

Meeting Minutes
New Prague Planning Commission
Wednesday, September 24, 2008

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

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

2. Approval of August 27, 2008 Regular Meeting Minutes

It was moved by LaDuke, seconded by Gilman to approve the August 27, 2008 regular meeting minutes as submitted. Motion carried (4-0).

**3. Concept Discussion – Keystone Communities Senior Housing
Keystone Communities - applicant**

Planner Ken Ondich provided the background on the Keystone Communities Senior Housing project. He stated that Keystone Communities, LLC is looking for concept review feedback on an 80 unit senior living facility. He stated that the facility will consist of memory Care, Assisted Living and Independent Living Units. He stated that there would be 26 Full time staff and 14 staff on largest shift (35 total employees). He stated that parking on site would be above ground with a majority of the parking being in the underground parking area. He stated that there are similar projects in Mankato, Prior Lake, Faribault and Eagan. He stated that the area is currently zoned B-2 Community Commercial. He stated this proposed use is not a permitted or a conditional use in B-2 District. He stated that a comprehensive plan amendment and rezoning to RH High Density Residential along with a CUP would be required. He stated that other sites in New Prague are already guided and zoned to accommodate the proposed use include the AMPI and Raven Stream sites. He stated the adjacent zoning is B-2 but RH is adjacent to the south (DR Horton Townhomes). He stated the minimum Lot size in B-2 District is 20,000 square feet. He stated that the RH Zoning minimum lot size is 2,000 sq. ft. per unit – 3.8 acre lot for 80 units which is large enough to accommodate the minimum lot size requirement. He stated that the setbacks appear to be met with the plan. He stated that no existing curb cuts access the property. He stated that one new curb cut is proposed onto 10th Ave SE (line up with ALCO access). He stated that one new curb cut onto 1st Street SE (line up with State Bank). He stated that 1st Street SE must continue through the site from the existing cul-de-sac. He stated that Holy Trinity must connect and close their TH 19 access when 1st Street is provided to property (per the past developer's agreement). He stated the Zoning Ordinance requires spaces equal to 4 times the lawful number of occupants plus 1 space per two employees. He stated this equals 320+ required spaces. He stated Belle Plaine's new 81unit senior facility required 68 stalls (1 per every two units and 2 stalls for each employee and also stalls for commercial). He stated that Prior Lake's Keystone Project consisted of 107 units and required 54 spaces (1 per two units). Keystone provided 40 surface spaces and 65 underground (105 total in Prior Lake). He stated

that the City's "Hospital" parking requirement would require 1 space per bed and 1 per employee on largest shift for 94 spaces. He stated that staff would also consider 1 space per each two units for discussion purposes. He stated *Section 717 (2)(7)(d)* states that no more than fifty percent of parking shall be located between the building and street. He stated in the case of the site plan, 100% of the parking is located between the buildings and the street and therefore does not meet the ordinance requirement. He stated that the lot has three street frontages which places difficulty on the property. He stated that staff recommends that a variance be approved to allow for 100% of the above ground parking to be located between the buildings and the street and noted that more than half of the parking will likely be underground. He stated that predominant exterior building materials must be of high quality, including brick, wood, or concrete. He stated when concrete or tilt-up concrete panels are used, detail using color, textures, and material treatments must be integrated to provide a higher degree of aesthetic treatment. He stated that prefabricated steel panels are prohibited as predominant building materials but can be used for aesthetic treatment. He stated building mass and scale must be controlled through roof line variations, repeating patterns of color, materials, and textures, windows, and awnings. He stated all facades of a building that are visible from adjoining properties or public streets shall contribute to the pleasing scale features of the building and encourage community integration by featuring characteristics similar to a front facade. He stated that one 32 sq. ft. monument sign would be allowed on the site. He stated that 12 Sq. ft. of building signage is allowed on the entire building per the Residential High Density Signage regulations. He stated that the lighting must meet section 704 of the Zoning Ordinance. He stated that the storm sewer connects to the Prague Estates Regional water retention pond/drainage way. He stated that staff recommends discussing and providing feedback on the concept plan site layout, building design and the overall concept of the Comprehensive Plan Amendment, Rezoning and CUP if zoned from B-2 to RH High Density Residential.

Kristi Olsen (CEO) and Mike Lewis (CFO) of Keystone Communities attended the meeting.

Olsen stated that Keystone currently has four facilities. She stated that these facilities were in Mankato, Prior Lake, Faribault and Eagan. She stated that they are attracted towards smaller communities like New Prague.

Remfert asked what the breakdown would be in regards to the number of units for memory care, independent and assisted living.

Olsen stated there would be 25 units for memory care and the other 55 units for independent and assisted living.

Olsen stated that they care for people that can not function by themselves in their own home.

Remfert asked if a person can move from one type of care to another and still stay in the same unit.

Wilcox asked if they have worked with Maxwell in their study process.

Olsen stated that they accept elderly waivers and can give care to all types of people in different financial situations.

Wilcox asked if they had looked at the other areas in New Prague that are zoned for RH – High Density Residential.

Lewis stated that they looked at many other locations but felt the proposed site was the premiere location for this type of facility.

Randy Kubes stated that they discussed the other locations but felt these were not as ideal. He stated that the proposed property is close to shopping, banks, health care and the church.

Wilcox asked where of the parking would be.

Lewis stated that there would be about 50 underground parking spaces.

LaDuke stated he was concerned about the 10th Avenue access and felt that it was not needed.

Commissioners agreed that required parking spaces would be allowed at 1 space per 2 units and one for each employee on the largest shift. They agreed that re-zoning the property from B-2 to RH – High Density Residential would also be feasible for this project.

LaDuke stated that stone, brick or other high quality material should be used like other buildings in the B2 District.

Lewis stated that the finished building would be worth approximately 10 million dollars.

Commissioners agreed that the design layout looked good.

Paul Kraft (Trinity Lutheran Long Range Planning Team) stated that the proposed facility is in an ideal location. He stated that the sidewalk should extend along 1st Street SE as 1st Street SE continues towards the east. He stated concerns about drainage off the proposed site near the church playground area. He stated they do not want to extend their leg of 1st Street SE until it is possible to get from 10th Ave SE to Chalupsky Ave SE.

No motion is needed on this agenda item. It was provided for concept review/discussion purposes only.

4. Zoning Ordinance Amendment – Pool Regulations (Public Hearing)

Planning Intern Streff presented the staff report. He stated at the August 27, 2008 Planning Commission meeting staff proposed the idea of adding a specific section for “swimming pools” to the zoning ordinance. He stated staff noted that the city currently has no specific requirements or regulations for swimming pools. He stated the Planning Commission reviewed the concept report and draft language that staff provided. He stated the Planning Commission agreed that adding a new section for swimming pools to the zoning ordinance would be in the best interest of the city. He stated staff revised the proposed ordinance to reflect the changes the Planning Commission noted. He stated staff was asked to schedule a public hearing for final consideration of the proposed ordinance at the next Planning Commission meeting on September 24, 2008. He stated after the last months meeting Mayor Bink Bender asked staff if it was possible for the City to enforce the new pool ordinance on existing pool owners. He stated staff decided to forward

the ordinance to the City Attorney to get his comments on this retroactive/non-conforming ordinance issue. He stated in an e-mail received from the attorney's office it was stated that the enforcement of a retroactive ordinance for non-conforming pools would generally be disfavored and that City could end up in court over the matter. He stated the more legally defensible solution is to consider existing pools non-conforming and to provide educational material about the new ordinance. He stated that staff recommends that the Planning Commission hold the public hearing and make a recommendation for approval to the City Council for the ordinance language as written.

Proposed Ordinance Changes

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

Proposed Ordinance Changes

Ordinance Amendments – **Added** and deleted

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

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

735 Swimming Pools

1. Zoning and Building Requirements

- Property irons must be located prior to erecting a pool. The City of New Prague does not provide a survey service to find the property irons. It is the responsibility of the landowner to locate the property lines.
- All swimming pools for which a permit is required and granted shall be provided with fencing and self-latching device to prevent children from gaining access.
- Permanent fences shall be at minimum four (4') feet in height and shall not exceed six (6') feet in height. The fence shall completely enclose any in-ground or above-ground swimming pools.
- The bottom of the fence shall not be more than four (4") inches from a hard surface ground or two (2) inches from a soft surface ground.
- Fences shall be constructed with a non-corrosive material that is not easily climbable for small children.

- F. The fence shall have self-closing and self-latching devices placed at a minimum of four (4') feet from the ground surface so that the device is inaccessible to all small children.
- G. A Fence is only required to be provided around the means of access on aboveground pools which have a four (4') foot or higher, vertical or outward inclined side walls.
- H. Prior to filling the pool, the approved fence and/or screen must be completely in place, inspected and approved by the city building official.
- I. In all residential districts, swimming pools shall only be allowed in the rear or side yard and shall be setback a minimum of six (6') feet from all property lines.
- J. Swimming pools shall not be located in drainage and utility easements or required buffers.
- K. Swimming pools erected on corner lots shall not be within the thirty (30') foot building setback line and shall not be constructed closer to the front property line than the primary structure. The swimming pool shall follow the same right-of-way setbacks as the house.
- L. All swimming pools shall be at minimum ten (10') feet away from any principle structure, building or frost footings.
- M. Swimming pool covers, regardless of design, shall not be used allowed in lieu of the required fence. The fencing requirements and standards stated in this Section are required even if a swimming pool cover is used.
- N. The drainage of discharged water cannot drain across or onto any adjoining property.
- O. Above ground hot tubs or spas with a locking safety cover which complies with ASTM Standard F 1346-91, provided the cover is locked at all times when the hot tub or spa is not in use, shall be exempt from the requirements of Section 735 of the Zoning Ordinance.

2. Required Inspections

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

3. Permit Checklist

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

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

The public hearing was opened at 7:42 P.M.

Kevin Slavik (112 1st Street SW) stated that he has had an above ground swimming pool for several years that is 5'-6' from his home with no fencing or removable stairs. He asked if these pool regulations would be enforced on his pool.

Planner Ondich stated that his current pool would be considered a non-conforming pool. He stated that if Mr. Slavik changed pools he would need to follow the regulations stated in the new Section 735.

The public hearing was closed at 7:54 P.M.

Wilcox stated that a reminder for this ordinance change should be placed in the March 2009 City Newsletter.

It was moved by Wilcox, seconded by LaDuke to recommend **approval** of the Amendment to the Zoning Ordinance # 187 Section 302 for definitions by adding a definition for "Swimming Pools", and adding a new Section 735 for Performance Standards for Swimming Pools, as written in the staff report.

Motion Approved: Ayes 4 Nays 0

5. Zoning Ordinance Amendment – Residential Landscaping (Draft)

Planning Intern Streff presented the staff report. He stated staff has recently been discussing the idea of proposing a "Residential Landscaping" ordinance to the Planning Commission. He stated staff feels that implementing a residential landscaping ordinance will preserve the City's natural resources as a complement to existing and future development. He stated that the need for a residential landscaping ordinance has come to staff's attention because of the numerous landscaping (weed) nuisances that have developed because of new homes that were moved into without sod/seed or other landscaping. He stated another major issue has been erosion on lots which are not sodded or seeded. He stated the home builder will have to pay a landscaping escrow which would be due to the City before any building permit is issued. He stated the escrow would be set by the City Council yearly. He stated staff researched various cities throughout the metro area and found 4 zoning examples that specifically have provisions similar to what staff would possibly add to the Zoning Ordinance. He stated currently the City has no sod/seeding requirements or tree requirements.

Proposed Ordinance Changes

Create Ordinance 736 *Residential Landscaping Requirements* under Section 7 of Performance Standards.

Proposed Ordinance Changes

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

736 Residential Landscaping Requirements

4. Purpose

- A. The purpose of this section is to establish performance standards for the installation of residential landscaping to preserve the appearance, character, health, safety and welfare of the community. These standards will be used to review and evaluate subdivisions, site plans and development proposals.

5. Requirements

- A. All developed, improved or built upon lots or parcels shall include landscaping. Landscaping on the lot shall consist of a soil retention cover such as sod and planting such as trees and bushes to protect the soil and aesthetic values on the lot and adjacent property.
- B. Landscaping shall be completed after the area has been brought to finished grade.
- C. No trees, shrubs or other landscaping other than sod/seed shall be allowed within any drainage or utility easement, boulevard or road right-of-way.
- D. All new plants shall be guaranteed for twelve (12) months from the time planting has been completed. All plants shall be alive, of good quality and disease free at the end of the warranty period or must be replaced. Any replacements shall be warranted for twelve (12) months from the time of planting.
- E. Lots shall have sod installed from roadside edge (curb) to the rear property line and shall completely cover the lot were buffers, wetlands, trees and other landscaping does not exist.
- F. The planting of one tree per dwelling unit is required.
- G. When one or more healthy, significant tree(s) are present per dwelling unit, no tree is required to be planted. A significant tree shall be any healthy deciduous tree that measures six (6") inches in diameter or any healthy coniferous tree that measures six (6') feet in height.
- H. The sod and tree requirements shall be met before a final certificate of occupancy will be issued.
- I. Homes that receive a Temporary Certificate of Occupancy between September 1st and before May 15th shall have sixty (60) days from May 15th to complete the landscaping requirements.

6. Size and Condition

- A. All required plantings shall meet the following minimum nursery stock size standards.
 - i. A deciduous tree shall be a minimum of one and one-half (1^{1/2}) inches in diameter as measured six (6'') above ground level.
 - ii. A Coniferous tree shall be a minimum of six (6') feet in height as measured from ground level after the tree is planted.

7. Escrow

- A. The city shall collect a cash escrow specifically for the sod and tree requirements before any building permit is issued. The escrow amount shall be established annually by the City Council and shall be refunded when all of the following are completed and approved:
 - i. Sod installed
 - ii. Required tree is installed
 - iii. Final grade requirements are completed
- B. Failure to install the required landscaping within the timeframe will cause such landscaping to be completed and the city will draw upon the landscaping escrow deposit for the cost of completion.

8. Tree (Prohibited)

The following list of trees shall not be planted to comply with the minimum ordinance requirements.

- A. Box Elder
- B. Silver Maple
- C. Northern Catalpa
- D. Mulberry
- E. Cottonwood – (Seedless are acceptable)
- F. Willow
- G. Poplars
- H. F. Ginkgo (Female only)
- I. Russian Olive

9. Required Inspections

- A. Grading requirements
- B. Final - inspection before Certificate of Occupancy is issued.

Planning Intern Streff stated that staff recommends that the Planning Commission discuss the idea of adding the amendment to the zoning code specify for “Residential Landscaping” requirements. He stated that staff is also open to other ideas for discussion. He stated a public hearing would be set at a future Planning Commission meeting.

Wilcox asked who would warrantee the trees.

LaDuke asked who would be performing the inspections to insure its completeness.

Gilman asked if the builder could use hydro seed.

Remfert stated that sodding the front and side of a home and seeding the rear yard would be sufficient.

Gilman asked if the ordinance would have a provision for existing ground cover.

Wilcox stated that staff might want to bring the zoning ordinance amendment to the City Council before it is brought back to the Planning Commission.

Gilman stated that the ordinance should read “Landscaping and Turf” requirements.

6. Miscellaneous

A. October 20th, 2008 – SCALE Transportation Task Force Workshop with Council

Gilman stated that he will not be able to attend the workshop.

B. Parish Homes Update Memo

Planner Ondich stated that there are approximately 84 homes that have sold or are pending.

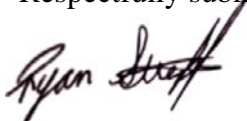
C. CapX 2020 Transmission Line Memo

D. MnDOT Presentation – West TH 19 Study – Oct. 6, 2008 City Council

7. Adjournment

The meeting was adjourned at 8:26 PM by order of Chair Gengel.

Respectfully submitted,



Ryan Streff
Planning Intern