



# Planning Commission

November 15, 2023

7:00 PM

Fridley City Hall, 7071 University Avenue NE

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## Minutes

### **Call to Order**

Chair Hansen called the Planning Commission Meeting to order at 7:00 p.m.

### **Present**

Pete Borman  
John Buyse II  
Mark Hansen  
Mike Heuchert  
Aaron Klemz  
Terry McClellan  
Ross Meisner

### **Others Present**

Stacy Stromberg, Planning Manager  
Nancy Abts, Associate Planner

### **Approval of Meeting Minutes**

1. Approve October 18, 2023, Planning Commission Minutes

*Motion by Commissioner Meisner to approve the minutes. Seconded by Commissioner Buyse.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously.*

### **Public Hearing**

2. Public Hearing to Consider Interim Use Permit, IUP #23-01, to Allow an Electric Security Fence Use at 3737 East River Road

*Motion by Commissioner Borman to open the public hearing. Seconded by Commissioner Meisner.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously and the public hearing was opened at 7:01 p.m.*

Nancy Abts, Associate Planner, presented a request from Amarak on behalf of Copart seeking approval for a ten-foot-tall low voltage electric security perimeter fence for the existing automotive

auction and outdoor storage use at 3737 East River Road. She reviewed the previous Special Use Permits that were issued for this use. She provided a site description and reviewed the history of the site. She reviewed the criteria and analysis for an Interim Use Permit (IUP) and provided additional details on landscaping. She then reviewed the proposed stipulations of approval. She asked that the Commission hold the public hearing and stated that staff recommends approval with the stipulations.

Commissioner Buyse asked how the City would know that the use has discontinued. Ms. Abts commented that staff is active in code enforcement and would discover that if the applicant did not expressly tell the City.

Commissioner Klemz asked if the fence has already been installed. Ms. Stromberg replied that the fence is installed and the request from the applicant is to make the installation legal. She confirmed that the fence was installed in 1994. She also confirmed that the landscaping plan is from 1987 and the stipulation would require compliance with that plan to some degree. Commissioner Klemz stated that it seems odd that the first IUP being considered is to ratify a site that is over 30 years old and has not been in compliance with paying park dedication fees or its landscaping plan for several decades. He stated that if approved there is a stipulation that the park dedication would be paid within 30 days and asked if that could be required before the City Council consider the application. Stacy Stromberg, Planning Manager, confirmed that change to the stipulation could be made. Ms. Abts commented that for this site the park dedication would have been collected with a building permit but there has not been a building permit, therefore staff believed it would be appropriate for that fee to be paid at this time.

Commissioner Heuchert asked and received confirmation that it was both the height and electrification that require the IUP. He asked for more details on how an electrified fence is a use, as the use of the parcel is already approved. Mr. Stromberg stated that the auto auction use is permitted through the Special Use Permit and this change would make the electric fence, that has existed for 30 years, legal through the use of an IUP. She stated that the fence would be removed if the use leaves the site. She stated that the applicant was going to apply for a text amendment to allow electric fences in all industrial districts, but staff felt that an IUP would be a better tool to allow this use.

Commissioner Klemz asked if approving this IUP would set precedent for future requests. He stated that while he could see that an electric fence would make sense in this location, there are other similar uses adjacent to residential that would not be a good fit for an electric fence. Ms. Abts replied that approving this IUP would not set precedent for future requests as it is unique to the property and temporary. She stated that anyone can make a request, but the request must be considered on its own merits.

Commissioner Borman stated that the staff report made it seem that the fence was not already in place, but received confirmation that the electric fence has been installed and in use for 30 years.

Ms. Stromberg stated that the Fire Department visited the property about four months ago and alerted staff to the fence which led to this path forward.

Commissioner McClellan asked and received confirmed that the Fire Department would have the appropriate key, or knowledge from the property owner, to disarm the fence if needed.

Commissioner Buyse asked if the City had previous knowledge of the fence. Ms. Stromberg stated that staff was not aware of the fence. She stated that the electric fence is inside the existing corrugated fence. She commented that the owner/operator has not been the same since 1994.

Commissioner Klemz asked and received confirmation that the owner of the site asked staff for approval to install an electric fence in 1994, was told to apply for a text amendment, did not do so and then installed the fence anyway.

Commissioner McClellan asked and received confirmation that the payment in lieu of trees planted would be placed into a forestry fund rather than the general fund.

Commissioner Meisner asked the length of the current ownership. He asked the schedule for business inspections, as he would anticipate that an unapproved property enhancement would have been caught during that process. Ms. Stromberg replied that a building permit has not been pulled since the 1990s, therefore she was unsure how often the Fire Department would have inspected the business. She noted that typically permitting is the trigger for business inspections.

Chris Heaton, Amarok, commented that the original owner of the company started as a guard dog company which then morphed into an electric fence type of protection. He stated that the use has always been an auto auction use and his company protects their sites all over the country. He stated that they reviewed previous City Council minutes from the 1990s and the only instance he could find was related to a discussion of a potential text amendment for an electric fence and while there seemed to be positive input from the Council, there did not seem to be any follow up therefore he was unsure where the miscommunication arose. He stated that they found out about this from the Fire Department, and they then worked with City staff to find a solution when they discovered the fence was not permitted. He stated that people are not aware of the fence because it is fairly transparent from the outside and is only armed when it needs to be armed. He further explained how the fence works and stated that his company owns the fence and if the use changes, they would remove the fence themselves. He asked that the Commission recommend approval of the fence as it would allow continued protection of the property. He confirmed that the signage has been in place and was updated to match his company's current standards.

Commissioner Buyse asked why Amarok is here rather than Copart. Mr. Eaton replied that his company owns the fence and leases it to the business owner. Commissioner Buyse commented that it seems strange that Copart is not here to address the other elements such as landscaping. Ms.

Stromberg stated that it is typical that another party can apply for a land use application for the property owner, provided the property owners signs off on the application, noting a similar situation in the next case. She clarified that Amarok is the petitioner. Commissioner Buyse asked why money would be accepted in lieu of the landscaping they would want to see. Ms. Abts replied that the recommendation is born out of practicality as there are not many opportunities to plant onsite given the 40 plus years of auto auction that has occurred onsite.

Commissioner Meisner asked if there has ever been enforcement on the lack of landscaping. Ms. Abts replied that the records do not show such actions.

Commissioner McClellan asked and received confirmation from Mr. Eaton that Amarok owns the fence and has owned the fence since its installation since 1994.

Commissioner Borman asked if Amarok would be paying the fee in lieu of landscaping. Mr. Eaton replied that Amarok is responsible for the fence, but the landscaping is the responsibility of Copart. He commented that Amarok did not know that this fence was not permitted when it was installed. He commented that while this seems unusual, this is not an unusual occurrence to find that something was not properly permitted. Commissioner Borman expressed frustration with this case being presented as something that has not yet happened only to find out this fence has existed for decades. He also expressed frustration with Copart not being present to provide input on the stipulations that would be directed towards the business related to park dedication and landscaping.

Commissioner Buyse commented that it would have been reasonable to give Copart time to plant trees, if they had not already had 30 years to do so and is not present tonight, therefore he supports the payment in lieu. Mr. Eaton noted that Copart may be in the same position of Amarok in that ownership has changed hands over the last 30 years and the current managers and principles had no idea of these outstanding issues, therefore all they can do it try to make it right at this time.

Commissioner Meisner asked what would occur if the applicant were to try to plant the trees and the trees were to die. Ms. Stromberg replied that the City is going to review its landscaping policy in the coming months to ensure they make sense. She stated that in this instance there is not a lot of space to plant trees, but if trees are planted and they die, the tree would need to be replaced. She commented on the staff turnover since the 1980s, noting that the landscaping plan was in the file, but she cannot say with certainty that it was an approved landscape plan. She commented that most of the landscaping was in the right-of-way and therefore permission would have been needed from Anoka County. She stated that nonconformities on the site have been identified and the current owners are trying to resolve them.

Commissioner Meisner asked if there are other electric fences in the city. Ms. Stromberg replied not that she is aware of.

*Motion by Commissioner Meisner to close the public hearing. Seconded by Commissioner Heuchert.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously and the public hearing was closed at 8:02 p.m.*

Commissioner McClellan commented that he feels pressure to fix something that has been unresolved for decades and would have preferred for someone from Copart to be present.

Commissioner Buyse commented that while it does seem fishy, it could also be a mistake that occurred years ago. He stated that if the application were brought forward today, he would support the fence but would want it to be visually hidden. He also recognized that may not be something that is fixable.

Commissioner Meisner commented that this is located in an industrial area and therefore is not impacting residential properties.

Commissioner Klemz commented that he believes this is the best solution as he would not support a text amendment allowing electric fences district wide. He stated that he would like to see park dedication paid prior to this moving to the City Council. He stated that while there are concerns that this has been unpermitted for 30 plus years, this does appear to be the best solution.

Chair Hanson commented that he lives in this area and therefore drives by frequently and was not aware this fence existed. He recognized that there was probably miscommunication between all parties related to the original permit and also believed that this is the best method to resolve the situation, agreeing that the park dedication should be paid before moving to the City Council.

*Motion by Commissioner Klemz recommending approval of the Interim Use Permit until the present automotive auction use is discontinued, subject to stipulations and amending the park dedication stipulation to state that park dedication be paid prior to the City Council meeting. Seconded by Commissioner Buyse.*

*Further discussion: Commissioner Meisner asked if additional language should be stated that in lieu of the landscaping requirements, the payment could be made.*

*Commissioner Buyse commented that the applicant would have one year to do so or make the payment.*

*Commissioner Klemz commented that if the trees would be feasible, he would be fine with the trees being planted. He believed the requirement was reasonable as stipulated and wanted to allow the applicant to make the decision.*

*Upon a voice vote, six voting aye, one voting nay (Borman), Chair Hansen declared the motion carried.*

3. Public Hearing to Consider Special Use Permit, SP #23-03 to Allow an Assisted Living Use at 6425 Highway 65 N.E.

*Motion by Commissioner Buyse to open the public hearing. Seconded by Commissioner Meisner.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously and the public hearing was opened at 8:16 p.m.*

Stacy Stromberg, Planning Manager, presented a request for a Special Use Permit to convert the property at 6425 Highway 65 to a Supervised Living Facility (assisted living facility). She noted that this use is permitted through the Minnesota Department of Health. She reviewed the site description and history of the previous activity of the site noting the last use as a chiropractic clinic. She reviewed the applicable Code requirements and analysis of the request. She asked that the Planning Commission hold the public hearing and stated that staff recommends approval of the request subject to the reviewed stipulations.

Commissioner McClellan asked if there are any other similar facilities in Fridley. Ms. Stromberg replied that all other assisted living facilities in the City would be similar. She confirmed that this would be a short-term facility with stays of 30 to 90 days. Commissioner McClellan asked if there were any concerns from Public Safety. Ms. Stromberg replied that Public Safety did not have any concerns.

Commissioner Klemz asked if the applicant owns any other facilities in Fridley.

Drew Horwitz, Horwitz Health, stated that this would be their first project in Fridley and fourth project in the metro. He commented that they like the building and location and believe this would also be an improvement for the site. He recognized that there are not many short-term facilities in this area. He stated that this facility would serve people 55 plus that experience cognitive delays and disorders, whether that is due to injury or age. He confirmed that this would be a transitional care facility and after their stay they could return home or to wherever would best care for them. He commented that all of their guests are staying their voluntarily and do not require a locked facility.

Stephanie Goode, Howitz Health, provided details on the security that would be implemented and the screening that is completed to ensure the resident would be appropriate for this facility. Mr. Horwitz stated that they also have case managers that help to develop a long-term plan for the residents, should that be needed.

*Motion by Commissioner Meisner to close the public hearing. Seconded by Commissioner Buyse.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously and the public hearing was closed at 8:30 p.m.*

Commissioner Borman noted that there were residents that attended the public hearing for a previous use request for this property that requested the wooded area remain but be cleaned up.

Commissioner Buyse believed that this use would better fit the space compared to the previously requested daycare use that may have had some issues with parking.

*Motion by Commissioner Meisner recommending revocation of the previously approved Special Use Permits for this property. Seconded by Commissioner Klemz.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously.*

*Motion by Commissioner Klemz recommending approval of the Special Use Permit, subject to stipulations. Seconded by Commissioner McClellan.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously.*

### **Other Business**

Ms. Stromberg provided an update on planning actions recently considered by the Council as well as items that are on the agenda to discuss in the coming year.

### **Adjournment**

*Motion by Commissioner McClellan to adjourn the meeting. Seconded by Commissioner Heuchert.*

*Upon a voice vote, all voting aye, Chair Hansen declared the motion carried unanimously and the meeting adjourned at 8:38 p.m.*

Respectfully submitted,  
Amanda Staple, Recording Secretary