

Meeting Minutes
New Prague Planning Commission
Wednesday, July 23, 2008

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: Grant Gengel, Michael LaDuke, Kay Wilcox, and Pat Remfert. Commissioner Bob Gilman was absent.

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

2. Approval of June 25, 2008 Regular Meeting Minutes

It was moved by Remfert, seconded by Wilcox to approve the June 25, 2008 regular meeting minutes as submitted. Motion carried (4-0).

3. Continuation CUP #C4-2008 – Aluminum Can Reverse Vending Machine, Mike McLoone – Applicant

Planning Intern Streff presented the staff report. He stated that at the Planning Commission in June the request for Conditional Use Permit #C4-2008 to allow an Aluminum Can Reverse Vending Machine to be located in the Econofoods parking lot, as proposed by Mike McLoone was tabled. He stated at the meeting it was decided that McLoone needed to get more specific information on the machines operations and come back to the Planning Commission at a later date. He stated that following the meeting in June McLoone visited the proposed machine and received additional information requested by the Planning Commission. He stated the additional information was gathered by McLoone.

- There is no benefit to the patron adding fluid or other materials to add weight to the cans, as the machine pays per empty can.
- The machine has vented areas to allow air flow to decrease temperature and humidity levels inside the machine.
- The machine holds fluids that are accumulated in collection chambers inside the machine.
- The EPA has no guidelines for beverage can fluids.
- McLoone will manage any trash or debris left around the machine.
- The machine can be heard while in operation but is not loud enough to cause noise pollution to adjacent properties.
- A Front door to access the inner workings of the machine, to check for problems and to load the coins.
- The middle of the machine has a grated metal divider.
- The cans are fed through a small hole on the side of the hopper area.
- They are then dropped onto the conveyor.
- Next the cans are vacuumed through the tubing system, counted and then fed into a crushing wheel.

- The cans are then moved into the back of the machine.
- The floor of the machine is lined with large trash cans to collect the cans.

He stated that staff contacted three different cities in Wisconsin (Evansville, Edgerton and Milton) that have Aluminum Can Reverse Vending Machines. He stated that Evansville's machine is located in a grocery store parking lot, Edgerton's machine is located in a video store parking lot and Milton's machine is located in an ACE Hardware store parking lot. He stated these three cities all concurred that a machine of this type does not cause complaints of noise, odor, or cleanliness from the residents in town. He stated staff e-mailed and asked the MN APA to send a question regarding the Aluminum Can Reverse Vending Machine to its members. He stated staff received about a dozen responses and not one indicated that they had heard of problems or concerns regarding a machine of this type.

Remfert asked how concerns about the noise of the machine would be addressed.

McLoone stated that the machine makes a humming noise which comes from the vacuum system/blower. He stated that the cans running through the system are not very loud.

Remfert asked if trash can be dumped into the machines hopper.

McLoone stated that the machine is designed for cans and that the trash would simply fall off the conveyer belt inside the machine. He stated that he is going to put operation directions on the machine in both English and Spanish. He stated the back portion of the machine is lined with trash cans (forty-five gallon) to collect the cans. He stated he will empty the liquid every one to two days.

Gengel asked if there was a provision for collecting the liquids.

McLoone stated that there are two drainage tubes that lead from the hopper to the liquid receptacle. He stated that he plans to use some type of gas can to collect the liquid.

Reuben and Bernice Honza (108 5th Ave NW) asked what happens to the liquids in the winter time when they freeze.

McLoone stated that the liquid would freeze in the cans and if it did not he would handle it the same way as he would in the warmer months. He stated the machine will be checked every one to two days.

Reuben Honza stated that he is not in favor of the machine's proposed location. He stated that the machine would be okay if it was in a different location. Bernice Honza stated that McLoone should put the machine in his backyard. Mr. Honza stated that they do not want to look at a machine like this 24 hours a day. Mrs. Honza stated that they are 100% against the location. She stated that if the store/vending machine is open to 11pm how are the residents going to sleep with all the noise.

McLoone stated the he is trying to keep the machine and noise away from homes that are adjacent to the property. He stated that Econofoods wants to have the machine located in their parking lot.

Gengel stated that this machine needs a high traffic area for viability.

LaDuke asked if the machine would be placed on blocks or on the asphalt.

McLoone stated that placing it on the asphalt would be fine.

Gengel stated that if the machine is placed directly on the asphalt corrosion could occur.

Remfert stated that the bottom of the machine has to be made of a material that is non-corrosive.

McLoone stated that the machine is made of solid steel.

Joel Wollin (716 E Main Street) stated that the machine has fork lift slots on the sides and has skids underneath. He stated that corrosion should not be an issue if the machine is set on the asphalt.

Wilcox asked McLoone if he had looked at running electrical to other areas of the parking lot.

McLoone stated that he proposed this location because it is far enough away from the residential homes and in a convenient location for customers.

Remfert stated that the south west corner of the lot could be a possible location.

McLoone stated that this machine will help EconoFoods.

Wilcox asked if a small child could get their hands into the machine. She asked how far the blade was down from the opening in the hopper.

McLoone stated that there is no blade in the machine. He stated that he can not get his arm into the machine.

Mr. Honza asked if the machine would block the view of traffic coming down the hill.

Gengel stated that this location should not pose a traffic problem or concern.

Mrs. Honza stated that she called Planner Ondich or Planning Intern Streff the day after the last meeting and explained her feeling on the issue.

McLoone stated that Econofoods can ask to have the machine removed at any time.

It was moved by Remfert, seconded by LaDuke to recommend **approval** of an Aluminum Can Reverse Vending Machine, located at 104 4th Ave NW (Econofoods parking lot), as proposed by Mike McLoone (SoVerde Aluminum) of New Prague, with the following findings:

- A. The proposed Aluminum Can Reverse Vending Machine for can recycling will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area.

- B. The Aluminum Can Reverse Vending Machine would be adjacent to other properties on its east and south side, which are zoned in the same B-3 zoning district. The proposed Aluminum Can Reverse Vending Machine will not cause concern to existing residential properties to the north and west, which are zoned RH-High Density Residential. Therefore, the machine will blend with the current structure (EconoFoods Building) and will be sufficiently compatible with residential homes in the area.
- C. The proposed Aluminum Can Reverse Vending Machine and site will have a similar appearance and will blend with existing building, the appearance of which has not had an adverse impact on adjacent residential property in the past.
- D. The use is not listed as a conditional use within the B-3 zoning district, as defined by the zoning ordinance, but the proposed Aluminum Can Reverse Vending Machine will not affect the overall needs of the city or its land use plan.
- E. The use is not listed as a conditional use within the B-3 zoning district, but the proposed machine conforms to all standards and requirements of the B-3 zoning district that are set forth in the zoning ordinance.
- F. The use is not in conflict with the comprehensive plan because the structure is portable and can be moved at any time. This use is not specifically listed as conditional use within the B-3 Zoning District. It will not affect the land use to which the property is guided to in the Comprehensive Plan.
- G. In this case no unreasonable traffic hazards or congestion will be created due to the proposed vending machine.
- H. Adequate utilities have been or will be provided, particularly electric service.

And with the following conditions:

1. The exterior of the Reverse Vending Machine shall be painted in earth tones so that it blends with adjacent properties.
2. The final exterior color selection, design, name, and advertisements on the machine must be approved by City Staff. (Note: Off-premise advertisements are not allowed on the machine.)
3. Sign area is limited to fifteen (15) percent of each building face.
4. The Reverse Vending Machine must meet all code requirements.
5. Security lighting shall be provided on the front of the machine.
6. The Reverse Vending Machine shall only operate during normal business hours of EconoFoods or its successor.
7. An anchored trash receptacle made of high quality material that will blend with the surrounding structures shall be provided adjacent to the Reverse Vending Machine.
8. The area around the Reverse Vending Machine shall be kept clean and free of all debris, odor and liquid that might be associated with the recycling process.
9. Contact information shall be posted on the machine.
10. Machine shall be placed directly on the asphalt parking lot.

Motion carried: Ayes 4 Nays 0

4. Conditional Use Permit Amendment #C8-2004 (Strip Mall) – Adding Dine In/Fast Food Restaurants as Permitted Uses, Marvin Deutsch - Applicant

Planning Intern Streff presented the staff report. He stated in 2004, Marvin and Kim Deutsch of New Prague (now TTG Properties - Marvin Deutsch) applied for a conditional use permit to construct a multi-tenant commercial facility (East Town Plaza - Strip Mall). He stated the permit was granted, and certain uses were deemed allowed uses within the strip mall building. He stated restaurants were not an allowed use under the terms of the approved conditional use permit. He stated currently a coffee shop and a pizza establishment are the only two tenants that sell food related items within the multi-tenant commercial building. He stated the coffee shop and pizza establishments were approved with an amendment to the conditional use permit #C4-2008 on October 3, 2005. He stated in order to stay competitive with New Prague Commons (new strip mall by Coborn's) Deutsch would like to allow dine-in restaurants and fast-food restaurants to be able to locate in his multi-tenant commercial facility. He stated Deutsch stated that the venting systems (equivalent or better than Classic Grille and Bar) will be installed in order to decrease odors that might be emitted from the restaurant(s). He stated that the Mexican Restaurant is proposed to be located at 809 1st Street SE (where Total Entertainment was located). He stated that Deutsch is proposing this location because this particular unit is larger than the other units that are available. He stated that other units available are the end unit nearest to Classic and also the space just east of Total Entertainment where the bank was located. He stated that staff would like to note that the city has not received complaints from the smell at Classic since it opened in 2005. He stated a liquor license is required if alcohol is served in the establishment. He stated the license will have to be approved by the City. He stated the property is zoned in the B-2 Highway Commercial District in which dine-in restaurants and fast-food restaurants are allowed as conditional uses. He stated that a previous amendment to #C8-2004 removed a condition requiring all users to verify parking is available. He stated since that time, users have not had to verify parking and the strip mall has fit under the 1 space per 200 square feet strip mall calculation in the Zoning Ordinance. He stated that staff does not foresee a parking shortage in the lot but does note it could. He stated the City Building Official stated that the mechanical plans that include the cooking equipment must come from a licensed mechanical engineer and provide hood specifications and hood vent wrap specs along with the fire suppression information. He stated Claude Mahowald (100 Sunrise, Avenue N) stated that he is in favor of the Mexican Restaurant (or any restaurant) as long as a venting system equivalent or better than Classic Grille and Bar is installed. He stated Carol & John Rosengren (421 Flag Blvd. NE) stated that they are in favor of the Mexican Restaurant in East Town Plaza. He stated Gordon C. Carlson (717 1st ST SE) stated that he is opposed to any restaurant or bakery that requires external venting.

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

Cindy Oraskovich (713 1st Street SE) stated there was an agreement with Mr. Deutsch that stated that he needed apply for a CUP each time a new restaurant proposal was made for the strip mall. She stated that there would be no restaurant besides the Classic in that area. She stated that there was a concern at one time that there was not enough parking. She stated that only so many eating establishments would be allowed in the strip mall at a given time. She asked if the parking ordinance had changed since the East Town Plaza opened.

Planner Ondich stated that the parking calculation did change to 1 space per 200 square feet.

Oraskovich stated that the semi traffic for deliveries in and around the area are using an incorrect route and should be using 10th Avenue SE instead. She stated that she was trying to be a good neighbor and decided not complain about the odor from the restaurant. She stated that the strip mall area should have never been zoned commercial.

Loretta Vinger (200 7th Ave SE) stated that the town does not need a Mexican Restaurant until the downtown area is filled up first. She stated that there is enough traffic in the area the way it is. She stated that there is noise and smells that come from the Classic Bar and Grille. She asked where the Mexican Restaurant would put their garage and grease because currently the garage area behind the strip mall is full.

Gengel stated that the city can not force a tenant to locate in the downtown area.

Gordon Carlson (717 1st Street SE) stated his biggest concern is in regards to the odors. He stated that this is why restaurants were not allowed in the mall. He stated that originally the Classic was going to be directly across the street from his home. He stated that Marvin Deutsch met with the residents and decided to move the restaurant to the far end of the property. He stated that the Classic is far enough away that he has no complaints about the odor issue. He stated that semi truck traffic should use 10th Ave SE and not 7th Ave SE.

Marvin Deutsch, applicant, stated the venting system has to exchange the air with the outside. He stated that over the years venting systems have changed dramatically. He stated that the particular venting system for a Mexican Restaurant can not be known until he has the specs of the equipment. He stated that there are two different inspections (local and state) that have to be done on the equipment. He stated that there is no way to completely eliminate all smells. He stated that there will always be some odor but can be dramatically decreased with a good venting system. He stated that he takes great pride in what the mall looks like. He stated that they try to keep the mall looking as best as possible. He stated that it could be agreed that only the east 2/3 of the mall which is furthest from the residents would be used for restaurants. He stated that he wants to work together with the residents to come up with a conclusion. He stated that he is looking for a solution for the empty units in the strip mall.

Carlson asked about the petition located at Drug Express for a bakery at East Town Plaza. He asked where this business would possibly be located.

Deutsch stated that the bakery is looking at the unit on the east end by Classic. He stated that new regulations and equipment will help with the smell issue. He stated it is hard to lease a space when you need to convince the business owner that they need to come and apply for a CUP with the city. He stated that it is easier to lease out a space if the approvals have been given.

Carlson stated that the odor issue needs to be addressed.

Deutsch stated that when Coborn's video store opened Total Entertainment closed. He stated that a restaurant would fit the best in the middle of the strip mall. He stated that he wants good

businesses and people to locate in the mall. He stated that it could work to have the restaurant(s) locate in the east 2/3 of the building.

Mary Jo Becker (715 1st St SE) stated that if the restaurant was to go into the unit where Total Entertainment is located the front door to her home is only four stores away. She stated that she is concerned about the traffic and noise keeping them awake at night.

Joel Wollin (716 E Main Street) stated that he has had many conversations with Deutsch about the strip mall. He stated that he hates the sign and always will. He stated that Deutsch and himself have come up with a few solutions to reduce the glare from the sign. He stated that he had a complaint about the flashing sign at Total Entertainment. He stated that Deutsch asked him to go and talk to Dawn from Total Entertainment and she would address his issue. He stated that he finally went and spoke with Dawn and solved the problem. He stated that it was decided that black panels with white lettering should be used instead of white panels with dark lettering. He stated that this would greatly reduce the intensity of the sign. He stated that Deutsch was okay with this idea.

Deutsch stated that black panels were ordered for the sign.

Wollin stated that he gets a lot of trash in his yard from McDonalds. He stated that he would have issues if a restaurant like this were to be put into the strip mall. He stated that a sandwich shop like Quiznos would be great. He stated that he is concerned about the strip mall and does not want to see it turn into a skate park. He stated that he hates to see empty storefronts and would rather see it full than empty and not maintained.

Shannon and Will Whitecotton (16800 310th Ave NE) stated that they are the business owners of the bakery that approached Deutsch about locating in the east unit of the strip mall. She stated that they started the petition so that business like theirs can locate in the strip mall. She stated that by allowing these types of business into the strip mall the whole town will benefit. She stated that they ended up with 51 signatures. She stated that they need to grow their business and they need a store front. She stated that they looked at locating at the strip mall by Coborn's but would not be allowed to located there because they sell items which might compete with them. She stated that they have looked at spaces downtown but the parking issue poses a problem for their business. She stated that there are only 3 major sit down restaurants that draw people into town. She stated that the town needs business like this to grow. She stated they do not want people to have to go to Shakopee, Lakeville, and Apple Valley to get a different dining experience. She stated that she understands the concerns of the residents in the area so they want to have a ventilation system cuts back on the odors that are emitted. She stated that it might be a good solution to keep the restaurants on the east end of the strip mall. She stated that their bakery currently uses the kitchen at Holy Trinity Church. She stated that a decision has to be made which will benefit the whole community and not just the people within 350 feet.

Wilcox asked if the church has a commercial kitchen.

Whitecotton stated that the church has a commercial kitchen for their baking needs. She stated that they are a full service bakery. She stated that they would like to have a bakery with 5-8 tables with chairs for customer convenience. She stated that their kitchen would not have a fryer or cook top and all items would be served with disposable utensils.

Oraskovich stated that she felt betrayed before the meeting because of the bakery petition which ended up not being from Deutsch.

Gengel stated that a petition should provide contact information.

Wollin stated that he hates chocolate so a good venting system is very important to him. He stated that that a 4-way stop should be placed at the intersection of 1st Street SE and 7th Avenue SE to stop the speeding on 7th Ave SE. He stated that signs prohibiting truck traffic should be posted in this area so that they have to use 10th Ave SE.

Gengel asked Planner Ondich if the city has the authority to manage traffic.

Planner Ondich stated that the city does have the authority to manage traffic but MnDOT would be involved with the decision. He stated that stacking at this intersection could pose a problem with traffic.

The public hearing was closed at 8:17 P.M.

Gengel stated that he was not involved in the decision that was made over 10 years ago that changed the zoning in that area. He stated that the residents have been asked to suck it up over and over again. He stated that the neighbors are not being well served. He stated that this decision might affect the values of the residential homes in the area. He stated that he has reached a tipping point and thinks that the neighbors need to be heard. He stated that the city needs to balance its decisions and decide what is really good for the whole community.

Wilcox stated that she agrees with Commissioner Gengel. She stated the residents have valid concerns about this issue. She stated that opening the CUP to these types of uses scares her because the next owner of the strip mall might not care about the adjacent residents as much as Deutsch does.

LaDuke stated that he is not going to change his position on the CUP to allow these types of uses.

Remfert stated that with the better venting technology today the odors from the restaurants could be dramatically reduced. He stated that until the meeting no formal complaints have been made about odors from the Classic. He stated that he does not want East Town Plaza to be an empty building. He stated that strip mall is on Main Street and this area is a visible high traffic area where business want to locate. He stated that he would be in favor of restaurants in this area.

It was moved by Wilcox, seconded by LaDuke to **Deny** the request to amend Conditional Use Permit #C8-2004 to allow a Mexican Restaurant and other types of dine-in/fast-food restaurants to locate at East Town Plaza (Strip Mall) because of potential odor issues that could affect neighboring residential property values.

Motion denied: Ayes 3 Nays 1 (Remfert)

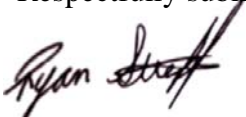
5. Miscellaneous

None.

6. Adjournment

The meeting was adjourned at 8:30 PM by order of Chair Gengel.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ryan Streff". The signature is written in a cursive style with a prominent flourish at the end.

Ryan Streff
Planning Intern