

**Meeting Minutes**  
**New Prague Planning Commission**  
**Wednesday, January 23, 2008**

**1. Call Meeting to Order**

The meeting was called to order at 6:32 p.m. by Planning Commission Chairperson Grant Gengel with the following members present: Grant Gengel, Bob Gilman, Pat Remfert and Jim Kratochvil. Absent was Kay Wilcox.

City Staff Present: Renee Christianson – Planning Director, Ken Ondich – City Planner

**2. Approval of December 19, 2007 Regular Meeting Minutes and January 14, 2008 Workshop Meeting Minutes**

It was moved by Remfert, seconded by Gilman to approve the December 19, 2007 regular meeting minutes and January 14, 2008 workshop meeting minutes as submitted. Motion carried (4-0, Wilcox absent).

**3. Request for Preliminary and Final Plat Approval – New Prague Business Park 9<sup>th</sup> Addition  
Marv Deutsch - applicant**

Planner Christianson presented the staff report. She stated that Electromed, Inc. is located on the property that will be platted. She stated that Electromed is planning on expanding by adding a second building on the property west of the existing building. She stated that they have a purchase agreement to purchase an adjacent outlot for the new building, but that they need to be platted to eliminate any lot lines. She stated that the lot to be platted will be 2.337 acres, thereby meeting the 40,000 sq. ft. minimum lot size requirement and that the lot will also meet the minimum lot width requirement of 150' because it will be 187.5'. She stated that the existing lots did contain drainage and utility easements and that the applicant is seeking to vacate the 5' drainage and utility easement located along the west property line. She stated that staff is recommending that the final plat show 5' easements along the two lot lines where none are currently shown. She stated that access to the site is from two curb cuts to 6<sup>th</sup> Ave. NW and that the northerly access is shared with the adjacent fitness center. She stated that Electromed will have the option of working with the adjacent property owner to the west, Marv Deutsch, regarding the shared access through his parking lot. She stated that there is currently no sidewalk along 6<sup>th</sup> Ave. NW adjacent to the property, but that just to the south the sidewalk ends at Foundry Hill Park. She stated that at some point in the future it would be nice to extend the sidewalk north to the intersection with 6<sup>th</sup> Street NW. She stated that the site currently drains into the private detention pond located on existing Outlot A and that the pond was sized for additional future development on the property but that the City Engineer would require drainage/civil plans when they apply for the building permit for the additional building. She stated that the property is located in the unshaded Zone X, outside the 500 year floodplain and that none of the property is indicated on the National Wetland Inventory. She stated that the subdivision ordinance requires 10% of the gross area of the property being subdivided shall be

dedicated or parking, but that since this is a replat of property that the requirement should not apply. She stated that the water and sewer services are connected through to 6<sup>th</sup> Ave. NW. She stated that staff recommends approval of the preliminary and final plat of New Prague Business Park 9<sup>th</sup> Addition.

The public hearing was opened at 6:39 P.M.

Marv Deutsch, 28414 141<sup>st</sup> Street, stated that Electromed is looking to add a building to their site for storage because of a possible division of the company moving from Minneapolis to New Prague. He stated that it makes sense to do the plat this way to gain as much space as possible for the new building.

Commissioner Gengel asked why this plat wasn't done as an administrative subdivision.

Planner Christianson stated that because a portion of the area to contain the building addition was an outlot, which are reserved for future development and platting, it must be platted to be eligible for a building permit.

Mr. Deutsch stated that the plan for the outlot always had been to develop the pond on the north portion and leave the rest open for future development.

The public hearing was closed at 6:44 P.M.

It was moved by Remfert, seconded by Gilman to recommend approval of the preliminary and final plat of New Prague Business Park 9<sup>th</sup> Addition, consisting of 1 lot on approximately 2.337 acres in the I-1 Industrial Zoning District with the following findings:

1. The preliminary plat complies with the purpose and intent of the New Prague Comprehensive Plan and Subdivision Ordinance.
2. The plat conforms to the requirement of the I-1 Zoning District in which it is located.

And with the following conditions:

1. Approval is granted in accordance with the preliminary plat (dated 1/22/08) and final plat drawings (undated) on file with the New Prague Planning Department.
2. Approval is subject to all recommendations of the Public Works Director.
3. The final plat drawing must be amended to show 10' drainage and utility easements along the northerly and northeasterly lot lines, where none are currently proposed.
4. The final plat must be recorded within 90 days of the date of the City Council granting approval.
5. The existing 5' wide drainage and utility easement located along the west side of existing Lot 1, New Prague Business Park must be vacated, and if not vacated it must be shown on the proposed final plat drawing.

And noting the following variance:

1. Park land dedication is not being required because the site is already platted and the property is being re-platted simply to combine existing lots.

Motion carried: Ayes 4 Nays 0

#### **4. Public Hearing for Zoning Ordinance Amendments-**

##### **A. Physical Recreation or Training**

Planner Ondich presented the staff report. She stated that a dance studio applied for a CUP in the I-1 light industrial zoning district in the fall of 2007. He stated that the use was not listed as a permitted or conditional use but was ultimately approved. He stated that staff was directed to draft a definition and parking requirements for related uses. He stated that many cities have provisions to allow such uses in light industrial districts. He stated that staff suggested having “physical recreation or training” as a conditional use in all industrial and commercial zoning districts except it would be permitted in the B-1 District because of the nature of that district. He stated that staff is recommending parking at 1 space per 350 sq. ft. of floor area. He stated that at the December 19, 2007 Planning Commission meeting the draft language was approved and recommended for public hearing. He stated that six cities provided information for their related regulations which are included as an attachment to the staff report. He read through the proposed definition for “physical recreation or training” as well as the districts where it would be permitted or conditional uses as well as well as the proposed parking requirement.

The public hearing was opened at 6:50 P.M.

Marv Deutsch, 28414 141<sup>st</sup> Street, stated that he once had a request for a batting cage facility and asked if such a use would fit into this category and the parking requirements. He stated that the new regulations are a good idea.

Commissioner Gengel asked if the City Attorney had reviewed the language.

Planner Ondich stated that the City Attorney had not reviewed the language but that he would have that done before the City Council approves it.

The public hearing was closed at 6:53 P.M.

A motion was made by Gilman, seconded by Remfert to recommend approval of the ordinance amendment to the City Council adding regulations for Physical Recreation or Training Uses, which passed unanimously (4-0).

##### **B. Outlot Definition, Dwelling Unit Definition, Second Kitchen Regulations**

Planner Ondich presented the staff report. He stated that the City Attorney had reviewed the language contained in the staff report. He stated that staff wishes to add an “outlot” definition because the current does not have one which is important to note that such lots are not eligible for building permits. He stated that staff also wishes to amend the “dwelling unit” definition and add some regulations for second kitchens in single family homes. He stated that staff had thought about amending the family definition but the City Attorney recommended leaving it as at this time. He stated that the second kitchen regulations are suggested because staff has received many applications for second kitchens in single family dwellings for entertainment purposes and

for home daycares. He stated that staff worries about future problems with illegal rental units in the single family districts and that the regulations would better document their use and locations. He read the suggested definition for outlot and amendment to the dwelling unit definition. He also read the suggested language for second kitchen regulations.

The public hearing was opened at 7:03 P.M.

With no public comments received the public hearing was closed at 7:04 P.M.

Commissioner Gengel asked why there was such an aversion to amending the “family” definition in the zoning ordinance if references are made to it so often in the second kitchen regulations.

Planner Ondich stated that there is too much case law regarding cities being sued by limiting the definition of family to only certain relatives and that the fair housing act also comes into play. He stated that this is why the City attorney is suggesting no changes to the definition at this time. He added that the City currently has an issue where the family definition has come into play and where the second kitchen regulations would have helped to avoid the entire situation.

A motion was made by Remfert, seconded by Gilman to recommend approval of the ordinance amendment to the City Council for an outlot definition, amending the dwelling unit definition and adding second kitchen regulations, which passed unanimously (4-0).

## **5. Draft Zoning Ordinance Amendment -**

### **A. Outdoor Seating Areas for Food Service and Drinking Establishments**

Planner Ondich presented the staff report. He stated that in August 2007 the City Council reviewed the Freedom to Breathe Act and decided not to pursue further restrictions on smoking outside of businesses. He stated that a related issue is that bar owners have contacted the City about outdoor patio/seating areas for smoking and possible drinking and food service areas. He stated that drinking is allowed outdoors in compact and contiguous areas if specified on the liquor license. He stated that discussion needs to take place whether outdoor drinking/eating areas should be allowed as permitted or conditional uses in the Commercial Zoning Districts. He stated that sixteen cities responded to the six research questions the City posted regarding outdoor patio/seating areas and stated that the summary is attached to the staff report. He stated that responses were used to aid in drafting the ordinance provisions for discussion. He read through the proposed new Section 733 to the zoning ordinance for “outdoor seating for food service businesses and drinking establishments” and suggested that such outdoor seating be a conditional use in all commercial zoning districts.

Commissioner Gilman stated that Arizona’s in Shakopee has a large tent that they put up in their parking lot for patrons to bring drinks outside and smoke.

Commissioner Gengel asked for more information about the Clean Air Act to be included with the next staff report on the issue. He also asked what specifically would be defined as an outdoor seating area and asked if state law should be used. He stated that he would consider it to be any area not completely enclosed. He stated he would also want to ensure that it would not disrupt the neighborhood.

Marv Deutsch, 28414 141<sup>st</sup> Street, stated that he has constructed some business patios in the past and stated that the fence is a good idea to help catch napkins or other debris from blowing away. He stated that he also likes the idea of the one-way gate. He stated that his only concern is that on the outdoor patios that you could have tables of smokers right next to the non-smokers.

Commissioner Gilman stated that with the way things are currently there needs to be a way to restrict people from bringing drinks outside with them to smoke.

Commissioner Remfert stated that requiring extra parking for the outdoor patio areas maybe wasn't the best way to go with the regulations.

Commissioner Gengel stated that he can see allowing some outdoor seating without requiring extra parking spaces because of the seasonal nature, and asked the Planning Commission what that number might be.

Commissioner Kratochvil stated that he felt that if the downtown bars and restaurants would not be required to provide for additional parking for their patio areas that none of the other bars and restaurants in town should have to either, regardless of the district they are located.

Commissioners Gilman and Remfert stated that they could agree to support a generous outdoor seating number to be exempt from additional parking requirements.

Commissioner Gengel suggested an exemption for the first 30 seats.

Commissioner Kratochvil asked how many seats were at the golf course patio area and thought that might be close to 30.

The Planning Commissioners agreed that 30 seats on an outdoor patio could be allowed without requiring additional parking spaces.

Planner Christianson stated that she heard a suggestion to base the parking exemption on percentage of seats available inside the building.

Mr. Deutsch stated that a percentage based on the number of seats inside would be more relational to the building and site versus a flat number that may or may not make sense for smaller or larger uses.

Commissioner Kratochvil stated that he would like to ask the business owners what their thoughts are on the possible regulations.

Commissioner Gilman stated that he would like to allow sound producing equipment on outdoor patio areas but to limit the hours of use.

Commissioner Kratochvil stated that there will be sound issues with the patio areas and that he would rather not allow any sound producing equipment on the outdoor patio areas.

Commissioner Remfert stated that bars are noisy places and now the city would be allowing bars to be outside on these patio areas.

Commissioner Kratochvil stated that at the annual liquor license renewal time, complaints received by each establishment are reviewed so that could come into play at renewal time for each of the liquor establishments.

Commissioner Remfert suggested a provision that no sound producing equipment be allowed on patio areas as a starting point when gathering public input on the topic.

Planner Christianson stated that for the public hearing notices would be sent to all licensed liquor establishments so they could have the opportunity to comment on the drafted regulations and that the police chief would also be involved.

Commissioner Kratochvil stated that he does not like solid fencing but rather likes the decorative fencing.

The Planning Commission decided to move forward with a public hearing for the February 27, 2008 Planning Commission meeting.

## **6. Miscellaneous**

### **A. Review Status of Annexation Petition – Doug Pint**

Planner Christianson stated that the City Council had awarded the contract for an Economic Impact Study for the proposed Wal-Mart Supercenter and that it would be done in 4-6 weeks with the landowner Doug Pint paying for the study.

### **B. Growth Statistics**

Planner Christianson stated that included as information were growth statistics for 2007 compared to years past.

### **C. Business Listing**

Planner Christianson stated that included as information was the January 2008 Business listing for New Prague.

### **D. Citizen Letter Concerning Wal-Mart**

Planner Christianson stated that a letter was received by the City and included as information in the packet from Gary Kaminsky regarding the proposed Wal-Mart Supercenter.

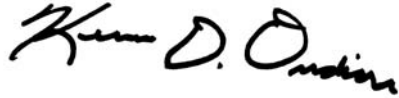
### **E. Chair and Vice Chair appointments for 2008**

A motion was made by Remfert, seconded by Kratochvil to keep Grant Gengel as Chairperson for 2008 and Pat Remfert as Vice Chairperson for 2008, which passed unanimously (4-0).

## 7. Adjournment

The meeting was adjourned at 8:10 PM by order of Chair Gengel.

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 a distinct "Ondich" at the end.

Kenneth D. Ondich  
City Planner