



Request for City Council Committee Action from the Department of Community Planning & Economic Development—Planning Division

Date: April 22, 2010

To: Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee

Referral to: Zoning & Planning Committee

Subject: Appeal of the decision of the City Planning Commission denying an application for an amended conditional use permit for a waste disposal facility for the property located at 419 5th Street N in the I3 General Industrial District and DP Downtown Parking Overlay District.

Recommendation: **Receive and file this update and continue this matter to the September 16, 2010, Zoning & Planning Committee meeting.**

Background: The following action was previously taken by the Planning Commission on June 22, 2009 (BZZ-4401):

2. HERC (BZZ-4401, Ward: 5), 419 5th St N (aka 505 6th Ave N) (Kimberly Holien). This item was continued from the June 8, 2009 meeting.

A. Conditional Use Permit: Application by Covanta Energy, on behalf of Hennepin County Environmental Services, for an amended conditional use permit for a waste disposal facility for the Hennepin Energy Recovery Center located at 419 5th St N (aka 505 6th Ave N) to allow the facility to process at its designed capacity of 1,212 tons of waste per day.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the amended conditional use permit for a waste disposal facility at the property of 419 N 5th St (aka 505 6th Ave N), based on the following findings:

1. Increasing the capacity of the garbage burner, in all probability, could be detrimental to public health, safety, comfort or general welfare.
2. Increasing the capacity of the garbage burner, in all probability, could be injurious to the use and enjoyment of other property in the vicinity

and, in all probability, could impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

3. This use is not consistent with some policies of the Comprehensive Plan, including the following: 7.1, 7.8, 7.11, and 7.12.

Ward: 5

Prepared by: Kimberly Holien, City Planner (612-673-2402) Approved by: Jason Wittenberg, Development Services Supervisor Presenters in Committee: Kimberly Holien, City Planner

Financial Impact

- No financial impact

Community Impact

- Neighborhood Notification: The North Loop Neighborhood Association and the Downtown Minneapolis Neighborhood Association were notified of the applications.
- End of 60/120-day decision period: On April 12, 2010, staff received a letter from the applicant extended the City's review period to October 16, 2010.

Supporting Information

Covanta Hennepin Energy, on behalf of Hennepin County Environmental Resources, filed an appeal of the decision of the City Planning Commission denying their application for an amended conditional use permit for a waste disposal facility at 419 5th Street N in the I3 General Industrial District. At its meeting on June 22, 2009, the City Planning Commission voted to deny the application to remove a condition from the original 1987 Conditional Use Permit that would allow the facility to process 1,212 tons average daily throughput of municipal solid waste in lieu of the 1,000 tons average daily throughput initially permitted. The Planning Commission voted 6-2 to deny the application for an amended conditional use permit. The appeal was filed on July 2, 2009.

This item was initially heard at the July 23, 2009 Zoning and Planning Committee meeting and continued because the applicant indicated an intent to submit the necessary permit applications to the Minnesota Pollution Control Agency (MPCA). In October 2009, the MPCA determined that this throughput expansion proposal required the preparation of a mandatory Environmental Assessment Worksheet (EAW) pursuant to Minn. R. 4410.4300, subp. 17D. The applicant is currently preparing an EAW for which the MPCA is the Responsible Government Unit (RGU) responsible for review of the same. During the pendency of the environmental review process, the City is prohibited from issuing any permits associated with this proposal.

The applicant has submitted several letters voluntarily extending the City's allotted "60-day law" time period in Minn. Stat. § 15.99. On December 10, 2010 the Zoning and Planning Committee took action to postpone the item to the April 8, 2010 Zoning and Planning Committee meeting. Staff had not received an extension letter from the applicant in time for the April 8, 2010 meeting and this item was not placed on that agenda. On April 12, 2010, staff received an additional extension letter to

October 16, 2010. In light of this most recent extension, the recommended action is to postpone this item to the September 16, 2010 Zoning and Planning Committee meeting. If no additional extensions are received by the applicant and the environmental review is complete by that date, staff will send out public hearing notices, re-notifying the public of the hearing date.