their 11 member district covers from Buffalo to LeCenter, and this includes Shakopee. Mr. Robbins asked if once these students leave, they would be going to technical jobs, etc. Mr. Wieczorek answered that this was essentially correct; they would be going to a job that they could do. They are going to be adding a kitchenette to teach from.

Commissioner Steve Mangan made a motion to close the Public Hearing, seconded by Commissioner Mark McQuillan and the motion passed.

7 - 0

Commissioner Anita Botamer made a motion to approve Resolution No. PC 17-030, a resolution approving a conditional use permit for a school licensed by the State of

Minnesota Department of Education at 1112 Shakopee Town Square, seconded by Commissioner Jody Brennan and the motion passed.

7 - 0

Anita Botamer - aye

Jody Brennan - aye

Mark Seifert - aye

Steve Mangan - aye

Mark McQuillan - aye

Kent Robbins - aye

Lori Brandon - aye

C. PUBLIC HEARING: Conditional Use Permit: Ladybug Childcare

Commissioner Mark McQuillan made a motion to open the Public Hearing, seconded by Commissioner Steve Mangan and the motion passed.

7 - 0

Mr. Kerski presented Conditional Use Permit: Ladybug Childcare.

Ms. Brennan asked if there was a dedicated crosswalk between the school and day care center and Mr. Kerski stated that he did not believe so, but it could be added as a condition. Mr. Robbins asked for clarification about the distance from the day care site to the school. Mr. Kerski clarified this for him on the overhead screen. Mr. Noble clarified the locations of the sidewalks on the overhead as well. Ms. Botamer asked about the zoning for the annexed property and Mr. Kerski stated that it is zoned commercial. Mr. McQuillan asked about the amount of cars shown parked on one of the aerial slides and Mr. Kerski answered that he could not determine when the aerial photos were taken.

Mr. Michael Monn, architect representing Ladybug Child Care, addressed the Board. He clarified the sidewalk and trail rationale. He stated that it is very rare for a parent to walk their child to their facility, especially in their experience at their Waconia location. Mr. Robbins asked staff to show on the overhead the connections and staff did so. Mr. Monn reiterated his recommendation for the trail/sidewalk connection. Ms. Brennan asked if staff would be utilizing these paths to either pick up children or to access the facility in any other way and Mr. Monn deferred to the owner of the facility to address this questions.

Mr. Steven Cross, owner Ladybug Child Care, addressed the Board. He answered that Ladybug would send a staff person over to the school to gather all of the children and escort them across the intersection to their facility. Mr. Kerski clarified the pedestrian and traffic concerns and Mr. Cross stated that his company would be amenable to any recommendations/conditions.

Mr. David McMahon, 1000 Danube Avenue, addressed the Board. He shared his concerns about traffic flow and parking with the Board. He also asked what kind of fence would be

erected along 17th Avenue. Mr. Kerski answered that they will work with city staff to make sure the fence meets all city standards and matches the quality of the project. Mr. Kerski also stated that they will work with the school staff to address parking.

Commissioner Steve Mangan made a motion to close the Public Hearing, seconded by Commissioner Anita Botamer and the motion passed.

7 - 0

Commissioner Kent Robbins made a motion to approve Approve Resolution No. PC17-032, a Resolution approving a Conditional Use Permit for a Daycare Center for Ladybug Childcare at 1610 Lusitano Street with added Condition as well as Condition #3 amended to work with the applicant to extend fencing per staff, seconded by Commissioner Steve Mangan and the motion passed.

7 - 0

DISCUSSION:

Ms. Brennan noted that she would like to have a condition added that there be a marked crosswalk from the school to the day care facility.

Anita Botamer - aye

Jody Brennan - aye

Mark Seifert - aye

Steve Mangan - aye

Mark McQuillan - aye

Kent Robbins - aye

Lori Brandon - aye

8. Other Business

None.

9. Adjourn to Thursday, August 3, 2017 at 7:00 p.m.

Commissioner Anita Botamer made a motion to adjourn at 8:02 pm, seconded by Commissioner Steve Mangan and the motion passed.

7 - 0