

City Council Minutes - June 2, 1997

including extensions, of each billboard face, in a format approved by the Planning Manager, be submitted to the Planning Division within 15 days of the change of face.

4300 West 78th Street

1. The approved advertising copy area for each face shall consist of only the basic 14'x48' panel with no extensions to the top, sides or bottom of either panel.
2. All advertising copy shall be within the approved copy area.
3. The height of the billboard shall not be increased above the surveyed height of 38.7 feet.
4. A summary sheet containing a description of the billboard advertiser and display dimensions, including extensions, of each billboard face, in a format approved by the Planning Manager, be submitted to the Planning Division within 15 days of the change of face.

5000 West 78th Street

1. The approved advertising copy area for each face shall consist of only the basic 14'x48' panel with no extensions to the top, sides or bottom of either panel.
2. All advertising copy shall be within the approved copy area.
3. The height of the billboard shall not be increased above the surveyed height of 37 feet.
4. A summary sheet containing a description of the billboard advertiser and display dimensions, including extensions, of each billboard face, in a format approved by the Planning Manager, be submitted to the Planning Division within 15 days of the change of face.

Interim Use Permit -
MSFC
Case 6917G-97
Item 5.5

The Council was requested to consider an interim use permit for short-term parking on the former Met Center site. Planning Manager Clark Arneson noted the second word in the first associated condition of approval should be interim, not condition. In response to concerns of trash at, and the general condition of, the site Mr. Arneson suggested the Council either contact the Metropolitan Sports Facilities Commission and Mall of America with their concerns, or add an additional condition of approval requiring a performance bond.

Following discussion, motion was made by Winstead, seconded by Lenczewski, and all voting aye, to approve a two year interim use permit for the short-term parking of 5,900 vehicles (passenger automobiles and recreational vehicles) at the former Met Center site in support of uses in the adjacent CX-2 Zoning District, subject to the following conditions set forth by the Staff, with a fourth condition requiring a performance bond as suggested by the Planning Manager:

1. The interim use permit be void if development occurs on the site or if the ownership of the property changes.
2. Any alterations to the previously approved access, circulation, and parking areas be approved by the City Traffic Engineer.
3. Signage for the public parking not exceed 100 square feet in total area with sign locations as approved by the City Engineer.
4. A performance bond, as approved by the City Manager, sufficient to assure proper site maintenance be supplied.

Recess Declared

A short recess was declared following which the Mayor reconvened the meeting at 8:48 p.m.

Ordinance Revision
Request - Motor Vehicle
& Boat Sales
Item 7.3

Following discussion, motion was made by Heintzeman, seconded by Henry, and all voting aye, to postpone to the July 16 Council meeting discussion as to whether the Council wishes to reconsider ordinance changes made in December 1996, to permit motor vehicle and boat sales as interim uses on the Met Center and Adjoining Land properties.

Conditional Use Permit -
Anoka Metro Regional
Treatment Center
Case 10321A-97
Item 4.7

The Council was requested to consider a conditional use permit to establish a State licensed residential facility for seven or more people in an existing apartment building at 8941 Portland Avenue. Mayor Houle informed all present that this public hearing will be conducted in the same manner as all Council public hearings, and everyone will be allowed an opportunity to speak. Planning Manager Clark Arneson made the Staff presentation on this application, and began by noting a Staff recommended change in condition of approval #10, a recent article in the Star Tribune, and a letter of opposition from the residents of 8724 First Avenue.

Mr. Arneson presented information on the application, clarifying the residential facility would be State licensed, it would contain 9 apartments and 16 residents who are recovering from mental illness, no major site renovation would be involved, on-site staffing and parking will be provided, and clarified this proposal is consistent with City zoning and the Comprehensive Land Use Plan. Mr. Arneson then reviewed issues which have been raised in previous discussions of the facility which include, neighborhood safety, removal of the facility from property tax rolls, potential decline of property values in the area, State vs. local authority to impose a facility, and the impact of the facility on nearby day care operations.

Mr. Arneson also presented information on police calls to 8941 Portland, the security system which will be in place, and the distribution of community-based and independent-living facilities in Bloomington. Mr. Arneson also referenced the City's portion of the property tax bill on 8941 Portland, a report prepared by the City's Assessor on the impact of such a facility on market values, and a list of City tax-exempt properties. Mr. Arneson presented the Planning Commission and Planning Staff recommendation of approval with 11 conditions and 4 Code requirements, with a revised condition of approval #10.

Steve Young of Young & Wilz Architects, architect for the project, commented briefly on the upgrades which will be done within the building, clarifying the building will be maintained as apartments as this is a residential, not outpatient, facility.

A.J. DeAntoni, 1209 East 86th Street, raised three points of order: 1) a definition of what type of facility this is; 2) only registered Bloomington voters be allowed to speak; and, 3) this item be tabled until the Anoka-Metro Regional Treatment Center (AMRTC) complies with public data requests he filed this afternoon. At the request of the Council, City Attorney Dave Ornstein clarified the proposal is for a supervised living facility and is treated this way for licensing purposes by the State; advised the Council to conduct an open public hearing allowing anyone who wishes to speak to this application an opportunity; and, that the date privacy issue is a private matter and not germane to Council discussion.

Dr. Judith Krohn, Chief Executive Officer of the AMRTC, reviewed the purpose for the Portland Avenue residential facility as a transitional site to help the residents readjust to the community. Dr. Krohn emphasized the intention to carefully screen residents and not send individuals with substantial chemical abuse problems or anyone assessed a danger to the community or other people. Dr. Krohn also commented on the AMRTC's intent to follow the City's conditional use permit process. Dr. Krohn introduced Program Director Paula DeSanto. Ms. DeSanto explained the programs and patients at the site, noting she will spend most of her time on-site.

At the request of City Manager Mark Bernhardson, Mr. Ornstein explained State legislation adopted to address the placement of residential facilities within neighborhoods, noting the legislation offers local governments limited authority to regulate facilities through zoning. Mr. Ornstein explained facilities serving six or fewer individuals are permitted uses, are not subject to Council review, and no permit or license is needed. For facilities serving 7 to 16 individuals, the State Legislature defines them as permitted uses which are not necessarily subject to municipal review; if a municipality requires a conditional use permit it may be only with respect to maintenance and operation of the facility.

Mr. Ornstein clarified that before the Council is a conditional use permit within the R-4 zoning district which legally requires an application to the City for a use permit, subject to review at the Planning Commission and City Council. Mr. Ornstein then explained past decisions of the Minnesota Courts which limit a council's discretion to deny this type of permit and reviewed the types of evidence the Courts have generally required for denial of such a permit, including public health, safety and welfare issues, inconsistency with the comprehensive plan, and expert testimony or evidence.

Speaking from the public:

- Pat Bugenstein, 10757 Hopkins Circle
- Diane Bump, 10806 Russell Avenue
- Dr. Robert Bugenstein, 10757 Hopkins Circle

- Charles Kranz, 9124 Bloomington Avenue
- Clyde Undine, 9417 Fifth Avenue
- Mary Ann Kranz, 9124 Bloomington Avenue

Dr. Bugenstein presented a copy of a petition in support of the proposed facility. Mr. Kranz submitted letters of opposition to the proposed facility. At the request of the Council Ms. DeSanto responded to questions and concerns raised by those speaking from the public by explaining the similarity of the proposed program to existing programs, that the property has not been purchased, no one is in residence at the facility, and no programs or remodeling have been undertaken. Ms. DeSanto also defined Rule 36 and supervised living facilities, and clarified the average time frame for an individual to be at the Portland Avenue facility is 3 to 6 months. In response to questions, Wayne Waslaski, Minnesota Department of Administration, Real Estate Division, clarified one resident is still living at the apartment building for security and upkeep reasons, and reviewed the search process undertaken to locate a facility for the AMRTC program.

Also speaking from the public:

- Laura Arradondo, 8617 Crest Road
- Charlotte Burns, Minnesota Bio Brain Association
- Ardell Allrich, 8940 Oakland Avenue
- Roberta Opheim, Ombudsman, Mental Health/Mental Retardation, State of Minnesota

Ms. Allrich submitted a letter of opposition and a copy of the Department of Human Services regulations for licensing of day care facilities. In response to Council questions, Paul Landskroener, Assistant Attorney General, tonight representing the Department of Human Services, commented on the use of a conditional use process for approval of facilities in other communities.

Also speaking from the public:

- W. Kay Lillemo, 8121 Oakland Avenue
- Debbie Renslow, address unknown
- Marlin Bates, 8800 Chicago Avenue
- Gloria Barber, 9243 15th Avenue South
- Kathy Dolemeier, Ombudsman, State Office of Mental Health
- A.J. DeAntoni, 1209 East 86th Street

During Council discussion of this application, Dr. Krohn explained the discharge process from AMRTC as well as this facility, defined serious and persistent mental illness, explained the difference between chemical dependency and medication and, for the record, indicated the AMRTC would abide by the conditions established. Dr. Krohn also responded to questions of the minimum number of staff on site at any time, and clarified the discharge process from the AMRTC hospital to the Bloomington facility, and then to a Rule 36 facility.

Mr. Ornstein responded to Council questions of the ability of other communities to regulate such facilities, and clarified City Staff could be directed to commission an independent appraisal of neighborhood properties to establish the impact on property values of such a facility. In response to concerns of AMRTC following the associated conditions of approval, Mr. Ornstein clarified the development agreement is binding and, in his opinion, the conditions do follow State Statute.

Concern was expressed by members of the Council on the potential impact of this facility upon the day care operation at 8940 Oakland Avenue, and more screening between the properties was requested. Mr. Ornstein suggested any evidence of adverse impact on the adjacent day care operation be brought forward for possible reconsideration of the permit. Mr. Ornstein also responded to Council questions of income discrimination in the location of this facility based on lower property values in this part of the City.

Following discussion, motion was made by Winstead, seconded by Heintzeman, and all voting aye, to close the public hearing.

In response to questions, Mr. Ornstein clarified this application cannot be judged retroactive to any ordinance changes. Councilmembers Henry, Wilcox and Ramthun spoke in opposition to the application. Councilmember Lenczewski spoke in opposition to the process. In response to concerns of adverse impact of the facility upon the day care operation at 8940 Oakland, Mr. Ornstein recommend the development agreement would best address the concerns, noting the development agreement will be brought for Council approval.

Following discussion, motion was made by Winstead, seconded by Heintzeman, to approve a State licensed residential facility serving seven or more persons at 8941 Portland Avenue, subject to the following conditions set forth by the Planning Commission and Planning Staff, with condition of approval #10 revised per the Staff, and clarifying the intent to address concerns of the day care operation at 8940 Oakland within the development agreement:

1. A development agreement including all conditions of approval be executed by the applicant and the City.
2. Use of the facility be limited to services and living accommodations for residents of the building unless additional uses allowed in the zoning district are approved by the City Council.
3. Evidence of all necessary State and local licenses be provided to the Director of Community Development.
4. Total number of residents be limited to 16.
5. Access, circulation and parking plans be approved by the City Traffic Engineer.
6. Trash enclosure be provided in a designated area as approved by the Fire Marshal and Planning Manager by December 1, 1997.
7. All pickup and drop-off occur on site and off of public streets.
8. All loading and unloading occur on site and off of public streets.
9. Building security system including entry control and intercom system, exterior and interior camera monitoring, and central office visual access to entrance area be approved by the Community Resource Unit, Bloomington Police Department and maintained during the use of the residence.
10. Resident population shall be limited to individuals with mental health disabilities which may include schizophrenia, bi-polar (manic depression) and major depression who are completing their program treatment and who have been clinically screened as low-risk for being a danger to others and to the community and have demonstrated personal responsibility necessary to receive full grounds privileges from AMRTC and are in need of a transitional setting prior to moving to an independent living or group home situation.
11. Residence be staffed on a 24 hour, seven day a week basis with a minimum staffing component identified in an operations plan to be reviewed and placed on file by the Director of Community Development.

And subject to the following Code requirements:

1. Landscape plan be approved by the Planning Manager.
2. Building be provided with an automatic fire sprinkler system as approved by the Fire Marshal.
3. Fire lanes, as necessary, be posted as approved by the Fire Marshal.
4. Parking lot and site security lighting shall satisfy the requirements of Section 19.54 of the City Code.

The motion carried 4 - 3 with Councilmembers Ramthun, Wilcox and Henry voting in opposition.

~~Gauging the City
Item 7.4~~

~~It was the general agreement of the Council and City Manager to postpone to the June 16 Council meeting discussion of Local Performance Aid and performance measures.~~

~~Approval of Minutes~~

~~Motion was made by Heintzeman, seconded by Lenczewski, and all voting aye, to approve the minutes of the May 5, 1997 Council meeting as presented.~~

~~Metro Radio Board
Item 3.1~~

~~Mayor Houle agreed to serve as an alternate representative to the Metro Radio Board.~~

~~Adjourn Meeting~~

~~The meeting was adjourned by Mayor Houle at 12:45 a.m.~~


Laure Lesperance
Council Secretary
7-7-97