

Meeting Minutes
New Prague Planning Commission
Wednesday, January 28, 2009

1. Call Meeting to Order

The meeting was called to order at 6:30 p.m. by Planning Commission Chair Grant Gengel with the following members present: Kay Wilcox, Bob Gilman, Pat Remfert and Anthony DeLuca.

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

2. Introduction of New Planning Commission Member

Planning Director Ondich introduced new member, Anthony DeLuca, and welcomed him to the Planning Commission.

3. Election of Chair and Vice-Chair for 2009

A motion was made and seconded to elect Grant Gengel as Chairman, and Pat Remfert as Vice-Chairman of the Planning Commission for 2009. Motion carried (5-0).

4. Approval of November 19, 2008 Regular Meeting Minutes

It was moved by Wilcox, seconded by Gilman to approve the November 19, 2008 regular meeting minutes as submitted. Motion carried (5-0).

5. Conditional Use Permit #C1-2009 – Office and Apartment Use at 436 Main Street West, - Jerry Odle, Applicant (Public Hearing)

Planner Ondich presented the staff report. He explained that the structure located at 436 W. Main Street is an old building with a brick exterior. The structure previously was used as a single family home and has 1,440 finished square feet (main and second floors because the walkout basement is unfinished), with 3 bedrooms and 1 bathroom. The structure sits on a 7,500 sq. ft. lot with a very steep drop down to Philipps Creek to the south. There is currently no garage on the property and only a small gravel off-street parking area with direct access to TH 19. The structure has been vacant since May of 2007 when the property was foreclosed upon. Prior to May of 2007 the structure had always been utilized as a single family home. The property is, however, located in the B-3 Highway Commercial Zoning District. The property has now lost its grandfathered status as a single family home because it has been vacant for more than one year.

Mr. and Mrs. Jerry Odle have a purchase agreement on the property and have applied for a conditional use permit to use the main floor of the structure for office use and the upstairs for residential/apartment use.

Planner Ondich noted that there is an area on the property designated as flood plain, but it does not affect the structure. He reviewed comments received by the Police Chief, the Building Official, and MnDOT in regards to the proposed uses. Planner Ondich stated that staff did not support the use of the upstairs as an apartment due to the lack of parking on the site, but that city staff did support the use of the main floor as an office, subject to certain conditions. He reviewed findings and staff proposed conditions to the permit.

The public hearing was opened at 6:49 p.m. Mr. Odle stated that after discussing his proposal with Mr. Ondich he agrees that the proposed upstairs apartment is not a good idea, but suggested the property be utilized as a home based business, with the residential occupant also running a home based business. He also noted that he had purchased the property 'sight unseen' at a real estate auction.

Commissioner Wilcox asked if the structure is structurally sound. Mr. Odle stated that he assumes it is, but he has not been inside the structure.

Tom Hansel, 188 Ash St. W., Kilkenny, MN, along with his father, owns the business next door. Mr. Hansel stated that he felt the application should be denied because he feels it is too vague. He stated his main concern is the lack of parking, and noted that MnDOT recently striped a right turn lane in front of the house so no on-street parking is available in front of the home. The existing curb cut into the property is only for a single vehicle so it will be difficult to get parking for two vehicles on the west side of the home. He stated that if a contractor's office went into the structure then there may be a possibility of parking construction equipment there, which would not be feasible.

Mr. Odle stated that no construction equipment is proposed at this site.

The public hearing was closed at 7:07 p.m.

Commissioner Wilcox noted that a home based business would not be possible because the property is zoned commercial. She stated that she supports staff's recommendation, except that no occupancy should be allowed until all suggested conditions are met.

Commissioner Gengel asked about garbage removal on the site, and asked if there would be a dumpster.

Commissioner DeLuca asked if the site access could be moved to the east side of the home. It cannot be moved due to topographic issues, and MnDOT would likely deny the request to move it because of the turn lane.

Commissioner Remfert stated that he feels it is better to have the property occupied than sitting vacant.

It was moved by Wilcox, seconded by Gilman, to recommend approval of the request to allow the existing structure at 436 Main Street West to be used as an office with a maximum of two employees, as proposed by Jerry Odle, with the following findings:

- A. The proposed office 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 and utilizing an existing access to TH 19. The proposed apartment would cause excessive burden on adjacent TH 19 due to on-street parking that would be generated.
- B. The proposed office use in the existing structure is only to adjacent property that is zoned B-3 Highway commercial and is therefore compatible with the surrounding uses.
- C. The structure 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.
- D. The proposed office use, while not specifically listed as a conditional use in the B-3 District would be a low volume traffic generator which suits itself well to the site and its lack of off-street parking and provide the best possible re-use of the property following the loss of its nonconforming status as a single family home.
- E. The proposed office use for approval is in compliance with the comprehensive plan of the City because it is a commercial use located within the B-3 Community Commercial Zoning district and noting that the proposed residential apartment on the upper level would not fit in with the surrounding commercial area.
- F. The proposed office use with a maximum of two employees will not cause traffic hazard or congestion as two spaces would be provided for employees, but noting that the proposed second floor apartment would likely result in many visitor visits utilizing on-street parking on TH 19 which may not be available in the near future due to turn lane improvements at the adjacent TH 13/21 and TH 19 intersection.
- G. Adequate utilities, access roads of TH 19 (Main Street W.), 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 following use will be permitted on the subject property as long as the requirements for the intended use are met: office use with a maximum of two employees. Residential use is not permitted in any portion of the building due to a lack of off-street parking.
- 3. Any construction on the site must be situated above the 971.5 base flood elevation.
- 4. The Conditional Use Permit is issued in accordance with the parking site plan dated 1/21/2009, all on file with the New Prague Planning Department.
- 5. The applicant, Jerry Odle, must comply with all recommendations and requirements of MnDOT, Minnesota DNR, Police Chief and the Building Official including Minnesota State Building Code requirements.
- 6. The two required off-street parking stalls shall be provided for the office with a maximum of two employees and 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.
- 7. On-street parking on TH 19 (Main Street W.) will not be allowed between the hours of 2AM to 5AM as required by City Code Section 72.05(B) and no variance shall be allowed to this provision.

8. On-street TH 19 parking adjacent to the site will not be available at some point in the future due to changes to the intersection of TH13/21 and TH 19.
9. One tree and at least two shrubs shall be added to the south edge of the parking area to provide the ordinance required 25% shading and 3% landscaping requirements.
10. All signs must conform to Section 718 of the Zoning Ordinance.
11. All lighting must conform to Section 704 of the Zoning Ordinance.
12. Dumpsters will not be permitted on the site.
13. No occupancy shall be permitted until all of the conditions stated above are met.

Motion carried: Ayes 5 Nays 0

6. Concept Zoning Ordinance Amendment – Residential Erosion Control and Turf Establishment Regulations – Request for Discussion by New Prague Planning Department

Planner Ondich presented the staff report, noting that this item had been presented at the September 24, 2008 Planning Commission meeting by former Planning Intern Ryan Streff. The suggested ordinance changes presented at that time would require a combination of sod and/or hydroseeding to be completed on lots prior to final occupancy, along with the planting of trees in the front yard. The draft language was forwarded to the City Council at their October 6, 2008 meeting. The City Council noted that they were not in favor of regulations on the minimum number of trees for a residential lot, but noted that they were OK with a sod or hydroseed/seed requirement that would help with the erosion control on new residential lots.

Planner Ondich explained that he has prepared amended language for review which removed the requirement for trees, but included some optional language if the Planning Commission and Council now support the requirement for trees. He explained the need for a residential landscaping ordinance came to staff's attention because of the numerous erosion and weed related nuisances that have developed because of new homes that were occupied without sod/seed or other landscaping completed on them. One important item of this ordinance would be that the home builder would have to pay a landscaping escrow/deposit which will be due to the City before any building permit is issued to ensure that either silt fence or turf establishment is maintained until the certificate of occupancy is issued. In the event that a property owner / builder failed to implement or maintain proper erosion control measures on a lot, the City could draw upon the escrow to complete the items.

Mr. Ondich explained that the ordinances of thirteen other cities were reviewed during staff's research, and that all cities in the area have some degree of landscaping and/or turf establishment requirements. New Prague currently has no minimum requirements for trees or turf establishment which has led to various issues in the past few years.

The Commissioners discussed the proposed language. Commissioner DeLuca expressed concern about driving up the cost of home construction for the consumer. He wanted to make sure that homeowners would still have the opportunity to do their own landscaping if they elected to do so, and that they not be required to use a contractor. Planner Ondich stated that the proposed regulations allow for this, noting that the requirements must be met within sixty days after a temporary certificate of occupancy is issued. Therefore, a homeowner could move into a home and have another sixty days to complete the landscaping requirements.

Commissioner Wilcox asked how the City could guarantee sod or seed for twelve months, and what enforcement mechanisms the City would have in this regard.

Commissioner Remfert supported the requirement for trees and stated that a few years after development a neighborhood with trees in the front yards is much more attractive.

After discussion, the Commission requested further feedback from the City Council in regards to the requirement for planting trees in the front yard. They noted that the direction previously received from the City Council may have changed based on the fact that there are three new members. All Commissioners indicated support for the turf establishment requirement.

7. Miscellaneous

The following miscellaneous items were reviewed:

- A. 2009 Planning Department Goals
- B. 2009 Growth Statistics Summary
- C. 2009 Meeting Schedule
- D. Vacant Lot Inventory - Commissioner Wilcox asked how many vacant lots currently exist within the City. Staff noted that they had not taken a recent inventory, but could try to complete these within the near future.

8. Adjournment

The meeting was adjourned at 8:47 PM by order of Chairman Gengel.

Respectfully submitted,

Renee L. Christianson
City Planner