

Board of Adjustment
Special Meeting
July 12, 2018

1. CALL TO ORDER/ROLL CALL

Pleasant Hill Board of Adjustment special meeting was called to order at 5:30pm on Thursday, July 12, 2018 at the City Council Chambers by Chairperson LeAnne Krell. Present: LeAnne Krell, Stan Pollpeter, Carla Rivas, and Marc Swanson. Absent: Ted Dyer.

2. APPROVAL OF AGENDA

SWANSON/POLLPETER moved to approve the agenda. Ayes: Unanimous. Motion carried.

3. APPROVAL OF MINUTES JUNE 7, 2018 MEETING

Chairperson Krell noted wording change from “differ” to “defer” in item 5 motion.

RIVAS/POLLPETER moved to approve the June 7, 2018 meeting minutes subject to wording change. Ayes: Unanimous. Motion carried.

4. SPECIAL USE REQUEST

A request for a special use from the requirements of the fence and wall ordinance in Chapter 166, Section 04, Article 9.B has been filed by Jay Peters owner of property located at 1100 Pleasant Hill Blvd to allow for barbed wire to be included in a new fence installation.

The property identified in the petition is legally identified as:

PARCEL E BEG SE COR LT 3 THN S 524.91F NW 566.03F
N 524.91F SE 566.03F TO POB OL X BIANCHI AUDITORS PLAT

And locally known as:

1100 S Pleasant Hill Blvd

Zoned:

I-3 Heavy Industrial

FOR THE RECORD

Notice of Public Hearing was published in the Des Moines Register on July 7, 2018.

CITY REPORT

Madeline Sturms, Community Development Director, introduced the special use request stating Jay Peters has applied for a special use request for property located at 1100 S Pleasant Hill Blvd to allow for the material of barbed wire to be included in a new fence, which is currently prohibited in City Code Ordinance 166 Section 04 Article 9.B. The applicant is requesting a special exception as detailed in Article 12.B of this section of code to allow for fences topped with barbed wire in industrial districts by special exception of the Board of Adjustments. A portion of Chapter 166 Section 04 of the City Code addressing the special exception for barbed wire is shown below:

166. Zoning Ordinance General Regulations & Nonconforming Uses.

166.04. Fences and Walls.

12. Exceptions to Fence Requirements

B. Industrial Districts. In industrial districts, fences topped with barbed wire may be allowed by special exception of the Board of Adjustment, provided the barbed wire is not less than six (6) feet above the ground.

The property is zoned I-3 Heavy Industrial and the current use of the property is lawncare, landscaping, and RV storage. The proposed fence with barbed wire to be constructed is an expansion of the RV storage located to the rear of the property. The expansion was approved in a site plan amendment by City Council at their May 7, 2018 meeting. As part of the resolution approving the site plan, City Council recognized that the Board of Adjustment will review the applicant's request for a special exception at a future meeting. The expansion will provide an additional 443' of fence to partially enclose an area of 0.51 acres. The current fencing of the RV storage area is 6' tall black vinyl coated fencing topped with barbed wire. It is the intention of the applicant to extend the current fencing topped with barbed wire to the expansion. All other aspects of the fencing specified in Chapter 166 Section 04 have been met.

APPELLANT

Keith Yaw – employee at Peters Lawn and Landscaping – was present to discuss request. Yaw stated the barbed wire would increase security of RV storage area, deter break-ins, and is consistent with existing perimeter fencing.

PUBLIC INPUT

None

DISCUSSION

Board Member Swanson and Yaw discussed access from addition into existing storage area. Yaw stated there is a separate gate for the addition.

MOTION

POLLPETER/SWANSON moved to approve special use request to allow for the material of barbed wire to be included in a new fence. Ayes: Krell, Pollpeter, Rivas, and Swanson. Nays: None. Absent: Dyer

6. SPECIAL USE REQUEST

A request for a special use permit has been filed by OMG Midwest, Inc d/b/a Hallett Materials for a 20-year permit to mine sand and gravel materials and process concrete and asphalt recycle materials on the below listed parcels in support of the proposed Pleasant Hill Blvd and Vandalia Rd Intersection Project, SE Connector Project, and Youngstown Trail Project per the June 12, 2018 agreement between the City of Pleasant Hill and OMG Midwest, Inc d/b/a Hallett Materials.

The property identified in the petition is legally identified as:

LOT 17, EXCEPT ROAD, AND LOTS TWENTY-SEVEN (27), EXCEPT THAT PART TAKEN BY CONDEMNATION RECORDED IN BOOK 7136, PAGE 508 AND TWENTY-EIGHT (28) IN THE OFFICIAL REPLAT OF THE N ½ OF SECTION 9 & THE S ½ OF SECTION 4, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF PLEASANT HILL, POLK COUNTY, IOWA, AND EXCEPT PARCEL "A" AS SHOWN IN THE PLAT OF SURVEY

RECORDED IN BOOK 14925, PAGE 979 IN THE OFFICE OF THE RECORDER OF POLK COUNTY, IOWA.

AND

EXCEPT PARCEL E, THE NORTH 420 FEET, EAST 420 FEET, WEST 453 FEET (END OF EXCEPTION) AND EXCEPT SOUTHEAST OF LINE BEGINNING 1139.2 FEET WEST OF THE NORTHEAST CORNER THEN SOUTHERLY 1432.4 FEET, SOUTHWESTERLY 1014.9 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE, RAILROAD BEING 437.05 FEET, SOUTHEASTERLY OF WEST LINE OF THE SOUTHWEST QUARTER (END OF EXCEPTION). THE SOUTHWEST QUARTER NORTH OF RAILROAD, LESS ROAD, SECTION 9, TOWNSHIP 78, RANGE 23.

And locally known as:

601 S Pleasant Hill Blvd and other properties to the south

Zoned:

R-3 Townhome Row Dwelling and I-3 Heavy Industrial

FOR THE RECORD

Notice of Public Hearing was published in the Des Moines Register on July 7, 2018.

CITY REPORT

Madeline Sturms, Community Development Director, introduced the special use request stating OMG Midwest, Inc d/b/a Hallett Materials has applied for a special use for a 20-year permit to mine sand and gravel materials and process concrete and asphalt recycle materials at 601 S Pleasant Hill Blvd and the properties to the south. The property is primarily zoned I-3 Heavy Industrial with a small portion of the northern section zoned R-3 Townhome Row Dwellings and the current use of the property is agricultural. The Board must consider specific provisions when reviewing the acceptability of sand and gravel pits in the proposed area, as set out in City Code Chapter 167 Section 14 Article 2.C:

167. District Regulations

167.14 I-3 Heavy Industrial District

2. Principal Permitted Uses

C. The uses hereinafter listed may be permitted subject to approval by the Board of Adjustment after public hearing. In its determination upon the particular uses at the location requested, the Board shall consider all of the following provisions:

1. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property. To this end, the Board may require that appropriate landscaping, walls, fences or other artificial screens be provided as buffers to minimize the effects of these uses on adjoining or surrounding property.

2. Such use shall not impair an adequate supply of light and air to surrounding property.

3. *Such use shall not unduly increase congestion in the streets, or public danger of fire and safety.*
4. *Such use shall not diminish or impair established property values in adjoining or surrounding property.*
5. *Such use shall be in accord with the intent, purpose and spirit of the Zoning Ordinance and the Comprehensive Plan of the City.*

The application submitted by Hallett includes a settlement agreement between the property owner and City of Pleasant Hill which details the project in support of the Pleasant Hill Blvd and Vandalia Rd intersection project – known as the SE Connector – extension of MLK Jr Parkway, and the Youngstown Trail Project.

The City of Pleasant Hill has been working for over a decade with the City of Des Moines to plan, construct, and apply for funding for the SE Connector/MLK Jr. Pkwy Extension as a transportation corridor connecting the Highway 5/65 Bypass to downtown Des Moines. The City of Des Moines completed a new section of the roadway to extend to 30th St in 2016. The intersection improvements at Pleasant Hill Blvd and Vandalia Rd are under final engineering design. In an attempt to acquire the necessary property for the roadway project, a settlement agreement was reached with the parties and approved by City Council on June 12, 2018 contingent to the decision of the Board of Adjustment.

APPELLANT

Clint Allen – Senior Environmental Manager, Hallett Materials – was present to discuss request. Allen discussed project phasing with southern parcel as Phase 1 and northern parcel Phase 2, each with an approximate 10-year time frame; leasing of phase 1 land; donation and reclamation requirements specific to each phase; areas to be excavated by City for SE Connector Project; the use of berms for safety and visual screening of the mining operation; truck volume and routes; other permits and compliances required by state and federal organizations; air quality and dust management strategies; storm and waste water management; and the long-term impacts and benefits to the flood plain, community, and visitors.

PUBLIC INPUT

Prior to the meeting, staff received comments from the following adjacent property owners:

Des Moines Water Works (DMWW) – Staff met with DMWW earlier this week to discuss the details of the applications including setback requirements; variance of potential setbacks; location of the sand and gravel operations within the site; the location of the recycling operations within the site; and an overview of the agreement. Following discussion, DMWW did not have any remaining concerns regarding the application.

Diane Smith – 4788 Parkridge Ave – called with questions regarding potential increase in truck traffic on her road. Following discussion of the request, she did not feel there would be a major impact on her residence and requested to be notified of the decision following the meeting.

The following individuals spoke at the meeting:

Amy Beattie – Attorney, Brick Gentry, P.C., 6701 Westown Pkwy, West Des Moines, Iowa – spoke as a representative of the City Council supporting the request stating the request is beneficial to the City and is the most cost-effective and timely solution for SE Connector project land acquisition. Beattie discussed the terms of the mining agreement; land reclamation

requirements; and the alternative options are available. Beattie stated alternative options would be costlier and delay the SE Connector project.

Scott Almeida – Vice President, Kirkham Michael & Associates Inc., 11021 Aurora Ave, Urbandale, Iowa – spoke in support of the request and the relation between request and SE Connector project. Almeida also discussed how the request and SE Connector project positively impact flood plain designation and surrounding property values by drastically increasing stormwater storage volumes and controlling flood water movement; volume and source of borrow and fill material needed to raise roads out of the flood plains; project partnership with the City of Des Moines; Army Corps of Engineering requirements and engineering; and reclamation requirements, water quality, and usability of lake and park areas when mining is completed.

Vern Rash –Project Engineering Manager, DMWW, 1601 George Flag Pkwy, Des Moines, Iowa – expressed concerns regarding possible expansion on the northern parcel, size of expansion, and if there would be a neighbor notification process if the expansion occurred. Almeida and Allen responded by discussing low quality of previous core drilling samples, topography, and neighboring R-3 district limiting future expansion to 25-30 feet on the northwest corner of the site. Beattie stated the agreement would allow Hallett the flexibility for said expansion to the extent in which the Board incorporates the agreement into the special use permit.

DISCUSSION

Board Member clarification requests received prior to the meeting:

- Status of property on the west side of Pleasant Hill Blvd in regards to donation to the City?

The conditions, considerations, and agreements that were made following the west mining activities were not documented in a way by either party to be legally binding. Hallett was never in a position to donate the property on the west as they were not a part of the property ownership. The Settlement Agreement approved by Council directly addresses these concerns.

- Donation timeline and documentation for the current request?

In accordance with the approved agreement, the north property owned by Hallett would be donated no later than 2038, following mining and reclamation activities. The City currently has possession but not title of the south parcel and should the BOA choose to grant the request, the Flecks will drop their condemnation appeal and the City will own the south parcel.

- What is currently provided for screening around the mining operations?

As a part of the City roadway project, a safety berm will be constructed along the east side of Pleasant Hill Blvd between the newly constructed trail and the ponds.

- Status of payment on material being removed from the site to City?

At no time are payments for material (both overburden and sand/gravel) being made to the City. The City will be required to pay for the overburden that is removed from the south/leased parcel at the rate of \$4.00 per CY for the 77,000 CY of material that will be removed. In accordance with the terms of the Amendment to the Lease Agreement, royalties from the south parcel will be made to the Fleck's.

- Traffic circulation pattern and impact on neighborhood?

By City Code, every motor vehicle weighing 10 tons or more, when loaded or empty, without having a fixed terminal within the City or making no scheduled stops within the City for the purpose of loading or unloading must travel on the following streets and none other – including Pleasant Hill Blvd south of Parkridge, Vandalia Rd, E University Ave, SE 43rd St, E 56th St from Highway 163 N, and Highway 163. Fines can be given for each violation in an amount more than \$500.

Board members, City Staff, and City Attorney Brad Skinner discussed standard contract and bidding process for the City's portion of the project; DOT funding and bidding requirements of said funding; driveway and approach slope and relocation for properties effected by the elevation of Pleasant Hill Blvd; finished pit/lake depths of 30-40 feet; DNR regulations; land donation and reclamation requirements in settlement agreement; and city construction and maintenance of trail and berms. Board members discussed compliance with the specific provisions as set out in City Code Chapter 167 Section 14 Article 2.C.

MOTION

SWANSON/RIVAS moved to approve the special use permit request for a 20-year permit to mine sand and gravel materials and process concrete and asphalt recycle materials in accordance with the Settlement and Additional Agreement as approved by City Council on June 12, 2018. Ayes: Krell, Pollpeter, Rivas, and Swanson. Nays: None. Absent: Dyer

8. ADJOURNMENT

SWANSON/POLLPETER moved to adjourn. Ayes: Unanimous. Motion carried. Meeting was adjourned at 6:36 p.m.

Jennifer Bartles
Recording Secretary