

ZONING BOARD OF APPEALS
Tuesday, August 21, 2012
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

LAB Members: Alicia Neubauer
Dennis Olson
Dan Roszkowski
Julio Salgado
Scott Sanders
Craig Sockwell

Absent: Aaron Magdziarz

Staff: Jennifer Cacciapaglia – City Attorney
Todd Cagnoni – Deputy Director, Construction & Development Services
Matt Knott – Fire Department
Marcy Leach – Public Works
Sandra Hawthorne - Administrative Assistant

Others: Alderman Nancy Johnson
Kathy Berg, Stenographer
Applicants and Interested Parties

Sandra Hawthorne explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as:

The Chairman will call the address of the application.

- The Applicant or representative are to come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name and address to the Zoning Board of Appeals secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.
- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns/questions of the Objector or Interested Party
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Tuesday, September 4, 2012, at 4:45 PM in Conference Room A of this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact the Zoning Office for any further information and the phone number was listed on the

top of the agenda which was made available to all those in attendance. The City's web site for minutes of this meeting are listed on the agenda as well.

The meeting was called to order at 7:05 PM. A **MOTION** was made by Craig Sockwell to **APPROVE** the minutes of the July meeting as submitted. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 6-0 with Aaron Magdziarz absent.

ZBA 021-12

Applicant
Ward 11

2xx Quaker Road and 217 Peoples Avenue

Intricate Management Services

Special Use Permit for outdoor storage, recycling of salvaged materials and outdoor storage area for salvaged materials in an I-2, General Industrial Zoning District

The subject property is a corner lot bounded by Harrison along the south, Seminary Street along the West and Peoples Avenue along the north and consists of approximately 13.66 acres. A request for Special Use Permit for the same type of business for this property was Denied July 5, 2011. This denial was due to several violations that existed on the property and for failure to comply with conditions of a previous Special Use Permit. The property has since remained vacant. The Applicant at that time was not the current Applicant. Attorney Jim Rodriguez, Nic Holt, and Tom Williams were present. Attorney Rodriguez reviewed the request. The property consists of two lots. He explained that in 2009 an SUP was granted for similar uses as those the Applicants are requesting. The Applicants intend to hire a manager experienced in the salvage business for the site while Mr. Holt becomes familiar with the operation of the business. They are anticipating having someone come in that has experience with salvage yards to set up a plan of operation and to educate the Applicants in this business venture. Exhibit E shows the current condition of the property. There are existing berms around the property to shield the inside storage area from surrounding properties. Some of the planted trees have died and the Applicants will replace those. There are two buildings on the property that have been cited for code violations and the previous owner never complied with the City's request to alleviate these violations. Attorney Rodriguez stated the Applicants will construct a new building with office space and restrooms. The drive area has not been completed but the materials are on site for completion. They are willing to bring this property to the condition that was set forth in the 2009 conditions. A site plan was submitted showing what the Applicants will do to bring the property to standards. Attorney Rodriguez reviewed the Findings of Fact. He stated the surrounding area is industrial use. He felt this request was a necessary use because salvage yards are needed in communities. The neighborhood is a fully developed industrial neighborhood. Attorney Rodriguez further stated there really is no other viable use for this property.

Attorney Rodriguez recognized Staff has concerns about the Applicants having the experience to run a salvage yard. He stated the Applicants are taking all the necessary steps to gain education in this area and have every intention to run this property in the manner that will avoid those issues Staff had with the previous owner. Mr. Holt stated for security reasons they will take driver's license numbers if they feel someone is trying to sell material such as copper that they feel may be stolen from construction sites. Cameras will be in place. He is wanting to gain the education through hiring people with experience to run a salvage business. Attorney Rodriguez stated these Applicants are willing to make a substantial capital investment and are willing to work with the City to ensure whoever they hire has background checks and are well qualified. Mr. Holt is part of an LLC through his sister and mother who live in Florida and have other businesses. He is on the corporate filing on the application filed with the State of Illinois. Mr. Cagnoni stated since the original zoning report this information has been supplied to Attorney Cacciapaglia.

Mr. Olson requested that the Applicant keep accurate records of who does bring in questionable material in the event that theft is suspected. Ms. Neubauer asked for clarification on what will be done with the two existing buildings. Mr. Holt responded the small corner building on the property will be torn down and the existing block building will be painted. The Applicants clarified that the new building with office and

rest rooms would be constructed prior to operation of the business. The drive will be of a bituminous material – crushed blacktop. There is a city water hookup but it has not been connected by the previous owner. Mr. Cagnoni clarified that Mr. Norton, the previous owner never received clearance to operate this business.

Mr. Sockwell stated there are already a lot of salvaged yards in this area and he is asking if it is the intent to make the entire area a junkyard.

Staff Recommendation is for Denial. No Objectors or Interested Parties were present.

Mr. Roszkowski asked Staff if tonight's presentation would give Staff any information that would cause them to change their recommendation of Denial. Mr. Cagnoni stated there is still a concern with this type of business and explained that this same request was also denied in the past. Ms. Neubauer stated she was inclined to move forward with an Approval if the applicant sticks to the plan as was stated this meeting. Mr. Cagnoni stated if the Board wished to make a motion to Approve Staff wished to add conditions of approval and reviewed such conditions. They are:

1. That the property conform with all building and fire codes.
2. That the property conform within all State and Federal regulations.
3. That the drive be improved with blacktop or concrete.
4. That a subdivision plat is submitted for City Council review and approval.
5. Prior to establishment of use the property shall be in conformance with site plan dated August 20, 2012, including construction and occupancy of future building connected to City Sewer and Water.
6. That the two existing buildings on the site be raised.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the Special Use Permit for outdoor storage, recycling of salvaged materials and outdoor storage area for salvaged materials in an I-2, General Industrial Zoning District at 2xx Quaker Road and 217 Peoples Avenue subject to conditions of approval as read by Staff. The Motion was **SECONDED** by Dennis Olson and **FAILED TO CARRY** by a vote of 3-3 with Sanders, Roszkowski, and Sockwell voting Nay.

ZBA 021-12
Findings of Fact for a Special Use Permit
For Equipment Storage, Recycling of Salvaged Materials
And An Outdoor Storage Area for Salvaged Materials
In an I-2, General Industrial District at
2XX Quaker Road and 217 Peoples Avenue

Denial of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community because of lack of experience with type of business.
2. The Special Use Permit will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will impede the normal or orderly development and improvement of the surrounding property for uses permitted in the I-2 District.
4. Adequate utilities, access roads, drainage and/or necessary facilities have not been provided.

5. Adequate measures have not been taken to provide ingress or egress so designed as to minimize traffic congestion along Quaker Road.
6. The special use does not conform to the applicable regulations of the I-2 Zoning District in which it is located, and the Applicant has not demonstrated sufficient experience with managing and operating this type of business.

ZBA 022-12

Applicant
Ward 1

1605 North Bell School Road

Todd Polivka

Modification of Special Use Permit #084-07 for a Planned Mixed-Use Development to allow the addition of a retail floral shop for an additional period of five (5) years in a C-1, Limited Office Zoning District, an R-1, Single-family Residential Zoning District, and an R-3, Multi-family Residential Zoning District.

The subject property is located on the southeast corner of Rote and North Bell School Roads and is currently a Floral Shop. This property received a modification of Special Use Permit in December, 2007 to allow the addition of a retail floral shop. As a condition of approval, this Special Use Permit was to expire in (5) years or until the County Highway Department or City Engineers request it be discontinued, whichever came first. Todd Polivka, Applicant, was present. The Applicant is now wishing to renew this use for an additional (5) years. He stated they have an agreement with the County that they would sell a 20 foot easement to the County at the point Bell School Road is widened.

Staff Recommendation was for Approval with (1) condition. No Objectors or Interested Parties were present.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Modification of Special Use Permit #084-07 for a Planned Mixed-Use Development to allow the addition of a retail floral shop for an additional period of five (5) years in a C-1, Limited Office Zoning District, an R-1, Single-family Residential Zoning District, and a R-3, Multi-family Residential Zoning District at 1605 North Bell School Road. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 6-0.

Approval is subject to the following condition:

1. The Modification of Special Use Permit #084-07 for a Planned Mixed-Use Development to allow the addition of a retail floral shop for an additional period of five (5) years or until the County highway Department or the City Engineers Office request it be discontinued, whichever comes first.

ZBA 022-12

**Findings of Fact for a Modification of Special Use Permit #084-07
For a Planned Mixed-Use Development To Allow the Addition of a Retail Floral Shop
For an Additional Period of Five (5) Years
In a C-1, Limited Office Zoning District; An R-1, Single-Family Residential Zoning District;
And an R-3, Multi-Family Residential Zoning District at
1605 North Bell School Road**

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.

2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall conform to the applicable regulations of the C-1, Limited Office Zoning District; R-1, Single-family Residential Zoning district; and R-3, Multi-family Zoning District in which it is located.

ZBA 023-12
Applicant
Ward 1

555 South Perryville Road

First Rockford Group

Special Use Permit for a Final Planned Unit Development consisting of two (2) buildings for commercial retail and office uses and a landscaping plan with deviations from regulations in a C-1, Limited Office Zoning District and a C-2, Limited Commercial Zoning District

The subject property consists of 3.73 acres located on the northwest corner of the Mill Road and South Perryville Road intersection. The Applicant is wanting to construct a new multi-tenant building in addition to the existing building for commercial retail and office uses with parking and landscaping. Attorney Marvin Keys, representing First Rockford Group, presented the request for a Final Planned Unit Development. They are the contract purchaser for a portion of this property. They would redesign the entire property and creating a new retail commercial strip center with a coordinated parking lot and landscaping, new signage, and develop what they feel is an under-utilized property. He presented two more elevations for consideration. Attorney Keys explained the new building will be sited off of Perryville Road in coordination with the Williams Manny building in such a way that they complement each other. Access is from two separate entrances; drainage is being designed with requirements from Public Works.

Staff Recommendation is for Approval with (7) conditions. No Objectors or Interested Parties were present. Two letters of Objection were obtained: One from Yoomi Getz who stated she was an adjacent property owner but did not list an address; and one from Attorney Nathaniel Mark who is representing Old Country Buffet at 525 South Perryville Road. Both letters were concerned with the Applicant's use of the access road and traffic impact.

In response, Attorney Keys stated there is an existing recorded easement on the plat of record for this access road. Mr. Cagnoni also verified this easement is recorded.

Marcy Leach from Public Works stated they have an agreement in place with the Applicant that if there is a problem with drainage in the future the Applicant's will work with the City to eliminate any problems. Attorney Keys stated they are committed to working with Staff to be certain that all of Staff's issues are addressed. Alicia Neubauer asked if there were plans for any sidewalks. Mr. Cagnoni stated in this situation it would fall under the previous annexation of the property on what developments were required to have sidewalks. Staff did not know the answer at this time.

A **MOTION** was made by Scott Sanders to **APPROVE** the Special Use Permit for a Final Planned Unit Development consisting of two (2) buildings for commercial retail and office uses and a landscaping plan with deviations from regulations in a C-1, Limited Office Zoning District and a C-2, Limited Commercial

Zoning District at 555 South Perryville Road. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meet all Building and Fire Codes.
2. Submittal of a revised civil plan to include dumpster enclosure area and rendering.
3. Submittal of a revised landscape plan to include removal of landscaping within the right-of-way and storm water detention, interior islands with minimum eight (8) feet width, landscaping added to the new interior island and concrete islands, building foundation landscaping of at least 50% for the proposed building, existing mature to be preserved, and plant species for Staff's review and approval.
4. Must obtain separate permits for signage and sign must be constructed to match building design and in accordance with submitted sign elevations.
5. Must develop site in accordance with new civil and landscaping plans approved by Staff.
6. Must develop building elevations in accordance with Exhibits I and J.

ZBA 023-12
Findings of Fact for a Special Use Permit
For a Final Planned Unit Development
Consisting of Two (2) Buildings for Commercial Retail and Office uses
And a Landscaping Plan with Deviations from Regulations
In a C-1, Limited Office Zoning District and a C-2, Limited Commercial Zoning District at
555 South Perryville Road

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-1 and C-2 Zoning Districts in which it is located.

OTHER BUSINESS

Mr. Cagnoni handed out a copy of *Chapter 3, for Alcoholic Liquor and Tobacco* regulations relating to modification of tobacco licenses that will be presented to the Codes and Regulations Committee. This information is provided to the Board as an informational purpose only. If any member has questions they may contact Attorney Cacciapaglia.

With no further items to come before the Board, the meeting was adjourned at 8:00 pm.

Respectfully submitted,
Sandra A. Hawthorne, Administrative Assistant
Zoning Board of Appeals