

**Meeting Minutes**  
**New Prague Planning Commission**  
**Wednesday, December 20, 2006**

**1. Call Meeting to Order**

The meeting was called to order at 6:30 p.m. by Planning Commission Chairperson Grant Gengel with the following members present: Kay Wilcox, Bob Gilman, Michael LaDuke, Pat Remfert and Grant Gengel. No members were absent.

City Staff Present: Renee Christianson - City Planner and Ken Ondich – City Planner.

**2. Approval of November 15, 2006 Meeting Minutes**

It was moved by Gilman, seconded by Remfert to approve the November 15, 2006 meeting minutes as submitted. Motion carried (5-0).

**3. Request for Preliminary and Final Plat Approval – Lucas Addition  
Dick Lucas, applicant**

Planner Ondich presented the staff report. He stated that the applicant first inquired about a possible addition to his main building or adding a new accessory building and that the issue of side and rear setbacks on his properties came into question. He stated that the planning commission reviewed staff's setback determination at the August 23, 2006 meeting and suggested platting the two properties into one to place the side setback on the ease property line to gain more buildable space on the property. He stated that it was discovered during the review of the proposed plat that the sanitary sewer line on the property was public and was subject to a recorded and unrecorded 25' easement. He stated the easement was recorded for the south parcel but not for the north parcel and also stated that a verbal/handshake agreement from 1980 exists to allow the applicant to build on top of the sanitary sewer line. He stated that the proposed lot met all size requirements and that a portion of the lot would be dedicated for a right of way sight triangle. He stated that along lot lines a 10' drainage and utility easement is proposed and that a 15' easement is proposed along CSAH 37 as requested by Scott County. He noted once again that a 25' wide easement covers the existing public sanitary sewer line on the property and that the applicant is proposed to vacate that easement and dedicate a new one in its place to cover the line through the entire property. He stated that the setbacks are correctly shown in the preliminary plat. He stated that the property has one access to both TH 21 and CSAH 37 and that the intersection of TH 21/CSAH37/6<sup>th</sup> Street is planned for realignment reconstruction in 2007. He stated that the TH 21 access will move to the south end of the existing parking area because of a future turn lane on TH 21. He stated that a second access to TH 21 exists from a 10' roadway easement on the south edge of the Al's carwash property and noted that staff is concerned that might be the only access to TH 21 from the south portion of the parcel. He stated that a sidewalk is adjacent to the site on two sides, the property is outside of the 500 year floodplain and that there is no reason to believe wetlands exist on the site after reviewing the NWI and making a site visit. He stated that park land dedication will not be applicable since the land was previously developed with buildings and parking. He stated that water is supplied by service lines from TH 21 and that the sanitary sewer service is provided from the public line

which runs through the property. He stated that preliminary verbal comments were received from Mn/DOT and that the formal letter would arrive by Friday December 29<sup>th</sup>. He stated that they are not requesting additional right of way at this time. He stated that Scott County required a right of way sight triangle and a 15' drainage and utility easement which have been shown on the preliminary and final plats. He stated that staff recommends approval with the findings, conditions and variance noted in the staff report.

The public hearing was opened at 6:43 PM.

Dick Lucas, applicant, asked why a copy of the plat in the staff report did not match a large copy of the plat that he had with him at the meeting.

Planner Ondich stated that he was comparing an old version of the preliminary plat to the new version of the final plat in the staff report. He stated and showed the Planning Commission that the new version was different because it showed a sight triangle at the intersection of TH 21 and CSAH 37 as requested by Scott County and also noted that the small piece of land on the north end of the Lucas property was not owned by Chart as indicated at a past meeting, but rather was Scott County right of way.

The public hearing was closed at 6:46 PM.

Commissioner Gengel asked about the purpose of the sight triangle and how large of a building addition Mr. Lucas was proposing.

Commissioner LaDuke stated that sight triangles are needed for traffic to have a better view of on-coming traffic at intersections.

Commissioner Gilman added that sight triangles are also needed in cases where future signals may be installed.

Mr. Lucas stated that he is anticipating an approximately 5,000 sq. ft. building addition attached to the east side of the building.

Commissioner Gengel asked exactly what they manufacture at Scott Equipment.

Mr. Lucas stated that they manufacture industrial mixers. He stated that Cargill is the largest user but that Malt-O-Meal and James Hardy are also users of their mixers. He stated that they employ 65 to 70 people in New Prague and in Arlington.

Commissioner Wilcox asked if the railroad has a setback requirement and also asked if they cared how close a building gets to the right of way. She also stated that she is concerned about pedestrian safety for the west side parking lot area.

Planner Ondich stated that there is not a setback requirement for the railroad right of way and noted that the parking area on the west side of Scott Equipment is narrow and not ideal as the parking area is paved to the back of the sidewalk. He stated that there is little that can be done to fix the drive lane for the parking area because there is very little room to work with.

It was moved by Remfert, seconded by LaDuke to recommend approval of Lucas Addition, consisting of 1 lot on approximately 4.48 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.
3. Approving the plat will allow a future addition onto the existing building on the site.

And with the following conditions:

1. Approval is granted in accordance with the preliminary plat (dated 12/12/06) and final plat drawings (undated) on file with the New Prague Planning Department.
2. Approval is subject to all recommendations of the Scott County Public Works Department.
3. Approval is subject to all recommendations of the Public Works Director.
4. The public sanitary sewer line located directly east of the existing Scott Equipment Building was constructed of ductile iron and can have a structure placed over it and within the easement as agreed to by Mr. Lucas and the City in approximately 1980 by a verbal/handshake agreement.
5. Approval is subject to all recommendations of Mn/DOT Metro District.
6. 10' drainage and utility easements must be dedicated along all property lines except for the 15' requested adjacent to CSAH 37.
7. The final plat must be recorded within 90 days of the date of the City Council granting approval.
8. The existing 25' wide drainage and utility easement per Doc. #182661 shall be vacated and replaced with a 25' drainage and utility easement which covers the extent of the public sanitary sewer line within the Lucas Addition.

And noting the following variance:

1. Park land dedication is not being required because the site is already developed with buildings and the property is being platted simply to combine existing unplatted lots and to allow for a future addition onto an existing building.

Motion carried: Ayes 5 Nays 0

#### **4. Zoning Ordinance Amendment for Sign Regulations – 1<sup>st</sup> Reading (Continuation of Public Hearing)**

Planner Ondich presented the staff report. He stated that staff began researching changes to the sign ordinance to better address temporary and portable signs. He stated that an article from the League of Minnesota Cities titled "Sign Code Shakedown" prompted further changes out of legal necessity. He noted that with the changes that existing legal signs are grandfathered in and can exist as they always have unless they are enlarged or changed. He stated that the Sign Code Shakedown article alerted the City to lawsuits filed against cities all over the country for sign ordinances that violate first amendment rights. He stated that once they are invalidated the company files permits for very large billboards which cannot be stopped without a sign ordinance in place. He stated that sign definitions were incorrectly worded in the sign ordinance

and typically discriminate against non-commercial speech. He stated that a statement of purpose is needed which answers the question of why signs should be regulated. He stated that the general premise is that signs cannot be regulated on what the sign says, but rather how the sign looks. He added that the constitution gives a lesser protection to commercial speech than to non-commercial speech. He stated that 5 changes were suggested to the sign ordinance at the November 15<sup>th</sup> Planning Commission meeting and public hearing. He stated that first suggestion was to allow commercial lots with multiple frontages to have up to two freestanding or monument signs versus the currently allowed one sign. He stated that staff added this suggestion into the drafted ordinance. He stated the second suggestion was to make it clear that the allowed sign size is “per surface” and that staff had accommodated the changes throughout the ordinance. He stated the third suggestion was to possibly allow only 15% building signage in the B-1 Central Business District while still allowing 25% building signage in all the other commercial and industrial zoning districts. He stated that staff had incorporated the changed into the proposed ordinance language. He stated that the fourth suggestion was to possibly allow “civic event sandwich boards” outside of the B-1 district. He stated that staff and the city attorney both agreed that this was not possible to allow without allowing all sandwich board signs in certain districts. He asked the Planning Commission to consider allowing sandwich board signs outside of the B-1 district if they would like to allow them for civic events in certain areas. He stated that the fifth suggestion was to possibly allow “directional subdivision signs” for housing developments. He stated that staff and the city attorney both agree that allowing these signs is not possible unless all off-premise advertising is allowed in certain zoning districts. He asked the Planning Commission to consider allowing off-premise advertising in certain zoning districts but cautioned that it would open up areas to a lot of such advertising for more than just residential housing developments. He stated that 23 suggested changes are proposed when including all the suggestions except for the civic sandwich board signs and subdivision directional signage. He read through the summary of the proposed changes and showed various sign pictures for example purposes. He stated that a second public hearing was needed on the matter.

The public hearing was opened at 7:15 PM.

Gordon Carlson, 717 1<sup>st</sup> Street SE, stated that he came to comment on the monument sign at the East Town Plaza strip mall. He stated that he brought notes with him from a 1999 public hearing meeting regarding the initial zoning of the strip mall property from Agricultural to Commercial. He stated that a motion was made by Bruzek and seconded by Wilcox at the December 29, 1999 meeting to require a buffer area between the residential area and the commercial area when it was zoned to B-2 Commercial Zoning. He asked if there was a buffer area to separate the two uses why a 90 sq. ft. sign was allowed to be installed within that buffer area. He stated that the sign is in the wrong location and that it is too bright. He stated that he would like to see the sign moved or the lights turned off. He asked why it could not have been installed on the property closer to the Classic Bar and Grille but noted that maybe it would have been too close to the sidewalk or parking lot.

Commissioner Gengel stated that the Planning Commission doesn't have the authority to make the strip mall turn the lights off on the sign. He stated that staff could measure the light intensity and determine if it's too bright and at that time they could be ordered to change the lighting on the sign.

Mr. Carlson stated that putting the sign in that location is a violation of the buffer that was approved for the site. He asked how the sign could have been installed without a public hearing being held for its location and size. He asked the Planning Commission if they would like to live across the street from the sign.

Planner Christianson stated that the sign location has been shown at all public hearings on the site plans that were reviewed and approved.

Mr. Carlson stated that more than anything he has an issue with the brightness of the sign.

Planner Christianson stated that staff recently acquired a light meter that can measure the brightness of the sign and compare it to the ordinance limit. She stated that it will take some coordination to get the street lights turned off in order to accurately measure the light.

Commissioner Wilcox stated that Mr. Carlson has fought an uphill battle against the commercial property for a few years now and asked if the sign had to be light 24 hours per day.

Dawn Barsness, owner of Total Entertainment at 809 1<sup>st</sup> Street SE, stated that it is essential that the sign be lit 24 hours per day because the tenants all pay for the sign and because traffic passes the sign at all hours of the day.

Mr. Carlson stated that the red electronic part of the strip mall sign is not too noticeable and that the brightness of the main part of the sign is the issue and the problem. He stated that he doesn't invite people over to his home any longer because it's so bright that you can read the sign from his living room.

Wade Fradenburgh, 110 1<sup>st</sup> Street NE and owner of Bonanza Signs, Inc., stated that he created all the signage for the East Town Plaza strip mall. He stated that the proposed provision for allowing electronic message centers to change only 24 times per day should be changed. He noted that the City of Shakopee has a provision where such signs can only change one time per day and that there have never been any accidents caused by the distraction of electronic signs. He stated that the Shakopee rule is now being challenged to allow more changes. He stated that there is no statistical evidence regarding electronic signs being a safety issue. He noted that a 1996 court case from Dallas regarding an electric sign causing a driver to become distracted was thrown out of court because it was determined that the driver was not distracted by the sign. He also stated that for building signs the standard is that for every inch of lettering you get 40 feet of readable distance.

The public hearing was closed at 7:31 PM.

Commissioner Gengel asked the Planning Commission members to first discuss the sandwich board issue and their placement along with off-premise commercial signs.

Commissioner Wilcox stated that she is opposed to sandwich boards downtown because they can be a safety issue, but noted that she sees an advantage to having them for business purposes.

Commissioner Gengel stated that he would like to hear support for allowing sandwich boards in all districts.

Planner Ondich stated that the proposed provision could be changed to include all districts, including residential districts where schools, churches and hospitals might use them for certain events. He noted that the provision could limit sandwich boards to non-residential uses of residentially zoned properties.

Commissioner Gengel asked the Planning Commission how they felt about allowing sandwich boards in all zoning districts, except that in residential zoning districts it would only be allowed for non-residential uses and noting that home occupations were considered a residential use of property. He also asked the Planning Commission for input on off-premise advertising.

The Planning Commission members all stated they do not support any off-premise advertising and also support the sandwich board provisions discussed.

Commissioner LaDuke stated that he would like to see only 15% building signage in all commercial and industrial zoning districts and not just in the downtown area.

Commissioner Remfert stated that he did his own study of the 15% building signage at the strip mall and if it was readable from the highway and he stated that it was readable and that he supported the 15% building signage limit.

Commissioner Gengel stated that he has always supported less than 25% signage on buildings.

Commissioner Wilcox stated that she still favors allowing 25% building signage outside of the B-1 District because it provides businesses with that extra oomph they sometimes need.

The Planning Commission by majority opinion felt that limiting building signage to 15% in all commercial and industrial zoning districts would be appropriate.

Commissioner LaDuke asked about the flag provision and the size allowed.

Planner Ondich stated that 3 flags up to 100 sq. ft. each would be allowed.

Commissioner Wilcox asked to put in perspective how large 32 sq. ft. would look.

Commissioner Gilman stated that he would like changes made to the variable message center allowed message changes.

Mr. Fradenburgh stated that the East Town Plaza sign changes its message every five seconds.

Commissioner Gengel stated that 24 times per day seems to be too few times, but that once every 2 seconds would seem to be too many times.

Commissioner Gilman stated that he didn't feel the City should limit the number of times the message could change.

Mr. Fradenburgh stated that each city and even many highways have their own rules for the number of times the message can change on a sign.

Commissioner Gengel suggested that the proposed provision allow the message on electronic variable message signs to change up to once every 5 seconds.

The Planning Commission all agreed that 5 seconds was an appropriate time frame for changing messages.

It was moved by Gilman, seconded by LaDuke to recommend that the City Council adopt the sign ordinance amendments as discussed and shown in the staff report and to include the changes discussed and agreed to by the Planning Commission members.

Motion carried: Ayes 5 Nays 0

## **5. Miscellaneous**

### **A. 2007 Meeting Schedule-**

A 2007 Meeting schedule was included in the packets for informational purposes only.

### **B. Growth Projections Statistics-**

The year to date growth projections statistics was included in the packets for informational purposes only.

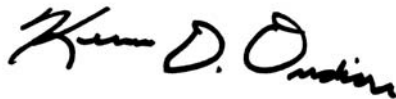
### **C. Parks and Recreation Brochure-**

The newly created Parks and Recreation Brochure was included in the packets for informational purposes only.

## **6. Adjournment**

A motion was made to adjourn at 8:02 PM. by Remfert, seconded by LaDuke which passed unanimously.

Respectfully submitted,

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

Kenneth D. Ondich  
City Planner