

Meeting Minutes
New Prague Planning Commission
Wednesday, March 23, 2011

1. Call Meeting to Order

The meeting was called to order at 6:32 p.m. by Planning Commission Vice Chair Bob Gilman with the following members present: Bob Gilman, John Roos and Council Representative David Bruzek. Absent: Ryan Peltier and Jay Nuhring.

City Staff Present: Ken Ondich – Planning Director and Chad Lunder – Building Official.

2. Introduce New Planning Commission Member John Roos

The new Planning Commission Member John Roos introduced himself to the Planning Commission.

3. Elect Chair and Vice Chair for 2011

The Planning Commission tabled election of the chair and vice chair for 2011 until all members are present.

4. Approval of January 26, 2011 Regular Meeting Minutes

It was moved by Bruzek seconded by Roos to approve the January 26, 2011 regular meeting minutes as submitted. Motion carried (3-0, Peltier and Nuhring absent).

5. Old Business

A. Preliminary and Final Plat – Lucas Addition (Revisited)
Richard V. Lucas – applicant

Planning Director Ondich presented the staff report. He stated that the City Council had previously approved the plat on 1/7/07 and that the filing period including extensions had expired on 12/31/07 without the plat being filed. He stated that the plat consists of 1 lot on 4.48 acres in the I-1 Light Industrial Zoning District and that the plat would allow for building permits for either a new building or building addition because lots must be platted per the zoning ordinance. He stated that a new subdivision ordinance is in effect since the plat was previously approved and that a new preliminary plat drawing and final plat drawing dated 2/28/11 was submitted for review. He stated that the lot meets all the requirements for the I-1 Light Industrial District. He stated that all the easements proposed are appropriate, especially for the public sanitary sewer line that is located through the property. He noted that MnDOT requires the dedication paragraph to be amended. He stated that access is limited to TH 21 and CR 37 to the existing accesses and that park land dedication is not required because the land is previously developed property. He stated that staff

recommends approval of the plat with the findings and conditions as listed in the staff report while noting that the condition about the title opinion was addressed by the City Attorney, but since the changes to the plat drawing had not been made he suggested that it be left as a condition at this time.

The public hearing was opened at 6:44 PM.

No public comments were received.

The public hearing was closed at 6:45 PM.

Commissioner Bruzek asked about the public sanitary sewer easement and if there were issues with it. He also asked about parking for a new building.

Planning Director Ondich stated that the 25' public sanitary sewer easement would cover an existing public sanitary sewer through the property that was only partially covered by an existing easement from 30 years ago. He stated that the new plat will ensure that the easement covers the entire length of the public sanitary sewer line. He also stated that a new office building would require minimal parking and that for the other existing buildings they currently park on gravel surfacing on various portions of the lot.

It was moved by Bruzek, seconded by Roos to approve the preliminary and final plat with the following findings:

1. The preliminary and final plat complies with the purpose and intent of the New Prague Comprehensive Plan and Subdivision Ordinance.
2. The preliminary and final plat conforms to the requirements of the I-1 Light Industrial Zoning District in which it is located.
3. Approving the plat will allow issuance of building permits for new buildings or additions per Zoning Ordinance Section 401, Subd. 7 which requires the property to be platted.
4. The preliminary and final plat is essentially unchanged from the plat previously approved by the City Council on 1/7/07 and which expired on 12/31/07 due to not being filed with the County.

And with the following conditions:

1. Approval is granted in accordance with the preliminary plat (dated 2/28/11) and final plat drawings (undated) on file with the New Prague Planning Department.
2. Approval is subject to all recommendations of MnDOT Metro District, particularly noting that the dedication paragraph on the plat must add the word "highway" as well as the document number for the roadway easement for TH21.
3. 10' drainage and utility easements must be dedicated along all property lines except for the 15' requested adjacent to CSAH 37 and a 25' drainage and

- utility easement following the centerline of a public sanitary sewer through the property as shown on the plat.
4. The final plat must be recorded within 90 days of the date of the City Council granting approval per Chapter 051 (E) of the Subdivision Ordinance.
 5. A current title opinion must be reviewed and approved by the City Attorney.

Motion Carried (3-0).

6. New Business

A. Zoning Ordinance Amendment Public Hearing Top of Foundation and Final Grade As-Built Surveys New Prague Planning Department, Applicant

Planning Director Ondich presented the staff report. He stated that at the October 4, 2010 City Council Meeting, Council Member Kratochvil initiated discussion regarding as-built surveys. He stated that since the discussion was initiated by the City Council, a survey of area cities was conducted regarding their as-built survey requirements, which is attached to this memo. He stated that the survey attempted to identify that most cities in the area, Prior Lake being an exception, require a "final grade as-built survey" to verify that grading is completed to match the development's approved grading plan. He added that depending on the level of information on an as-built the City might like to require, the cost for an as-built survey could be estimated anywhere from \$185 to \$800 which would be an additional cost to a builder or homeowner, but would go a long way in helping to catch potential drainage issues before a home is occupied. He stated that at the October 27, 2010 Planning Commission Meeting a couple of questions were raised about if builders, not surveyors could verify the top of block elevations and if the tolerance on grading could be changed from -.2 to +.5 to -.5 to +.5. He stated that the building official had reviewed the questions and did not support allowing the builders to verify locations without a surveyor to verify and also that going lower than -.2 could negatively impact grading particularly in some backyards. He stated that the amendment to require a top of foundation and final grade as-built survey for residential homes would be made to Zoning Ordinance Section 508, Subd. 3 which currently only contains the requirement for a certificate of survey to be submitted before a permit is issued. He stated that he suggests additional language specific to a requirement for "final grade as-built" surveys as well as a "top of foundation" elevation verification. He stated that the Planning Commission should discuss the proposed amendments and direct staff to advertise for a public hearing following the City Attorney's review of the amendments. He stated that at the January 26, 2011 Planning Commission Meeting the Planning Commission discussed the proposed amendments and asked staff to make the language consistent between using the words "top of block" and "top of foundation". He stated that the City Attorney reviewed the language and offered only non-substantive changes. He stated that staff recommends that the Planning Commission hold the public hearing and consider the proposed ordinance for recommendation to the City Council

The public hearing was opened at 6:59 PM.

Chad Lunder, Building/Code Enforcement Official, stated that developments today are typically graded and designed for tight tolerances. He stated that to the naked eye the grading can look good upon completion, but when adjacent houses are constructed you can find that the grading was off from what it should have been. He stated that Elko required as-built grading surveys 10 years ago. He stated that even though it is slow in terms of new home construction that the argument that grading isn't as much of an issue during these times is false because it can simply mean that the issues are not found until years later when adjacent homes finally are constructed and then it is far too late to fix the elevation of the house causing the problem.

Planning Director Ondich stated that he had received two comments via e-mail and that he would read them into the record. The letters were as follows:

“Hi Ken,

I have been following the subject of possibly requiring as built surveys in New Prague. We had been into the City and had some meetings with staff about a year and a half ago seeing if there is any way to reduce the cost of a building permit in New Prague. I'm about to make a check out for \$12,600 for a 3 bedroom split entry with 1,177 square feet on the main floor. We were wondering at that time if there was any way the City could reduce the building permit by approximately \$5,000. I know you had talked about it with staff etc., but never had any reduction or any further conversations about it. Now out of the blue there is another requirement that will add another \$350 to \$500 to the cost of building a home in New Prague. I don't believe now would be the right time to add additional costs when everyone is trying really hard to subtract costs. I recently had to raise the price of our model because of the overwhelming pressure material and fuel costs are having on the new construction process. I don't believe that there is going to be enough building permits in the next 2 years to cause too much problem in the area of drainage on the lots. So if we could table this matter for 2 to 3 years and have the current building inspector keep a closer eye on grading that would be great.

Thanks a lot,

Randy Kubes”

Thursday, March 17, 2011

“Ken,

I agree with Randy on this. The issues with grading in New Prague can be traced back to a few select “Builders” who are no longer in business. Those of us that live here and have businesses here are concerned for the betterment of the city and the people we build for. We are not out to make a quick buck and leave the city. It is always, always, always the least common denominator that causes the problem for those that do a good job on a day in day out basis. Let's not heap the cost of as-builts on the builders who are left and haven't caused the issues the city is dealing with in the first place.

We build in many municipalities within a 100 mile radius of New Prague. Shakopee is the only one in Scott County that requires as-builts.

Prior Lake, Jordan, Belle Plaine, Savage and Rural Scott County - Do not.

In closing, if we all do our jobs with concern for the final product and the ultimate occupant, we will not have issues.

Chris J. Witt, Contractor/Broker/Owner
K.A. Witt Construction
Pinpoint Realty, LLC”
Thursday, March 17, 2011

The public hearing was closed at 7:11 PM.

Planning Director Ondich stated that besides Mr. Randy Kubes and Mr. Chris Witt he also had spoken with Mr. Chris Kubes on the phone, but did not receive any comments from him. He stated some comments in Mr. Witt's e-mail were inaccurate in terms of what cities do and don't require as-built surveys in Scott County. He stated that staff has completed research in the fall of 2010 and again revisited last week to document that contrary to Mr. Witt's comments, the Cities of Jordan, Belle Plaine and Savage all do require as-built surveys for residential homes. He stated that he does not know how Mr. Witt obtained his information. He stated that he believes the biggest issue the local builders have at this point is the addition costs which would be passed along to home buyers. He noted that while he cannot specifically points to any case that either builder/developer directly contributed to a past drainage issue he did not think that was a valid reason not to implement the requirement. He did note that he would agree that additional costs are difficult to justify in this economic climate he felt that the builders and homeowners would be protected by the requirements. He stated specifically that homeowners would have assurance that the house was built to the requirements of the grading plan and that the builders would have documentation that when they turn the house over to the buyer that the grading is correct and that if problems occur later, caused by the homeowner, that there is documentation that it was not caused by the home builder. He stated that the City from 2007 to the fall of 2011 was involved with the large backyard drainage issue in Prague Estates 7th addition and spent a few thousand dollars and an abundance of staff time to finally determine that the lots were graded correctly for the most part. He stated that as-built surveys would have stopped the discussion at the onset rather than years later and incurring unnecessary costs. He stated that aside from Prior Lake, all other cities in the county have as-built requirements and specifically that Elko had a requirement 10 years ago and that Jordan passed their ordinance in 2006.

Planning Director Ondich provided a copy of a building permit fee comparison with some neighboring communities to show that even considering connection fees for a \$150,000 single family home, New Prague was only higher than Shakopee in terms of fees. He stated that he would e-mail the comparison to the Planning Commission for their records.

Building/Code Enforcement Official Lunder added that Shakopee's fees would be increasing soon, if they had not already, because they were no longer legally required to keep their fees low following a past law suit relating to their past building permit fees.

It was moved by Bruzek, seconded by Roos to recommend that the City Council approve the proposed ordinance amendment as contained in the staff report. Motion carried 3-0.

7. Miscellaneous

The following miscellaneous items were reviewed as information only:

- A. Planning / Building Department Goals – 2011
- B. Annual Commercial Building Audit - 2011
- C. Vacant Lot Inventory – 2011
- D. Industrial Park Feasibility Study
- E. Bank Owned Properties in New Prague
- F. 2011 Meeting Schedule

8. Adjournment

A motion was made by Roos, seconded by Bruzek to adjourn the meeting at 7:35 PM. Motion carried (3-0).

Respectfully submitted,

A handwritten signature in black ink that reads "Kenneth D. Ondich". The signature is written in a cursive style with a large initial "K" and "O".

Kenneth D. Ondich
Planning Director