

ITEM 4
6:54 p.m.

CASE:	8931A-15
APPLICANT:	Dean Nephew (owner and user)
LOCATION:	8330 Pillsbury Avenue
REQUEST:	Interim use permit for open storage as a primary use for boats, trailers and cars

SPEAKING FOR THE APPLICANT:

Dean Nephew, applicant

SPEAKING FROM THE PUBLIC:

John Snow, Great American Marine

PUBLIC HEARING DISCUSSION:

Johnson showed an aerial photo of the site. The surrounding uses are a mix of residential and industrial. This Interim Use Permit would be the third application for an interim use permit on the site. Open storage is a primary use because the property is leased out to an off-site user. The main consideration is that the storage area is not code compliant, specifically in respect to surfacing, curb and gutter, stormwater management and landscaping issues. The initial Interim Use Permit was granted in 2007 as a result of an Environmental Health enforcement issue. In 2010, the applicant was informed that the Interim Use Permit is temporary and would be the last time the City would issue an Interim Use Permit. Staff is recommending the applicant apply for a permanent Conditional Use Permit and bring the site up to City Code standards. Staff found that the application failed to meet Finding 3 and 5. In regards to Finding 3, the storage area would not meet the code requirements on an ongoing basis. In regards to Finding 5, there is no termination date or event identified by the applicant. Therefore, staff is recommending denial of the Interim Use Permit. Staff received one piece of public correspondence from a resident in the nearby townhomes.

Batterson asked if the applicant was informed of the required changes to the site in 2010.

Johnson said that the applicant was informed that the Interim Use Permit is not permanent and the improvements had to be made.

Nephew stated the cost of making improvements (greenspace, stormwater management) is estimated to be about \$250,000. It would likely increase property taxes. He asked staff if the landscaping is required.

Markegard said there is a 5 foot yard area required by City Code between the storage yard and the rear lot line. The landscaping materials required (trees and shrubs) could be placed anywhere within the lot.

Nephew said that the bank would not approve a loan. He cannot afford to make the updated changes. They are a small business trying to survive.

Snow said he has rented the lot since 1973. In 1986, he applied for a Conditional Use Permit to operate a retail business in an industrial zone. He came to an agreement with Ron Johnson that allowed him to use the area for open storage of vehicles and boats. At that time, a Conditional Use Permit was not required and there was no distinction between an Interim and Conditional Use Permit. The site is tucked away; therefore, the improvements would be of no benefit to the use of the lot, aside from aesthetic

improvements. The site stores up to 24 boats during the busy winter season. He would also lose his egress that was approved by the City 30 years ago. The denial of this Interim Use Permit would delay his retirement.

The public hearing was closed via a motion.

Nordstrom stated that if the storage lot was part of the lot with the principal building, then it would be an accessory use. Therefore, this Interim Use Permit would not be an issue.

Markegard said the difference is a matter of City nonconformity standards. Given that the use has been operating under temporary approvals, it must come into conformity upon expiration of those approvals or receive a variance. If the storage had been on the same lot as the use it is directly related to and not subject to temporary approvals, it would be "grandfathered".

Nordstrom said there has to be effort to improve the current required condition of the property. If the lot were sold to Mr. Snow, it would be part of their business.

Markegard said that if there was a proposal to change ownership through reparcelization, staff would need to further investigate the history of the parcel and how the use was established.

Nordstrom said if the Planning Commission recommends denial of the application, would there be opportunities for them to explore other options.

Markegard said that if the applicant wishes to proceed with reparcelization, they would have to consider a change in the application.

Spiess said she understands the applicant's concern but the City informed the applicant about the required changes.

Batterson understands the concerns of the business owner. Changing the code may lead to an end of a 30 year business. He urged staff to look at this item further. It is a prime example of small businesses that bump into improving the greater good.

Goodrum said he is disappointed that the applicant couldn't provide any date of termination for the proposed use. He did not hear the applicant address those issues or other possible options.

Fischer said there were efforts to address and inform the applicant of those concerns. He hates to enforce an ordinance on a storage lot and dislikes the possibility of taking them out of business.

Nordstrom suggested adding a recommendation to the motion and urged staff to discuss options with the applicant.

Nordstrom stated this moves to Council on October 19, 2015.

ACTIONS OF THE COMMISSION:

M/Spiess, S/Willette: To close the public hearing. Motion carried 7-0.

M/Goodrum, S/Spiess: In Case 08931A-15, having been unable to make required findings 3 and 5, I move to recommend denial of a five-year Interim Use Permit to allow open storage as a primary use at 8330 Pillsbury Avenue South for failure to make the required findings. Motion carried 5-2. Fischer and Batterson opposing.