

**Meeting Minutes**  
**New Prague Planning Commission**  
**Wednesday, March 22, 2006**

**1. Call Meeting to Order**

The meeting was called to order at 6:30 p.m. by Planning Commission Vice Chairperson Pat Remfert with the following members present: Pat Remfert, Bob Gilman, Kay Wilcox and Alternate Jim Kratochvil. Absent were Grant Gengel and Michael LaDuke.

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

**2. Approval of February 22, 2006 Meeting Minutes**

It was moved by Wilcox, seconded by Gilman to accept the February 22, 2006 meeting minutes as submitted. Motion carried (4-0, LaDuke and Gengel Absent).

**3. Minnesota Department of Transportation – Presentation of TH 19 Needs Study  
Mark Scheidel, Transportation Planner**

Mark Scheidel, Mn/DOT District 7 Transportation Planner, was present at the meeting to present the Trunk Highway 19 needs study to the Planning Commission with a focus on the section between County Road 37 and Scott County 89 and LeSueur County 164. He listed the basic findings of the study as being the following: the study area of TH 19 should remain on the existing alignment and should be a two lane divided urban section with raised median and turn lanes; full access intersections will be at 10<sup>th</sup> Ave., Alton Avenue, and the Scott County 89 and LeSueur County 164 with limited access at the other points; there should be a local supporting road system to provide local direct access to land uses and provide continuous east/west travel without relying on TH 19; the initial project will likely be from 10<sup>th</sup> Ave. intersection to 800 feet east of Alton Ave. utilizing MnDOT safety funds and local funds. He also listed the related items and roles as follows: MnDOT will be responsible for the improvements on TH 19, with appropriate local participation; the City of New Prague will be responsible for the development of the local road system and utilizing funding as they see fit; MnDOT will combine the signal project at 10<sup>th</sup> Ave. with the project from 10<sup>th</sup> Ave. to Alton Ave. for a 2007 construction while noting that all design options will be considered, including roundabouts; the improvement of TH 19 east of Alton Ave. to the Scott County 89 and LeSueur County 164 area is not programmed at this time; the new signal project at TH 19 and First Ave. SE is on schedule for a 2006 installation though the Metro MnDOT Division.

Commissioner Remfert asked if there would be a median in the roadway and where it would be on the roadway.

Mr. Scheidel stated that there would be a raised median extending through the intersections that will not have full access and would continue from east of 10<sup>th</sup> Ave. to Alton Ave.

Planner Christianson noted that Rising Moon Alley would lose full access with the project but that Sunrise Ave. N. would maintain full access.

#### **4. Concept Plan Review – Addition to Senior High School Tim Rybak, ISD 721**

Planner Christianson presented the staff report. She stated that the City previously granted a conditional use permit for the high school on July 1, 1996 noting that parking would not be allowed on Columbus Ave. N. and 12<sup>th</sup> Street NE and that the high school was constructed for a capacity of 1,000 students. She noted that a referendum was passed in 2005 to expand the high school to 1,500 students. She noted that the school is located in the RL-90 Single Family Zoning District. She noted the expansion seemed to meet the criteria for granting a conditional use permit at this time. She stated that the minimum lot size and all setbacks are being met. She noted that three curb cuts to the property exist for staff, students, and visitors onto 12<sup>th</sup> Street NE and Columbus Ave. N. She noted that busses enter the site from their own curb cut from Columbus Ave. N and that all the accesses will remain unchanged. She noted that additional sidewalks should be incorporated into the plan. She noted that 487 parking stalls and 10 bus stalls exist for the 1,000 students and 105 staff members and 45 class rooms. She noted that the addition to the building will add 22 classrooms, 349 parking spaces, 14 bus stalls, an estimated 30 staff and 500 students. She noted that there has been an ongoing need for more parking in the area. She noted that the zoning ordinance does not have a specific parking requirement for high schools and that when polling area cities that the average required number of spaces for the existing and expanded school site would be 383 spaces with the most required being 567. She stated that more than 50% of the parking spaces are located between the building and the street which requires a variance and also noted that a landscaping plan must be submitted to show that 25% of the parking lot is shaded at full maturity. She noted that screening between the southwest parking lot and the residential homes is needed. She noted that the building additions will match the existing building in appearance. She recommended that the school district move forward with a formal conditional use permit application while addressing the issues she noted as follows: If the Planning Commission supports the proposed parking layout, a variance from Section 717, requiring that no more than 50% of the parking be located between the building and the street, would have to be acknowledged; there should be screening along the west side of the site, especially near the southwest parking lot and headlights and noise from vehicles could cause a nuisance to the adjacent homes and should be mitigated and that staff suggests a combination of berming and landscaping with a double row of coniferous trees; a landscaping plan, meeting the requirements of Section 717 and 707 must be submitted; the lighting plan for the parking lot must comply with Section 704 of the Zoning Ordinance; any signs proposed shall comply with Section 718 of the Zoning Ordinance; additional sidewalks should be incorporated into the plan, providing for pedestrian access to building addition #1, and possibly from the [new] west parking area to the main entrance and a sidewalk leading from the southwest parking lot to the perimeter sidewalk system should also be added; all grading, drainage and erosion control plans must be approved by the City Engineer.

Commissioner Remfert asked what the distance was from the edge of the proposed southwest parking lot to the Homefield addition development.

Planner Christianson stated that the distance is between 35 to 40 feet from the property line to the parking area as proposed.

Commissioner Gilman asked why the southwest parking lot area does not match the existing parking area rows and accesses to the east and noted that the one access point in and out of the lot didn't make sense for traffic flow.

Dave Rey, civil engineer from Anderson-Johnson Associates Inc., stated that since the plan was submitted to the City the southwest parking lot has changed to match the other parking areas and drive lanes. He added that they have provided for between 30 to 40 feet between the residential area and the parking lot for a buffer.

Commissioner Kratochvil asked if they felt that was enough area between the parking and the residential property.

Mr. Rey stated that they felt it was adequate room for the berm and landscaping and that adding an additional 10 feet would not make the situation better.

Commissioner Wilcox asked about accessibility to the front door of the high school for the elderly.

Tim Rybak, New Prague Area Schools, stated that the elderly can call ahead to the school and accommodations will be made to open the back door by the shop for easier access.

Commissioner Remfert asked if 1,500 students with the expansion would effectively build out the site.

Mr. Rybak stated that for now the 1,500 would be the maximum at the school. He noted that things could change in the future and that if it proved difficult for various reasons to move to two high schools that they may consider adding to the building again but that they would be moving into their fields located on the north side of the property. He stated that the state probably would not approve of taking out field space unless there is a hardship.

Commissioner Gilman asked how the expansion would affect the sanitary sewer system.

Planner Christianson noted that the school would use approximately 32 sewer access units.

Commissioner Wilcox asked where the additional sidewalks could be placed on the property.

Planner Christianson pointed out the areas where sidewalks could be added.

## **5. Request for Conditional Use Permit #C1-2006 – Ace Hardware Expansion Dennis Simon, applicant**

Planner Christianson presented the staff report. She noted that the applicants purchased the property and converted it to a hardware store in 1994. The existing structure was built in 1975, before the property had been annexed into the city limits. She noted that a conditional use permit is needed to expand the use because it is a legal nonconforming use. She noted that the applicant is looking to expand the building by adding a 4,860 square foot addition. She noted that the conditional use permit criteria are all being met for the proposed addition. She noted that the setbacks are all being met and that the lot size meets minimum requirements. She noted that one

curb cut exists to the property from 1<sup>st</sup> Street NE which also serves the property to the south. She noted that the curb cut for the site is within 20' from the intersection of two streets which is not allowed, but that the condition is preexisting and that moving the access would not achieve anything. She noted that an existing private driveway easement provides access to the property to the south from the same curb cut across the west 30' of the property. She noted that private easement will need to be amended because parking is now proposed in that easement area. She stated that the site will see a reduction of 5 parking spaces with the addition, but will meet the ordinance requirement for parking while noting that staff is concerned that there will be enough parking on the property. She noted that a parking easement would be needed with the property owner to the south to allow the parking along the south side of the hardware store for access to them. She noted that 3% of the gross parking area lying more than 20' from the street right of way shall be improved with landscaping which is not currently shown. She noted that the existing building is entirely steel panels and that the proposed addition to the building would be brick veneer at the bottom with stucco above facing the west. She noted that the south and north elevations of the building do not meet the ordinance requirement of Section 725. She stated that the lean to area would be used for outside storage. She stated that staff recommends approval with conditions listed in the staff report.

The public hearing was opened at 7:15 PM.

With no public comments received, the public hearing was closed at 7:16 PM.

Commissioner Wilcox stated that when 1<sup>st</sup> Street NE was constructed it opened up the back of the buildings to become fronts. She stated that she likes the proposed west building elevation and would like the north and south elevations to match.

Jason Witt, Witt Construction representing the applicants, stated that retrofitting a steel construction building to a stucco exterior is very costly because the structure of the building was created only to handle the steel siding. He noted that the building to the south is steel and that the existing hardware building has been in existence since 1975. He added that they have proposed landscaping to the north side of the building even though they aren't required to in order to improve the aesthetics and to screen the building.

Commissioner Gilman asked if the building would be painted to match the new construction.

Mr. Witt stated that they would like to use one color across the south side elevation.

Commissioner Remfert asked if the greenhouse would be inside the fenced in area under the lean to. He also asked if the storage that is currently outside will be placed inside the building. He asked what could be done to match the existing building to the addition.

Mr. Witt stated that they are greatly enhancing the appearance of the western elevation.

Commissioner Wilcox asked that the longevity of the building is.

Mr. Witt stated that it would be good for a long time considering the roof was recently updated in the past couple of years.

Commissioner Kratochvil stated that the metal building construction was not meant to handle the addition of anything but the steel skin on the outside and retrofitting it for stucco would require structural changes to the building which are very expensive. He stated that the appearance of the north and south elevations will not be bad if they are painted to match. He stated that the north elevation is screened from the street and added that the fence under the lean to would hide the building addition on the north. He stated that the west building elevation is attractive.

Commissioner Gilman stated that he agrees with Commissioner Kratochvil on the appearance. He asked if the area in the northwest corner of the parking lot could be landscaped as an island.

Mr. Witt stated that they had looked at that option, but felt that it would dam up the water flow from the parking area out to the street. He added that the proposed layout exceeds the required parking requirement for hardware stores and that he didn't think the condition was necessary that an easement for access to the parking on the south side of the building be obtained. He suggested removing the parking spaces on the south side of the building from the site plan.

Planner Christianson stated that she is concerned that the parking spaces provided will be adequate for the site, and that she did not want to see these parking spaces removed from the site plan. She also noted that through the conditional use permit process a condition can be to require more parking on the site than required by ordinance.

Commissioner Kratochvil stated that the easement document for the parking would save problems from happening in the future and that he'd like to see it drafted up.

It was moved by Kratochvil, seconded by Gilman to recommend approval of CUP #C1-2006 for to allow an expansion to the hardware store at 1300 1<sup>st</sup> Street NE in the B-2 Community Commercial Zoning District with the following findings:

1. 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.
2. The use will be sufficiently compatible or separated by distance or screened from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
3. The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
4. The use, in the opinion of the City Council, is reasonably related to the overall needs of the City and to the existing land use.
5. The use is consistent with the purposes of the zoning ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
6. The use is not in conflict with the comprehensive plan of the City.
7. The use will not cause traffic hazard or congestion.
8. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.

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 applicant's site plan dated 3/10/06, building rendition dated 3/14/06, and north and south building elevations dated 1/6/06, all on file with the New Prague Planning Department.
3. The applicant, Denwin Simon Properties, must comply with all recommendations of the City Engineer and Public Works Director.
4. The lighting plan for the parking lot must comply with Section 704 of the Zoning Ordinance.
5. Any signs proposed shall comply with Section 718 of the Zoning Ordinance.
6. The existing driveway easement agreement recorded as document #480070 must be amended to show an accurate legal description for the shared driveway area.
7. The applicant must obtain a private easement, allowing access over the adjacent property for the purposes of accessing the parking spaces on the southerly side of the building, from the adjacent property owner.
8. All 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'.

And acknowledging the following variances:

1. The current site entrance does not meet the requirement of Section 723 of the Zoning Ordinance in that it is less than 20' from a street intersection. This was a pre-existing condition and the Planning Commission finds that moving the access a short distance to the east would serve no additional purpose of the Zoning Ordinance and the general public, and would be burdensome to the applicant.
2. A variance is being granted for the requirement that 3% of the gross parking area lying more than 20' from the street right of way shall be improved and maintained with landscaping (not including the green space area lying 10' from the right of way in front of the front parking lot) in accordance with Section 717 (2)(A)(3).

Motion carried: Ayes 4 Nays 0

#### **6. Reopen Conditional use Permit #C5-2003 – Amend Site Plan to Add Garbage Enclosure Chad Pavek, applicant**

Planner Christianson presented the staff report. She stated that the original conditional use permit was approved for the convenience store, gas station, car wash and restaurant in 2003 with a trash area inside of the building. The applicant would now like to change the trash to an area outside of the building and to convert the former interior trash area to a cooler or freezer space. She noted that the Planning Commission at the February meeting stated they would like to see the trash enclosure at the south side of the property and not visible from Main Street. She stated that trash enclosure would be 10' by 14', faced with brick and have two swinging doors on the east side of the enclosure. She stated that staff recommends approval as long as the enclosure is constructed in accordance with the trash enclosure detail drawing dated 2/27/06.

The public hearing was opened at 7:40 PM.

With no public comments received the public hearing was closed at 7:41 PM.

Commissioner Remfert stated that the location is much better than the one proposed at last months meeting.

It was moved by Kratochvil, seconded by Wilcox to recommend approval of the amendment to CUP #C5-2003 to amend the approved site plan by adding an outdoor garbage enclosure in the B-2 Community Commercial Zoning District at 100 10<sup>th</sup> Ave. SE 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.
- B. The use will be sufficiently compatible or separated by distance or screened from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
- C. The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
- D. The use, in the opinion of the City Council, is reasonably related to the overall needs of the City and to the existing land use.
- E. The use is consistent with the purposes of the zoning ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
- F. The use is not in conflict with the comprehensive plan of the City.
- G. The use will not cause traffic hazard or congestion.
- H. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.

With the following condition:

- 1. The conditional use permit amendment is issued in accordance with the amended site plan and trash enclosure detail drawing dated 2/27/06, on file with the New Prague Planning Department.

Motion carried: Ayes 4 Nays 0

## **7. Request for Preliminary Plat Approval – Dohm Subdivision Brian Dohm, applicant**

Planner Ondich presented the staff report. He noted that the existing Autowash Systems Inc. building at 407 4<sup>th</sup> Ave. SW needs to expand and that the proposed addition would cross over an existing property line onto another property owned by the applicant. He stated that staff recommended that the applicant plat the property to accommodate the building addition because a simple subdivision was not eligible for the property because it was not previously platted. He stated that both the proposed lots meet the minimum lot size requirement and that both buildings will meet all applicable setbacks with the proposed plat except for the northern properties building which is existing at slightly less than 10' from the north property line which is a property line that cannot be moved. He stated that the north property has two curb cuts and the south property has one curb cut and that the properties would have a private access easement between them. He stated that park land dedication is not required because the land is already developed and the lot lines are only being adjusted. He stated that staff recommends approval of

the preliminary plat and read the conditions for approval while noting that a developer's agreement would not be needed for the plat.

The public hearing was opened at 7:50 PM.

With no public comments received the public hearing was closed at 7:51 PM.

Commissioner Wilcox asked what the addition of the Autowash Systems Building would be for.

Brian Dohm, applicant, stated that it would be for storage and manufacturing space.

Commissioner Remfert asked Mr. Dohm what exactly he makes in the building.

It was moved by Wilcox, seconded by Gilman to recommend approval of the preliminary plat of Dohm Subdivision in the B-3 Highway Commercial 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 preliminary plat conforms to the B-3 Highway Commercial Zoning District in which it is located.
3. Re-arranging the lot lines will allow the existing building on Lot 1, Block 1 to expand without crossing a property line.

With the following conditions:

1. Approval is granted in accordance with the preliminary plat drawing dated 2/28/06 on file with the New Prague Planning Department.
2. The Preliminary Plat is issued for a period of six months, and shall become null and void without further action from the Planning Commission or the City Council unless the final plat is filed within six (6) months of the date of the City Council granting Preliminary Plat approval.
4. Approval is subject to all recommendations of the Public Works Director.
5. Approval is subject to all recommendations of Mn/DOT District 7.
6. Drainage and utility easements must be dedicated at the time of final plat.
7. The title opinion must be approved by the City Attorney before final plat approval.

Motion carried: Ayes 4 Nays 0

### **8. Request for Conditional Use Permit #C2-2006 – Expansion to Existing Car Wash Dick Franek, applicant**

Planner Ondich presented the staff report. He stated that in late 2005 the applicants purchased the car wash which was constructed in 1999 and that they are looking to expand the car wash by adding a 14' addition off the north, a 16' addition off the west side and an 18' by 10' area off the west side all for an added self serve wash bay, a vending area, and pet wash area. He added that the existing vacuum island would be moved onto the west side of the building. He noted that when the carwash was initially constructed it did not require a conditional use permit, but now



that the ordinance requires it, the expansion triggers the need. He noted that the carwash is currently open 24 hours a day but that with the expansion it will only be open 5AM to 10 PM. He read through the conditional use permit criteria and findings as well as the performance standards for car washes. He noted that the entrance and exit doors must stay closed during the wash and dry cycles and asked the applicant to comment later if the closing of the door could be accomplished with the addition. He noted that less than 20% of the site is landscaped but noted that there wouldn't be any existing landscaping removed from the site with the expansion and that Philipps Park surrounds the site. He noted that the lot does not meet the minimum size requirement and that a variance should be noted to allow the expansion on the nonconforming commercial lot. He stated that the proposed expansion will meet all applicable setbacks, but that the existing east side of the building does not meet the rear setback requirement as it is only 8.7' from the lot line when it is required to be 10'. He stated that a private joint access easement provides for access to both the Casey's and the car wash and that buildings can't be built within the easement. He noted that this easement will need to be amended to allow the building expansion partially within the easement and noted that Casey's attorney is working on the amending language. He noted that many monitoring wells are located on the property and that one well is proposed to be built over and that I&S Engineers is looking into if other requirements are needed before they can build over the monitor well. He noted that parking is not required for car washes, but that one space would be needed for the pet wash area and that variances would be needed for the parking requirements on the one stall parking lot. He noted that a permanent sign would be put on the building, but that he did not know if the sign met ordinance requirements because it did not contain dimensions. He noted that staff recommends approval of the conditional use permit with the conditions and variances noted in the staff report.

The public hearing was opened at 8:12 PM.

Mark Orvik, 210 4<sup>th</sup> Ave. NW, asked where the users of the self serve wash bay would be hand drying their cars on busy days.

Dick Franek, applicant, stated that they could hand dry them in the bay, and that they currently do that in Montgomery. He also stated that often times people will wash their cars and dry them at the vacuum stations so they can take care of both things at the same time.

The public hearing was closed at 8:15 PM.

Commissioner Wilcox asked if Mr. Orvik could hear the dryer from the car wash at his home.

Mr. Orvik stated that he could hear the dryer at his home. He added that it is a straight shot to his home.

Mr. Franek stated that they plan on moving the carriage sprayer north so that it is further inside the door of the car wash so water doesn't pour outside of the front door. He stated that extending the carwash building further north is difficult because they are already encroaching on the access easement with Casey's to accommodate drying cars completely within the building. He added that there is no room to add onto the south side of the building. He stated they are adding 14' to the north side of the building already. He added that the entrance door does stay shut during the washing and drying cycles.

Ron Pexa, applicant, stated that adding the 14' to the north side of the building will keep the dryer further inside the building from where it is currently located right at the exit door.

Mr. Franek stated that the dryer will be 4 to 5 feet inside the exit door with the addition.

Commissioner Remfert stated that the car wash at McDonald's was asked to keep the doors closed for consideration of the noise and the neighbors in the area.

Commissioner Wilcox stated that she does not support expanding a potential nuisance on the site and that by putting more money into the building now without correcting the situation would ensure that it may never change.

Commissioner Kratochvil stated that he would like the door to remain closed on the automatic wash bay while washing and drying.

Commissioner Gilman said that he would support a variance to the north property line to add length to the building to accommodate keeping the door closed during the drying.

Mr. Franek asked if they can make the current building size and keep the door closed they will be ok. He added that they will make it work.

Commissioner Wilcox moved to continue the agenda item until the April 26<sup>th</sup> Planning Commission meeting for more information to work to keep the door closed during drying.

Mr. Franek stated that if they can't do anything the car wash will just stay the way it is.

Commissioner Remfert asked what could be done if the curb circle is changed further to the south and add onto the south portion of the building.

Staff noted that a variance would be needed in either case of moving the building north or south on the site to accommodate the extra length.

Commissioner Remfert stated to the applicants that the Planning Commission is open to a variance for setbacks in order to accommodate keeping the door closed during the drying cycle.

## **9. Public Hearing for Zoning Ordinance Amendments**

### **Outdoor Wood-Fired Boilers (public hearing required)**

Planner Ondich presented the staff report. He provided background information on Outdoor Wood-Fired Boilers, how other cities regulate or don't regulate Outdoor Wood-Fired Boilers, what the MPCA and EPA have for regulations on Outdoor Wood-Fired Boilers, and finally presented draft ordinance language to ban new units entirely within the City of New Prague.

The public hearing was opened at 8:45 PM.

Mark Orvik, 210 4<sup>th</sup> Ave. NW, stated that he sees the problem with the outdoor wood boiler units, but asked about other alternate fuel sources used to heat homes and if the city had a problem with them.

Planner Ondich stated that the alternate fuel sources such as corn burners and pellet burners are certified and regulated by the EPA but that wood-fired boilers are not. He stated the issue was really with the smoke from the outdoor wood-fired boilers because they operate at a lower burning temperature, especially upon start up and shut down when they smolder.

Commissioner Remfert stated that the smoke is the main issue. He stated that the damper on these units shuts down which makes the fire in the unit smolder until the time when more heat is needed and the damper opens up again to a full fire. He added that with fire places the fire gets hot and stays hot unlike the boiler units.

Mr. Orvik stated that the fuel is really the problem.

Mike Leahy, 1008 1<sup>st</sup> Ave. NW, asked how many units are existing in the City and asked if that was the reason for the ban of them.

Planner Ondich stated that staff knows of one unit and that the banning issue came out of a request by a resident who asked about installing one within the core of the town.

Planner Christianson stated that the one existing unit is on a large lot on the edge of the City.

The public hearing was closed at 8:49 PM.

Commissioner Wilcox stated that until the process is streamlined for the certification of the units that the ban is the best way to address the issue at this time.

It was moved by Wilcox, seconded by Gilman to recommend approval of the amendment to ban the installation of outdoor wood-fired boilers within the city limits and providing a definition for outdoor wood-fired boilers with the following findings:

1. The ordinance amendment complies with the purpose and intent of the New Prague Comprehensive Plan.
2. The ordinance amendment provides for the banning of the installation of Outdoor Wood-Fired Boilers which have been determined to be a threat to the public health, safety and welfare of the residents of the City because of the pollutants in the emissions from the units.

Commissioner Kratochvil asked for some further discussion on the matter. He stated that he disagrees with the total ban of the units. He stated that there are places in town where they could operate without problem in his opinion. He stated that he does not support banning the installation of the units.

Motion carried: Ayes 3 Nays 1 (Kratochvil)

### **Allow Essential Services in the I-1 Industrial Zoning District**

Planner Ondich presented the staff report. He noted that staff recently noticed in conjunction with the construction of the new water tower that essential services are not listed as a permitted

use in the I-1 Industrial District but are a permitted use in every other zoning district within the City. He noted that the industrial district is actually the most desirable location for essential services because of their compatibility. He read the definition of essential services and noted that the only change to the ordinance was to add essential services as a permitted use to the I-1 Light Industrial District.

The public hearing was opened at 8:54 PM.

With no public comments received, the public hearing was closed at 8:55 PM.

It was moved by Wilcox, seconded by Gilman to recommend approval of the amendment to allow essential services as a permitted use in the I-1 Light Industrial Zoning District with the following findings:

1. The ordinance amendment complies with the purpose and intent of the New Prague Comprehensive Plan.
2. The ordinance amendment fixes an earlier oversight of the zoning ordinance in which the I-1 Light Industrial Zoning Ordinance was the only district in which Essential Services were not listed as a permitted use.

Motion carried: Ayes 4 Nays 0

#### **Nonconforming Uses and Structures – to be consistent with State Statutes**

Planner Ondich presented the staff report. He stated that state law regarding nonconformities had changed since 2004 which invalidated local zoning ordinances and limited cities ability to regulate nonconformities. He stated that current law requires that nonconformities be allowed to continue through repair, replacement, restoration, maintenance, or improvement but not including expansion unless the use is discontinued for a period of more than 1 year or is destroyed by 50% or more of market value and no permit is applied for within 180 days. He noted areas where the city's current ordinance conflicts with state law and noted the suggested changes.

The public hearing was opened at 9:00 PM.

Mike Leahy, 1008 1<sup>st</sup> Ave. NW, asked what the difference was between the expansion of the nonconforming structures and expansion of nonconforming land uses.

Planner Ondich stated that nonconforming structures are nonconforming only because they don't meet a height or property setback and that nonconforming uses are nonconforming because they are not an allowed use in a certain zoning district such as a business in a residential area or a residential home in a business area. He stated that for the nonconforming structures it is allowable to have an expansion if the expansion meets all setback requirements and that the use is allowed in the district.

Mr. Leahy asked if the proposed amendment was being done to be in line with state law.

Planner Ondich stated that they needed to make the change to be consistent with state law and that staff has actually been following the state law since it was enacted.

Mr. Leahy asked how many nonconforming properties there are in town.

Planner Christianson stated that there are some along Highway 21 and along Main Street in commercial districts. She stated there are probably a couple of dozen nonconforming uses in town.

Mr. Leahy asked if in his situation as a nonconforming use residential home if he could add a garage on his property.

Planner Christianson stated that a garage and deck can be added to a nonconforming use residential property if none previously existed. She added that if someone has reasonable use of a garage in useable condition on the property that they wouldn't be allowed to add one.

Mr. Leahy asked about a similar situation with a house by the new elementary school south of Highway 19.

Commissioner Kratochvil stated that the home he was referring to was located outside of the City Limits so the rules don't apply to them.

Mr. Leahy asked if the city had to adopt the changes. He asked if a room full of people were opposed to the change if the City would have to adopt it.

Planner Christianson stated that the city must be consistent with state statute and that the ordinance language currently is not. She added that planning staff would recommend approval of the changes for this reason.

Mr. Leahy stated that it makes it hard for him to live in town and that it's too bad that it has to be that way.

Planner Ondich stated that the state law has actually become less restrictive with the changes in that it requires that a city must allow a home such as his to be rebuilt if destroyed by more than 50%. He said that previous to the change in the law cities had the ability to limit the home from being rebuilt.

Planner Christianson added that you have 180 days to pull a building permit in such a situation and that it's much less restrictive than it used to be.

The public hearing was closed at 9:09 PM.

Commissioner Kratochvil stated that he believes the State of Minnesota did wrong by not allowing a nonconforming use to expand to add a bedroom to a home or whatever needed. He stated that he does not support the state law or the change.

Commissioner Gilman stated that he kind of agrees with Commissioner Kratochvil but believes we need to come in line with the state law.

Commissioner Wilcox stated that having Mr. Leahy at the meeting to discuss the topic personalizes it for her, but that the City didn't make his home nonconforming because it was that way when he bought it. She added that he is not the first person to ask to expand a nonconforming home.

It was moved by Wilcox, seconded by Gilman to recommend approval of the ordinance amendment to the section on nonconforming uses and structures to be in conformance with state law with the following findings:

1. The ordinance amendment complies with the purpose and intent of the New Prague Comprehensive Plan.
2. The ordinance amendment ensures that the zoning ordinance is consistent with current state statutes regarding nonconformities.

Motion carried: Ayes 3 Nays 1 (Kratochvil)

## 10. Miscellaneous

**A. Strip Mall Amusement Center** – Planner Ondich asked about whether a possible amusement center in the Deutsch Strip Mall would require a conditional use permit or if it was covered under the currently listed uses on the permit. Planner Christianson read the approved uses from the conditional use permit.

Commissioner Gilman asked if they would serve food and beverages.

Planner Ondich stated that they did not know that detail at this time.

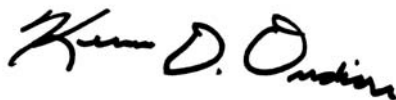
Commissioner Wilcox stated that they should apply for a conditional use permit.

Commissioner Remfert stated that they should apply for a conditional use permit.

## 11. Adjournment

A motion was made to adjourn the meeting at 9:15 PM. by Wilcox, seconded by Gilman, which passed unanimously (4-0).

Respectfully submitted,



Kenneth D. Ondich  
City Planner