

Meeting Minutes
New Prague Planning Commission
Wednesday, August 27, 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, Michael LaDuke, Kay Wilcox, Bob Gilman and Pat Remfert. No Commissioners were absent.

City Staff Present: Ken Ondich – Acting Planning Director, Ryan Streff – Planning Intern

2. Approval of July 23, 2008 Regular Meeting Minutes

It was moved by Remfert, seconded by Wilcox to approve the July 23, 2008 regular meeting minutes as submitted. Motion carried (5-0).

3. Request for Preliminary and Final Plat Approval – Plzen Commerce Centre – TOLD Development Company - Applicant

Planning Intern Streff presented the staff report. He stated TOLD Development Company has submitted an application for Preliminary and Final Plat of Plzen Commerce Centre. He stated the proposed plat is located at the SWQ of TH 13/19 and Chalupsky Avenue SE. He stated the plat will include 1 lot (north) and 1 outlot (south). He stated this site is located in the City's B-2 Community Commercial District. He stated that TOLD is platting this property so that Lot 1, Block 1 can be developed for a Walgreen's retail building. He stated plans are unknown for the south portion of the site at this time. He stated the site is located between other B-2 commercially zoned areas to the north, east and West and is adjacent to a RH – High Density Residential area to the south which is the D.R. Horton Townhome Development. He stated when this site to the south (Outlot A) is developed, the City requires that 50' of right-of-way for 1st Street SE be platted and constructed to continue the backage road between 10th Ave. SE and Chalupsky Ave. SE to provide non TH 19/13 access for the Holy Trinity Church Property and Roger Beckius property to the west. He stated this road right-of-way will separate the commercially zoned area from the RH – High Density Residential area to the south. He stated the minimum lot size in the B-2 Community Commercial District is 20,000 square feet. He stated the proposed Lot 1, Block 1 is 74,005 sq. ft (1.70 acres) and Outlot A is approximately 69,226 sq. ft. (1.59 acres) meeting the minimum lot size requirement. He stated the minimum lot width for the B-2 Community Commercial District is 80' at the building setback line. He stated the proposed final plat shows a 5' drainage and utility easement along the north, east, south and west property lines which is adequate for the development. He stated the required building setbacks in the B-2 Community Commercial District are 30' (along collector and arterial roadways) and 15' (along residential and local roadways) in front, 30' in rear, 10' on sides and 10' from an alley. He stated the preliminary plat drawing shows the required building setbacks. He stated that there are no access points or curb cuts to the site currently. He stated the proposed access to the site is from Chalupsky Avenue SE directly across from the northern most access to the New Prague Commons/Coborn's site. He stated that a public concrete sidewalk exists along

the west side of Chalupsky Avenue and a public 10' wide bituminous path exists along the south side of TH 13/19. He stated the site plan shows a sidewalk connecting the bituminous path thru the parking lot to the entrance door of the Walgreens. He stated the drainage from the site will be connected via a storm sewer stub to Chalupsky Ave. SE which drains into the existing regional pond system. He stated that no further park land dedication shall be required as those requirements have been satisfied with previous plats of the property. He stated access to the City's public sewer system is through a connection within Chalupsky Avenue SE. He stated access to the City's water main is through a connection within Chalupsky Ave. SE. He stated that when land is platted in the city, there is a Water Area Charge of \$2,652 an acre that is charged. He stated that this would equate to \$4,508 for the 1.70 acre lot being platted and the charge for the outlot would be picked up at the time it is platted into a Lot/Block at the rate charged at that time.

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

Roger Beckius (1304 Main Street E) asked if 1st Street SE would be constructed when the Walgreens site is developed.

Planner Ondich stated that when Outlot A is developed the 50' right-of-way and road would be platted.

Paul Craft (Holy Trinity Long Term Planning Team) asked if 1st Street SE would line up the current easement on property owned by Holy Trinity.

Planner Ondich stated that the 50' easement that will be plated in the future on Outlot A will line up the current easement on the Holy Trinity property.

Dr. John Berg (307 9th Street SE) stated that he was under the understanding that 1st Street SE would continue west from Chalupsky Ave. SE on the southern side of the properties and would not be making a northerly turn after Holy Trinity towards the State Bank

Bruce Wolf (509 Chalupsky Ave NE) stated that is was agreed upon by the State Bank and Holy Trinity that a right angle would be made on 1st Street SE to continue the roadway to the south. He asked if a water line would need to be placed down 1st Street SE for this development.

Planner Ondich stated that the water line would not be put in until the road was constructed.

The public hearing was closed at 6:54 P.M.

It was moved by Remfert, seconded by Gilman to recommend **approval** of the preliminary and final plat of Plzen Commerce Centre, consisting of 1 Lot and 1 Outlot on 3.39 acres in the B-2 Community Commercial Zoning District, as proposed by TOLD Development Company, 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 plat conforms to the requirement of the B-2 Community Commercial District in which it is located.

And with the following conditions:

1. Approval is granted in accordance with the preliminary and final plat drawings dated 8/7/08 on file with the New Prague Planning Department.
2. The final plat and a title opinion must be reviewed and approved by the City Attorney prior to filing the final plat.
3. Approval is subject to all recommendations of the Public Works Director, City Engineer and MnDOT District 7.
4. The final plat must be recorded within 90 days of the date of the City Council granting approval.
5. The Developer must pay \$4,508 for the Water Area Access Charge for Lot 1, Block 1, which will be due before the City will sign the final plat.
6. An additional Water Area Access Charge will be due when Outlot A is platted into a Lot and Block in the future.
7. When Outlot A is platted into a Lot/Block in the future it must include 50' of public right of way for an extension of 1st Street SE between 10th Ave. SE and Chalupsky Ave. SE. The exact location of the right of way will be determined at that time.
8. There shall be no direct access allowed onto Trunk Highway 19/13 from any lot proposed in the plat of Plzen Commerce Centre.

And noting the following variances:

1. No further park dedication shall be required as those requirements have been satisfied with previous plats including the property.

Motion carried: Ayes 5 Nays 0

4. Conditional Use Permit Amendment #C5-2008 - Walgreens Retail Building, TOLD Development Company - Applicant

Planning Intern Streff presented the staff report. He stated the one building commercial development is proposed by TOLD Development Company of Plymouth, Minnesota. He stated the property is located in the southwest quadrant of Highway 19 and Chalupsky Avenue in the B-2 Community Commercial Zoning District. He stated the proposed Walgreens retail building is located on the northern half of Outlot F, Prague Estates Fifth Addition. He stated this retail building is proposed at 14,820 square feet of retail building space. He stated the minimum lot size in the B-2 district is 20,000 square feet. He stated the property proposed for the Walgreens development is 1.70 acres (74,005 square feet) which meets the minimum lot size and lot width requirements. He stated the proposed outlot to the south is approximately 1.59 acres (69,226 square feet) meets the minimum lot size and lot width requirements for future development on the site. He stated the proposed site consists of 1 Lot to the north (Walgreens) and 1 Outlot to the south. He stated the required building setbacks in the B-2 district are 30' from collector and arterial roadways, 15' from residential and local roadways, 10' from the side lot line and 30' from the rear lot line. He stated there are 5' easements along the north, east, south and west property lines. He stated the site currently does not have any curb cuts that exist into the property. He stated one new curb cut has been proposed for the development on Chalupsky

Avenue SE which lines up with the northern most access to the New Prague Common's site. He stated the curb cut along Chalupsky Avenue is 36' which meets the minimum width requirement. He stated the ordinance requirement for parking spaces has been met. He stated that the parking lot design and layout meets all the requirements of the ordinance. He stated that 71% of the parking is located between the buildings and the street and therefore does not meet the ordinance requirement. He stated that being a corner lot this requirement places a difficulty on the property to provide for parking not between the building and street because only the west and south property lines don't abut a street. He stated that staff noted that a double row of parking on the west side against the building would not be feasible because of the drive thru lane that abuts the building on the west side. He stated that parking on the south side would not be ideal because this area is used for delivery trucks and traffic entering and exiting the property which could potentially make this area unsafe for pedestrians. He stated that for these reasons staff recommends that a variance be approved to allow for 71% of the parking to be located between the buildings and the street as a mitigation effort to alleviate issues of public safety. He stated the landscaping plan meets the 25% parking lot shade requirement. He stated the landscaping plan meets the 3% landscaping requirement. He stated the proposed appearance and locations for the trash and exterior enclosures meet the ordinance requirements. He stated that the north and east elevations will be constructed primarily of Terracotta Brick (utility size 12"x 4") with Buff colored Cast Stone in the varying roof line and along window lines to add a pillared affect to the building. He stated that gray concrete masonry blocks will also be added for additional contrast. He stated that pre-finished forest green metal awnings will be added above windows for added character. He stated that the west and south elevations will be constructed primarily of Terracotta Brick (utility size 12"x 4") with gray concrete masonry blocks for added contrast. He stated that a pre-finished forest green metal roof will be added to the exterior storage structure and a green metal awning will be added above the drive thru window for added character. He stated that building signage is limited to 15% on each building face and 100 sq. ft. for freestanding or monument signage. He stated the lighting plan meets the ordinance requirements. He stated the entire lot will slope from NW to SE towards the storm sewer connection on Chalupsky Ave. SE. He stated from Chalupsky Ave. SE the site connects to the Prague Estates Regional water retention pond/drainage way. He stated that all comments and recommendations from the City Engineer, Public Works Director and MnDOT District 7 shall be followed.

The public hearing was opened at 7:21 P.M.

Dan Gullickson (1859 Rolling Meadows) asked if there were storm water ponds for the development.

Planner Ondich stated that there are no storm water ponds required for this development because the site was accommodated within the Prague Estates Regional Ponding System.

The public hearing was closed at 7:23 P.M.

Remfert asked if "Deutsch lights" could be used for this building.

Gengel stated that the Planning Commission has to be careful when being that specific with building design.

Wilcox stated that the west elevation of the Walgreens building looks very bland.

LaDuke stated that the west elevation should be broken up with some columns. He stated that the electronic board on the monument sign should be placed towards the bottom.

Gengel stated that the electronic board should be placed on the bottom so that properties are not affected down the road.

Wilcox asked if all cities accept the proposed building signage.

Gengel asked what types of add-on departments will be within Walgreens.

Trent Mayberry (TOLD Development) stated that there are typically 30-35 employees and 2 pharmacists.

It was moved by LaDuke, seconded by Gilman to recommend **approval** of Conditional Use Permit #C5-2008 to allow for the construction of one retail building (Walgreens) in Lot 1, Block 1, Plzen Commerce Centre, LeSueur County, Minnesota, located within the B-2 Community Commercial Zoning District, as proposed by TOLD Development Company, with the following findings:

- A. The use will not create an excessive burden on existing parks, schools, streets, and other public facilities which serve or are proposed to serve the area because it is located in a specifically zoned commercial area with one proposed access to Chalupsky Ave. SE.
- B. The proposed development will be sufficiently screened by the use of different types of landscaping improvements including the planting of Marshall's Seedless Ash, Skyline Honeylocust Bicolor Oak, shrubs and other perennials so that the existing homes will not be depreciated in value. Staff would like to note that all adjacent property is zoned commercial and only one residential home lies to the west of the property.
- C. The structures and site will not have an appearance that will have an adverse effect upon residential properties as the site is not adjacent to property zoned for residential use. The building is of high quality materials, all storage and dumpsters are screened, and the landscaping on the site will be attractive.
- D. The proposed uses for approval for the site are specifically listed as allowed conditional uses in the B-2 Community Commercial Zoning District in which the property is located in.
- E. Same finding as above.
- F. The proposed uses for approval are in compliance with the comprehensive plan of the City because they are commercial uses located within the B-2 Community Commercial Zoning district.
- G. The use will not cause traffic hazard or congestion.
- H. Adequate utilities, access roads on Chalupsky Avenue SE, drainage and necessary facilities are provided to the site.

And with the following conditions:

1. The conditional use permit is issued for a period of one year, and shall become null and void without further action from the Planning Commission unless used within one year of the date granting the permit.
2. The Conditional Use Permit is issued in accordance with the site plan dated 8/06/08, landscaping plan dated 8/06/08, Lighting plan dated 8/06/08, Walgreens Elevations dated 8/06/08, all on file with the New Prague Planning Department.
3. The applicant, TOLD Development Company, must comply with all recommendations of the Public Works Director, MnDOT, City Engineer, Police Chief and Fire Chief.
4. The required parking stalls shall be striped with white or yellow paint lines not less than 4" wide providing for parking spaces at a size of 9' x 20' on a concrete or bituminous paved surface with a perimeter curb, as required by Section 717 of the New Prague Zoning Ordinance.
5. All signs must conform to Section 718 of the Zoning Ordinance.
6. All lighting must conform to Section 704 of the Zoning Ordinance.
7. All dumpsters, garbage containers or refuse bins shall be screened from view in accordance with Section 703 of the Zoning Ordinance.
8. The City Attorney shall review the final plat and title opinion before City Council approval.
9. The following uses will be permitted on the subject property as long as the requirements for the intended use are met: retail, office and service establishments.

And with the following variance:

1. A variance is being granted from Zoning Ordinance Section 717 (2)(7)(d) to allow for more than 50% of the parking to be located between the building and the street because the property is a corner lot and because the City would like alleviate issues of public safety that may of concerns if parking is provide in other areas of the lot.

Motion Approved: Ayes 5 Nays 0

5. Zoning Ordinance Amendment – Pool Regulations (Draft)

Planner Ondich presented the staff report. He stated it has been brought to staffs attention by Mayor Bink Bender that specific swimming pool regulations should be added to our zoning ordinance. He stated the city addresses swimming pools under our Accessory Buildings and Structures in Section 7 of the Zoning Ordinance. He stated this section gives no specific requirements or regulations by our local or state government by which to abide by other than normal building requirements for accessory buildings and structures. He stated the city has received several building permit applications for residential swimming pools, which in the past few months as brought the need for swimming pool requirements and regulations to the City's attention. He stated that city staff supports the need for swimming pools requirements and regulations as it will provide the necessary standards needed in the current zoning ordinance. He stated staff has researched various cities throughout the metro area and has found 4 zoning/building examples that specifically have provisions similar to what we would look to add to the Zoning Ordinance. He stated that the Planning Commission should review the proposed "Swimming Pool" ordinance and give comments on it. He stated the following sections are proposed additions to the zoning ordinance and are for discussion purposes only.

Proposed Ordinance Changes

Create Ordinance 735 *Swimming Pools* under Section 7 of Performance Standards.

Proposed Ordinance Changes

***Ordinance Amendments* – **Added** and deleted**

- The definition for “Swimming Pool” should be added to Section 302 of the Zoning Ordinance as follows:

Swimming Pool – Any outdoor permanent or temporary structure located in or above ground intended for swimming, wading or recreational bathing and contains, or is capable of containing, water over 24 inches at any point or has a surface area exceeding 150 square feet (14 foot diameter).

735 Swimming Pools

1. Zoning and Building Requirements

- Property irons must be located prior to erecting a pool. The City of New Prague does not provide a survey service to find the property irons. It is the responsibility of the landowner to locate the property lines.
- All swimming pools for which a permit is required and granted shall be provided with safeguards to prevent children from gaining access.
- Fences shall be at minimum four (4') feet in height and shall not exceed six (6') feet in height. The fence shall completely enclose any in-ground or above-ground swimming pools.
- The bottom of the fence shall not be more than four (4") inches from a hard surface ground or two (2) inches from a soft surface ground.
- Fences shall be constructed with a non-corrosive material that is not easily climbable for small children.
- The fence shall have self-closing and self-latching devices placed at a minimum of four (4') feet from the ground surface so that the device is inaccessible to all small children.
- A Fence is only required to be provided around the means of access on aboveground pools which have a four (4') foot or higher, vertical or outward inclined side walls.
- Prior to filling the pool, the approved fence and/or screen must be completely in place, inspected and approved by the city building official.
- In all residential districts, swimming pools shall only be allowed in the rear or side yard and shall be setback a minimum of six (6') feet from all property lines.
- Swimming pools shall not be located in drainage and utility easements or required buffers.
- Swimming pools erected on corner lots shall not be within the thirty (30') foot building setback line and shall not be constructed closer to the front property line than the primary structure. The swimming pool shall follow the same right-of-way setbacks as the house.

- L. All swimming pools shall be at minimum ten (10') feet away from any principle structure, building or frost footings.
- M. Swimming pool covers whether they can be locked or not shall not be allowed alone and shall still require a fence.

2. Required Inspections

- A. Pool Footing: Before pouring concrete, pool has been dug and forms have been erected.
- B. Gas Line: Air test performed.
- C. Final: Prior to filling the swimming pool and when the pool, pool enclosure (fence) and surrounding deck is completed.

3. Permit Checklist

Property irons shall be found or a Certificate of Survey shall be completed. The following information shall be submitted along with the building permit application. (Note: A Certificate of Survey for the property may be on file at City Hall.)

- A. Location and size of the pool
- B. Setbacks of pool from the property lines and other structures
- C. Location and height of the fence enclosure
- D. Detail showing self-closing and self-latching devices for fencing
- E. Complete plans and specification for the construction of the pool

Planner Ondich stated that staff recommends that the Planning Commission discuss the idea of adding the amendments to the zoning code specify for **Swimming Pools**. He stated that staff is also open to other ideas for discussion. He stated a public hearing would be set at a future Planning Commission meeting.

LaDuke stated the term “safe guards” should be changed to fencing or enclosure which is under item B.

Remfert asked if residents need to get a permit to place an aboveground pool.

Planner Ondich stated that residents would need to get a permit under these regulations if the pool is capable of holding 24” or has a diameter 14’. He stated that under the current regulation residents still have to get a permit for above and below ground swimming pools.

LaDuke stated that there needs to be some specifications on what type of fencing can be used.

Gengel asked how these regulations would be publicized to the residents.

Ondich stated that the new regulations would be placed in the City’s news letter, website and would be place in the New Prague Times.

Gilman asked if the pools that exist today would be grandfathered in.

Wilcox asked if hot tubs would be covered under this ordinance. She asked why staff chose a 24" depth over the 18" depth that Woodbury has to determine a pool.

Gilman stated that a 10' setback for a hot tub is a bit excessive.

Gengel stated the city should implement an ordinance like this because the number one priority is to protect life.

6. Miscellaneous

A. Signs in roundabouts

Wilcox stated that police should have the right to remove signs that are placed in the roundabouts.

LaDuke stated that police do try to remove these signs placed in the roundabouts. He stated that there is a state statute that states that signs can not be located in the roundabouts.

B. Current Parking Regulations – 50% between building and street

Wilcox stated that the City might need to rethink the parking regulations in the B-2 district because too many variances are being given.

Gengel stated that he would rather discuss each applicants parking layout.

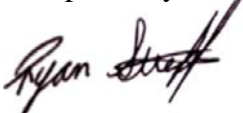
C. Music at Coburn's gas pumps

Gilman stated that we have outdoor music regulations on bars and restaurants but do not have regulations against Coburn's playing music at their gas pumps until 4 in the morning.

7. Adjournment

The meeting was adjourned at 8:15 PM by order of Chair Gengel.

Respectfully submitted,



Ryan Streff
Planning Intern