

Meeting Minutes
New Prague Planning Commission
Wednesday, June 25, 2008

1. Call Meeting to Order

The meeting was called to order at 6:37 p.m. by Planning Commission Chairperson Grant Gengel with the following members present: Grant Gengel, Bob Gilman, Kay Wilcox, Jim Kratochvil and Pat Remfert. No Commissioners were absent.

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

2. Approval of May 28, 2008 Regular Meeting Minutes

It was moved by Wilcox, seconded by Remfert to approve the May 28, 2008 regular meeting minutes as submitted. Motion carried (5-0).

**3. Request for Preliminary Plat and Final Plat Approval – Mahowald’s Addition
Mahowald Family Partnership – Applicant**

Planning Intern Streff presented the staff report. He stated that the Mahowald Family Partnership is applying for preliminary and final plat approval of the Mahowald’s Addition, consisting of 2 lots on approximately 11.41 acres in the B General Business District of LeSueur County. He stated the property is located on the southeast corner of Highway 19 and County Road 164. He stated the proposed plat, which is out of city limits but within the 2 mile extraterritorial subdivision review area, is being platted to separate the property into two different lots in order for Lot 2 that consists of 3.87 acres can be sold. He stated currently there is no direct access to Lot 2 and it will have to be accessed through Lot 1 via current curb cuts on either Hwy 19 or County 164. He stated the proposed Lot 2 can also be accessed by the existing 20’ foot wide easement for ingress and egress, which is located on the south side of the property (no road exists here today). He stated the property is currently outside of New Prague City Limits and is under the zoning authority of LeSueur County, but under the subdivision authority of the City of New Prague. He stated the approximate 11.41 acres of land on which the 2 lots are proposed is currently zoned to LeSueur County’s B-General Business District. He stated the lots as proposed meet their minimum lot size and width requirements for the B-General Business District. He stated that there is one wetland located on the property. He stated the wetland is located on proposed Lot 2 in the southeast corner of the property. He stated that the City enforces a 50’ wetland building setback requirement. He stated LeSueur County does not enforce a setback requirement to wetlands. He stated the wetlands are shown on the preliminary and final plats with the appropriate 40’ wetland easements around them. He stated Highway 19 (280th Street W) lies to the north of the proposed plat and is controlled by MnDOT District 7 of Mankato. He stated County Road 164 (141st Ave) lies to the west of the proposed plat and is controlled by LeSueur County. He stated that at this time no new accesses are being proposed for either State Highway 19 or County Road 164. He stated future collector and arterial roadways have been identified within the 2005 Comprehensive Plan. He stated the Future Transportation Map shows the proposed B Minor Arterial collector in dark blue (Highway 19)

and the Major Collector in light blue (County Road 164). He stated the site currently drains into the wetland located on the south east side of the property. He stated this wetland then discharges to the south towards Sand Creek. He stated that water within the Mahowald's Addition is provided from a private well. He stated the preliminary plat shows the well site, which is shared by both properties. He stated sanitary sewer within the Mahowald's Addition is provided from private septic/mound systems. He stated the preliminary plat shows all the septic sites. He stated the Subdivision Ordinance requires that 10% of the gross area of all property being subdivided shall be dedicated for parks, playgrounds, greenway trail, recreational areas, or public open space. He stated the preliminary plat drawing shows the property is in Zone X, and Zone A. He stated Zone X is defined as areas determined to be outside the 500 year floodplain and Zone A is defined as No base flood elevations determined. He stated one wetland has been delineated on the property and is shown on the preliminary and final plat. He stated this wetland encompasses 0.08 acres of the property that is being plated. He stated that the City Engineer stated that the site is outside of the city limits and therefore outside of the City's Wetland Conservation Act LGU administrative area. He stated that the City Engineer stated the information in the Wetland Investigation and Delineation Report appears to be accurately represented. He stated that LeSueur County stated that the requirements of their zoning ordinance have been met. He stated that MnDot found that the existing slope easement on the final plat was expired. He stated that MnDot stated that no new access point from Lot 2 to Highway 19 would be allowed at this time, but might be allowed a right in, right out with future intersection improvements. He stated that MnDot stated that the best solution for access would be the easement that extends to County Road 164. He stated that MnDot stated that a permit is required if work is done within the right-of-way of Highway 19. He stated that staff recommends approval of the preliminary and final plat.

Gilman asked for clarification on what a slope easement was.

Wilcox asked how this plat will affects the existing/future businesses.

Gilman asked if there is a buyer for lot 2 of the proposed plat.

The public hearing was opened at 6:50 P.M.

The public hearing was closed at 6:51 P.M.

Wilcox asked for clarification of the future collector and arterial roadways.

Wilcox asked if the owner would need a conditional use permit to operate in this location.

It was moved by Remfert, seconded by Wilcox to recommend **approval** for preliminary and final plat of Mahowald's Addition, consisting of 2 lots on approximately 11.41 acres in the B General Business District of LeSueur County, Section 1 of Lanesburgh township, in the growth area identified in New Prague 2030 Comprehensive Plan and guided to the B-2 Zoning District, as proposed by Mahowald Family Partnership with the following findings:

1. The preliminary and final plat complies with the purpose and intent of the New Prague Comprehensive Plan and Subdivision Ordinance.

And with the following conditions:

1. Approval is granted in accordance with the preliminary and final plat drawings, all dated 6/04/08 and on file with the New Prague Planning Department.
2. The final plat must be recorded within 90 days of the date of the City Council granting approval.
3. Developer's Agreement with the City of New Prague and the agreement must be approved by the City Council prior to final plat approval.
4. Preliminary and Final Plat approval is subject to all recommendations of the City Engineer.
5. Drainage and utility easements shall be dedicated to the city when the property is annexed into the city.
6. Building setbacks are a minimum of 50' from the delineated wetlands.
7. Until municipal services become available, the two proposed lots must be serviced though private on-site septic systems and wells which will need to be approved by LeSueur County.
8. Park land dedication of .878 acres must be dedicated when the property is annexed into the city.
9. MnDot District 7 of Mankato stated that no new access point from Lot 2 to Highway 19 would be allowed at this time, but might be allowed a right in, right out with future intersection improvements.
10. LeSueur County – Development Review comments must be received and considered before final plat approval.
11. A certificate of no loss or exemption must be filed for the project because no impacts are proposed to the wetlands.
12. City Attorney shall review the final plat and title opinion before City Council approval.

And noting the following variance:

1. Park land dedication fee of 10% of developed land is not being required until the property is annexed by the city. If in the future the property is annexed into the city 10% of the gross developed area will be required to be dedicated as park land or a payment in lieu of land. This equates to .878 acres.

And noting the following:

1. MnDot found after reviewing the plat that the existing slope easement on the final plat was expired.

Motion carried: Ayes 5 Nays 0

**4. Conditional Use Permit #C4-2008 – Aluminum Can Reverse Vending Machine
Mike McLoone – Applicant**

Planning Intern Streff presented the staff report. He stated that Mike McLoone is applying for a conditional use permit to allow an Aluminum Can Reverse Vending

Machine in the parking lot of Econofoods. He stated the Reverse Vending Machine will allow residents in the community to recycle their aluminum cans for cash dispensed as coins. He stated customers bring their cans to the machine then place them in the hopper and simply press a button to start the machine. He stated the machine after this point is fully automated and requires no other operation by the customer. He stated the machine sorts, crushes, weighs and pays the customer. He stated the computer inside calculates the weight of the cans and multiplies the figure by the current price for a pound of cans. He stated McLoone is proposing this machine to be located in the EconoFoods parking lot adjacent to the pole sign for EconoFoods. He stated McLoone is choosing this location because it is an ideal central location that people can easily access and will not only bring more people to the machine but also draws customers to the EconoFoods store. He stated McLoone will supply prompt customer support via telephone, mail or e-mail to address problems the customer might have. He stated that these numbers and addresses will be clearly visible on the outside of the machine. He stated that McLoone has contacted Store Manager Troy Foxen of EconoFoods about the proposed Aluminum Can Reverse Vending Machine. He stated the agreement between Mike McLoone and Troy Foxen has been made to allow the machine on the EconoFoods parking lot. He stated the agreement will state that EconoFoods is not responsible for the care or maintenance of the machine. He stated the proposed machine would be covered by liability insurance supplied by McLoone. He stated EconoFoods would not be liable for any damages to the machine. He stated that if the machine would need to be removed from the site McLoone will remove the machine when given a 30 day notice. He stated the machine is rectangle in shape with the following dimensions; 14' long, 8' wide and 8' high. He stated the machine is proposed to be set horizontally across the parking stalls. He stated the machine weights approximately 4,500 pounds and can be easily moved with a forklift and trailer. He stated the machine is fully enclosed and made of sheet metal with two doors that access the inside of the machine. He stated the hopper that collects the cans is designed to prevent extremities from entering the machine. He stated the exterior proposed by McLoone for the machine consists of the colors blue, white and green. He stated the exterior colors and the name of the machine have not been determined and the owner is open for suggestions. He stated staff recommends that the machine be painted in earth tones and the name be proportionate to the size of the machine so that it blends with the surrounding area and existing structures (Note: Sign area is limited to fifteen (15) percent of each building face). He stated the machine requires 3 phase 240 volt electricity. He stated that this type of outlet can be supplied on the EconoFoods pole sign for the machine. He stated that staff would like to note that a storm sewer catch basin is located in the same general area that is proposed for the machine. He stated that it is recommended that the structure is not placed on top of or directly in front of the catch basin. He stated the machine will be checked at minimum every two days to insure that there are enough coins for payouts and to check the machine for problems. He stated the machine will also be checked for load capacity. He stated the machine will be cleaned and emptied on a regular schedule to keep the machine and area clean of odors that might be emitted from its contents. He stated the machine itself is fully enclosed and emits very little noise. He stated that there is a potential for louder noises when the machine is emptied or larger loads of cans are placed into the hopper. He stated the machine has the ability to operated 24 hours a day 365 days a year. He stated it is recommended by staff that the machine only operate during normal business hours of EconoFoods. He stated security lighting will be provided on the front of the machine.

He stated the property is zoned B-3 Highway Commercial District. He stated this type of use is permitted in the I-1 Light Industrial District under Conditional Uses in the Recycling Centers category (Section 611 (2) (C)). He stated that there is no use listed for vending machines or recycling centers in the B-3 zoning district, but note that section 5 05 (2) allows CUP's for uses not specifically listed. He stated that staff recommends approval of conditional use permit #C4-2008 to allow for an Aluminum Can Reverse Vending Machine.

Gilman asked if the machine would be able to take other forms of aluminum.

McLoone stated that the machine only takes whole cans. He stated that glass or other items that enter the machine would be sorted out. He stated that the machine counts the cans that come through the hopper. He stated that even dirty can may not get counted. He stated the machine has a metal detector that separates the items that enter the machine.

Gilman asked what the current rate for aluminum is.

McLoone stated that aluminum was selling for approximately 30 cents per pound. He stated that the machine is not designed for customers to bring 100 pounds of cans. He stated the machine is designed more for 1-3 kitchen bags full of cans, however it can take as many cans as you want to put into the machine.

Remfert asked McLoone if he has this type of machine operating anywhere else.

McLoone stated that he has not purchased a machine yet. He stated that the information supplied is from the owner of the machine.

Remfert asked if the machine will take crushed cans.

McLoone stated that the machine will not take all crushed cans. He stated if you bring a whole bag of crushed cans the machine might process half of them. He stated this is due to the vacuum system that is used to pick the cans up.

Remfert asked who manufactures the machine and where they are located.

McLoone stated that the machine is called a Pelican and the owner/operator is located in Wisconsin.

Gengel stated that this type of machine is a good idea and he does not see any negatives.

McLoone stated that he wants to have a green business. He stated that the machine will not bring in a lot of money but it is a service he wants to provide to people in the community.

Gengel asked if the machine is vandal proof.

McLoone stated that the machine is made from sheet metal with locks on the doors. He stated that the machine would not be damaged easily.

Kratochvil asked for clarification of what a loud noise would be.

McLoone stated that emptying the machine could produce a loud noise. He stated the machine itself does not make loud noises.

Remfert asked if the machine crushes the cans.

McLoone stated that the machine does crush the cans during the process. He stated that the machine holds 2,000 pounds of cans.

Wilcox asked if McLoone had ever been to a machine like this that is in operation.

McLoone stated that he has not been to one. He stated that he plans to go see the machine within the next week if the CUP is approved.

The public hearing was opened at 7:17 P.M.

Reuben Honza, 108 5th Ave. NW, asked what is going to be done if people leave the bags or bags with cans in them at the machine.

McLoone stated that he will be there to check the machine once or twice a day. He stated that a garbage can will be located at the machine so customers can throw away their empty bags.

Honza stated that he does not want to look down from his home to a messy parking lot.

Mark Orvik asked if there are any provisions for liquids in the machine.

McLoone stated that he is unsure how the machine handles liquids.

Gengel stated that something for liquids has to be designed into the machine.

McLoone stated that there has to be a receptacle that collects the liquids.

Orvik stated that he thinks this is a potential problem if the liquids are not collected correctly. He stated that kids will put cans that are full along with what ever else they can find into the machine. He stated that he does not want to see a syrupy mess in the parking lot.

Gengel stated that there will probably be a syrupy mess but it will be contained within the machine. He stated that the manufacture specifications would show how liquids are handled. He stated that he would like a condition that states that all waste would be contained inside the machine and would not be drained into the parking lot.

The public hearing was closed at 7:23 P.M.

Gengel stated that having a machine like this would be an amenity to the community. He stated that throwing your cans away is wasteful.

Remfert stated that there is not enough information on the machine. He stated that more information on how the machine works would be useful. He stated that he wants to know how the liquid receptacle is address in the machine. He stated that McLoone should go and visit a machine like this and come back to the next meeting with more information.

Gengel stated that the liquid that comes out of the machine could possibly be considered hazardous waste. He stated that McLoone might need to have a waste management plan. He stated that he wants more information regarding the machines specifications.

Wilcox stated that she agrees with Commissioners Remfert and Gengel. She stated staff should research these machines and call two or three cities/places were these machines are or have been located.

Honza asked if there is a heating element in the machine to keep the liquids from freezing.

McLoone stated that they do not have any problems with this in Green Bay. He stated that this would not become an issue here.

It was moved by Remfert, seconded by Gilman to **Table** Conditional Use Permit #C4-2008 for an Aluminum Can Reverse Vending Machine to be located in the Econofoods parking lot, as proposed by Mike McLoone of new Prague until next scheduled Planning Commission meeting on July 23, 2008, were at this time more information will be supplied to the Planning Commission regarding operations of the machine.

Motion carried: Ayes 5 Nays 0

5. Public Hearing for Zoning Ordinance Amendment Land and Water Preservation

Planner Ondich presented the staff report. He stated the City adopted a Surface Water Management Plan on March 17, 2008 which was written by Bonestroo with the assistance of City Staff and the Scott WMO (Watershed Management Organization) staff. He stated this plan is required by Minnesota Statutes 103B. He stated this provides the legal authority for the Scott WMO to adopt a Comprehensive Water Resource Management Plan which covers the Sand Creek Watershed, in which New Prague is located. He stated the State statute requires that when a WMO has adopted a plan, local government agencies must create and adopt their own "local plan" which is approved by the WMO and the City Council. He stated the City is then expected, under statute, to implement the plan. He stated that due to the technical nature of the plan and lack of a staff engineer, the creation of the ordinances took longer than anticipated and are just now ready for a public hearing after final review by the City Engineer and the Scott WMO staff. He stated the City has been working on the Surface Water Management Plan for a couple of years and has been given deadline extensions to have it implemented through ordinance. He stated the final deadline for adoption of the ordinances proposed tonight which implements the policies of the Plan is August 1, 2008. He stated this basically means that the Planning Commission must recommend approval tonight, the Council must approve on July 7th and they must be published prior to August 1, 2008 to become effective. He stated that if we do not have the ordinances in place by August 1, 2008 the Scott WMO has indicated they may be willing to take over our permitting authority. He stated that the City Engineer Bob Barth from Bonestroo is

here to answer any technical questions you may have. He stated the ordinance language as it is being adopted tonight is very similar to language adopted by the cities of Jordan and Belle Plaine to satisfy the Scott WMO requirements. He stated that attached to the memo is a new Section 734 of the Zoning Ordinance, a set of definitions to be added to Section 302 of the Zoning Ordinance and finally an amendment to Section 724 of the Zoning Ordinance. He stated the new Section 734 of the Zoning Ordinance will address the following major areas: Soil Erosion & Sedimentation Control, Preservation of Natural Drainage Ways, Wetland Preservation, Bluff Preservation, Groundwater Preservation, Storm Water Management and Drainage Alterations. He stated that all of these headings relate directly to the Surface Water Management Plan that was recently adopted in March. He stated the definitions that are proposed are all related to topics and terms used in the new Section 734 that were not previously listed in our Zoning Ordinance. He stated the amendments to Section 724 are simply to make clear that land alterations more than 25 cubic yards up to 500 cubic yards must obtain only a land alteration permit from the City while such alterations in excess of 500 cubic yards are subject to the rules contained in the new Section 734 and the Minnesota PCA. He stated that the plan covers an erosion and sediment control plan which is required for land alteration permit applications. He stated that the last amendment was to remove Subd. 5 because such a provision is covered by the erosion and sediment control plan requirement and also covered more adequately by portions of new Section 734. He stated that staff recommends that the Planning Commission hold the public hearing for the proposed ordinance language and make a recommendation for approval to the City Council.

Wilcox asked what percent of plan review would use this ordinance. She asked who performed this review before the ordinance was in place.

The public hearing was opened at 7:48 P.M.

The public hearing was closed at 7:49 P.M.

Gilman stated that the U.S. Core of Engineers is in the process of rewriting the rules and regulations for wetlands. He asked if this ordinance takes the rules and regulations from the U.S. Core of Engineers into account.

Bob Barth stated the WACK is a state program that protects wetlands. He stated that the U.S. Core of Engineers gets involved when determining national waters.

Kratochvil asked if digging a basement would need an additional permit.

Barth stated that you would need to get a building permit but would not need to get any additional permits under this ordinance to dig a basement.

It was moved by Gilman, seconded by Remfert to recommend **approval** of the Land and Water Preservation Zoning Ordinance Amendment, as requested by the New Prague Planning Department.

Motion carried: Ayes 5 Nays 0

6. Revocation: Conditional Use Permit #C1-2007 – Auto Repair Garage

Dann Kirschman - Applicant

Planner Ondich presented the staff report. He stated that at the May 28, 2008 Planning Commission meeting the Planning Commission considered the revocation of Conditional Use Permit #C1-2007 for an automotive repair business at 209 4th Ave. SW due to the conditions of the CUP not being complied with following the expiration of the 1 year time period following its approval. He stated that Mr. Kirschman attended the Planning Commission meeting on May 28, 2008 and did not offer any excuses as to why he had not utilized or complied with the CUP conditions other than that a subsequent building location that he had hoped to use for the automotive repair did not work out. He stated the Planning Commission ultimately passed a motion to recommend that the City Council table revocation of the CUP and to have Mr. Kirschman address the Planning Commission at the June 25, 2008 Planning Commission meeting to demonstrate that he has quotes and plans in hand to be in compliance with the CUP or it would be formally revoked. He stated that at the June 2, 2008 meeting the City Council took the motion and recommendation as information only and did not take any further action. He stated staff was contacted by a paving contractor regarding a quote Mr. Kirschman was attempting to obtain shortly after the last Planning Commission meeting. He stated that staff has not had any contact from Mr. Kirschman since the last Planning Commission meeting despite the call from this contractor.

He stated that staff performed a follow up site inspection on Wednesday April 30, 2008 regarding the previously approved conditional use permit. He stated that staff found that numerous conditions of the conditional use permit were not being complied with. He stated the conditions and their status below:

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. (It appears that the conditional use permit has never actually been utilized as none of the conditions has been complied with so staff would consider the permit null and void at this point.)
2. The Conditional Use Permit is issued in accordance with the site plan dated 1/19/07 on file with the New Prague Planning Department. (None of the parking spaces or improvements have been completed nor has screening been planted as required).
3. The applicants, Dann and Lorrie Kirschman, must comply with all recommendations of the Public Works Director. (N/A)
4. The required 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’ on a concrete or bituminous paved surface with a perimeter curb, as required by Section 717 of the New Prague Zoning Ordinance, within one year of approval of the conditional use permit. (As of April 30, 2008, the parking stalls were not provided nor paved as required above – this is in violation of this condition as the one year time period ended on March 5, 2008.)
5. All waste oil or other hazardous materials generated at the site shall be disposed of in accordance with applicable state and federal laws, and the applicants shall obtain any permits required by the county, state or federal government. (Unable to determine if this is being complied with.)
6. There shall be no exterior storage allowed on the site, other than vehicles waiting for repair. (There were only vehicles parked around the garage and also a dumpster - see below for more info on the dumpster).

7. Not more than four vehicles may be parked outside at any time. (During the site inspection there were only 3 vehicles parked outside – none were in designated parking spaces as shown in the site plan.)
8. Screening shall be required for a distance of 70’ along both the north and south property lines to provide a buffer between the proposed business use and the adjacent residential properties. Such screening may consist of a fence which is at least 50% opaque and between 5’ and 6’ in height, or landscaping which is at least 50% opaque with leaf off conditions. (No screening has been provided as specified above.)
9. All signs must conform to Section 718 of the Zoning Ordinance. (N/A)
10. All lighting must conform to Section 704 of the Zoning Ordinance. (N/A)
11. The repair of vehicles shall only take place within the garage stalls, and shall be prohibited outside. (Unable to determine.)
12. All dumpsters, garbage containers or refuse bins shall be screened from view in accordance with Section 703 of the Zoning Ordinance. (The dumpster is not screened in any way and is sitting outside of the garage and is clearly visible from TH13/21.)
13. The ADA accessible portable bathroom, if placed on the site, shall not be placed in front of the garage used for the business. (The lack of an ADA bathroom on the site is in violation of the building code per a prior review by former New Prague Building Official Gary Staber).

Planner Ondich stated that based on the lack of action taken by Mr. Kirschman prior to the meeting – staff recommends revocation of Conditional Use Permit #C1-2007.

Wilcox asked how this will change his business after the permit is revoked. She asked if the commercial dumpster would be removed after the permit is revoked.

Kratochvil stated that pollution control has permits they have to issue for this type of a business. He asked if Kirschman received these permits.

It was moved by Wilcox, seconded by Kratochvil to **Revoke** CUP #C1-2007 which allowed an Automotive Repair Business to locate at 209 4th Avenue SW in the B-3 Highway Commercial Zoning District, New Prague, Minnesota, with the following findings:

1. Conditional Use Permit #C1-2007 was originally approved by the City Council on March 5, 2007 with the findings and conditions listed on the resolution.
2. The applicant has not made any progress towards completing the necessary work to be in compliance with the conditions of the Conditional Use Permit within the 1 year time period specified by the City’s Zoning Ordinance and also listed on the approved resolution which were to be completed by March 5, 2008.
3. None of the parking spaces been installed nor has screening been planted on the sides of the lot as required.
4. The dumpster is not screened in any way as required by the Conditional Use Permit, is sitting outside of the garage and is clearly visible from TH13/21.
5. The lack of an ADA bathroom on the site is in violation of the building code per a prior review by the New Prague Building Official.

Motion carried: Ayes 5 Nays 0

7. Miscellaneous

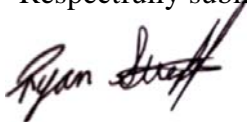
A. Letter regarding the status of temporary easement at the corner of Chalupsky Avenue and 9th Street.

Commissioners agreed that the temporary easement at the corner of Chalupsky Avenue and 9th Street needs to continue as a turn around point for emergency service purposes.

8. Adjournment

The meeting was adjourned at 8:07 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, somewhat stylized font.

Ryan Streff
Planning Intern