MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL
CC: MICHAEL J. JOHNSON, CITY ADMINISTRATOR
FROM: KEN ONDICH, PLANNING / COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: CONSIDERATION OF “AN EMERGENCY INTERIM ORDINANCE REGARDING ASSISTED LIVING FACILITIES IN THE B-1 CENTRAL BUSINESS DISTRICT AS WELL AS CLINICS AND HEALTHCARE FACILITIES WITH IN-PATIENT CARE IN THE B-1 CENTRAL BUSINESS DISTRICT, B-2 COMMUNITY COMMERCIAL DISTRICT AND ALL RESIDENTIAL ZONING DISTRICTS; ESTABLISHING A MORATORIUM; AND DIRECTING THAT STUDIES OF REGULATIONS / OFFICIAL CONTROLS BE CONDUCTED”

DATE: OCTOBER 13, 2017

In the past week, staff has received inquiries for uses that are likely not fully addressed by the City’s Zoning Ordinance as currently written as they are somewhat unusual inquiries.

The first inquiry involves a use that would fit the definition of an assisted living facility in the B-1 Central Business District but not be what one would typically associate with an assisted living facility (possibly involve addiction treatment with residents aged 55+). Staff is concerned that such a use would not fit the purpose of the B-1 Central Business District which, according to the zoning ordinance, is “to encourage the continuation of a viable downtown area by allowing retail, service, office and entertainment facilities as well as public and semi-public uses. In addition, residential uses will be allowed to locate above the commercial establishments. Any use in this district shall not be required to provide off-street parking.” If you look at the list of permitted and conditional uses (see later in this report), staff believes that assisted living uses of any type may not be appropriate for this district. Of all the uses listed, this is a use that seems fundamentally different from everything else and certainly could hamper the retail, office and entertainment purpose of the district as they really serve more of a residential purpose and are conditional uses in all residential districts. It might be worthwhile to amend the zoning ordinance to remove it from the B-1 District or to consider further conditions to allow them in the B-1 District as a conditional use.

The second inquiry involves a use that would potentially fit the definition of a clinic or healthcare facility (possibly involve medication assisted addiction treatment) but would involve considerable in-patient care in a commercial or residential area. As is listed in the zoning ordinance today, clinics and healthcare facilities with in-patient care are listed as conditional uses in the B-1, B-2 and residential districts but there are not specific criteria (performance standards) for granting them. In
speaking with the City attorney, it would make sense to add performance standards in the zoning ordinance rather than to develop conditions at the time a CUP is applied for.

As staff discussed with the City Attorney, an interim ordinance to further study the issues has been developed for consideration at Monday’s meeting.

**Existing Zoning Ordinance Language**

**302 Definitions**

7. **Assisted Living Facility** – A residential facility with individualized services, which may include 24 hour oversight and providing living and sleeping facilities, meal preparation, laundry services, and room cleaning. Such facilities may also provide other services such as transportation and routine health and well being services including but not limited to medical care and counseling.

36. **Clinic** – Any establishment where human patients are examined, diagnosed or treated by licensed practitioners, and **does not involve overnight stays**. For this purpose, a licensed practitioner includes physicians, dentists, osteopaths, chiropractors, optometrists, psychologists, therapists, and physical therapists.

96. **Health Care Facility** – An institution providing health services **primarily for human in-patient medical or surgical care for the sick and injured and including related facilities such as laboratories, out-patient, departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.**

**603 RL-90 Single Family Residential District**

1. **Purpose**

This district is intended for detached single family, low density development in developed and developing areas of the City that are predominantly residential in character.

2. **Permitted Uses**

   A. Accessory uses
   B. Day Care Facilities, In-home
   C. Essential services
   D. Home occupations
   E. Recreation, Public
   F. Single family dwelling units

3. **Permitted Accessory Uses**

   A. Accessory buildings
   B. Fences
   C. Residential recreation equipment
   D. Off-street parking serving the property
   E. Nameplate and temporary signs
   F. Gardening, where no sale of products is conducted
   G. Landscaping and landscaping features
4. Conditional Uses

A. Educational buildings and uses including primary and secondary public and private schools and institutions for higher education
B. Bed and Breakfast Homes
C. Religious Institution
D. Health Care Facilities and Clinics
E. Nursing homes and assisted living facilities
F. Any house or other principal structure moved onto a lot

5. Bulk Standards

A. Minimum Lot Area: 9,000 square feet
B. Minimum Lot Width: 65 feet
C. Minimum Front Yard Setback: 30 feet
D. Minimum Side Yard Setback: 7 feet
E. Minimum Rear Yard Setback: 30 feet
F. Maximum Height: 35 feet
G. Maximum Land Coverage by Structures: 40 percent

604 RL-84 Single Family Residential District

1. Purpose

This district is intended to allow existing and infill detached single family, low density development in previously platted areas of the community.

2. Permitted Uses

A. Accessory uses
B. Day care facilities, in home
C. Essential services
D. Home occupations
E. Recreation, public
F. Single family dwelling units

3. Permitted Accessory Uses

A. Accessory buildings
B. Fences
C. Residential recreation equipment
D. Off-street parking serving the property
E. Nameplate and temporary signs
F. Gardening, where no sale of products is conducted
G. Landscaping and landscaping features

4. Conditional Uses

A. Educational buildings and uses including primary and secondary public and private schools and institutions for higher education
B. Religious Institutions
C. Health care facilities and clinics
D. Nursing Homes and Assisted Living Facilities
E. Bed and breakfast homes, if lot size is 9,000 square feet or larger
F. Any house or other principal structure moved onto a lot

5. Bulk Standards

A. Minimum Lot Area: 8,400 square feet
B. Minimum Lot Width: 60 feet
C. Minimum Front Yard Setback: 30 feet
D. Minimum Side Yard Setback: 7 feet
E. Minimum Rear Yard Setback: 30 feet
F. Maximum Height: 35 feet
G. Maximum Land Coverage By Structures: 40 percent

605 RL-70 Single Family Residential District

1. Purpose

This district is intended to allow existing and infill detached single family residences in areas historically platted for small lots.

2. Permitted Uses

A. Accessory uses
B. Day care facilities, in home
C. Essential services
D. Home occupations
E. Recreation, public
F. Single family dwelling units

3. Permitted Accessory Uses

A. Accessory buildings
B. Fences
C. Residential recreation equipment
D. Off-street parking serving the property
E. Nameplate and temporary signs
F. Gardening, where no sale of products is conducted
G. Landscape features

4. Conditional Uses

A. Educational buildings and uses including primary and secondary public and private schools and institutions for higher education
B. Religious Institution
C. Health Care Facilities and Clinics
D. Nursing homes and assisted living facilities
E. Bed and breakfast homes, if lot size is 9,000 square feet or larger
F. Any house or other principal structure moved onto a lot
5. Bulk Standards

A. Minimum Lot Area: 7,000 square feet
B. Minimum Lot Width: 50 feet
C. Minimum Front Yard Setback: 25 feet
D. Minimum Side Yard Setback: 7 feet
E. Minimum Rear Yard Setback: 30 feet
F. Maximum Height: 35 feet
G. Maximum Land Coverage by Structures: 40 percent

606 RM Medium Density Residential District

1. Purpose

This district is intended for single family attached two to eight unit residences at medium densities of up to 12 units per acre in areas appropriate for buffering single family districts from business and industrial districts and major roadways.

2. Permitted Uses

A. Single family dwelling unit
B. Two family dwelling units and twinhomes
C. Townhouses, up to eight attached units
D. Apartments, up to eight attached units
E. Essential services
F. Home occupations
G. Accessory uses
H. Day care facilities, In-home
I. Recreation, public

3. Permitted Accessory Uses

A. Accessory buildings
B. Fences
C. Residential recreation equipment
D. Off-street parking serving the property
E. Nameplate and temporary signs
F. Gardening, where no sale of products is conducted
G. Landscaping and landscaping features

4. Conditional Uses

A. Educational buildings and uses including primary and secondary public and private schools and institutions for higher education
B. Religious Institutions
C. Health Care Facilities and Clinics
D. Nursing homes and assisted living facilities
E. Bed and breakfast homes, if lot size is 9,000 square feet or larger
F. Any house or other principal structure moved onto a lot
5. Bulk Standards

A. Minimum Lot Area:
   1. Single family: 7,000 square feet
   2. Two family units: 7,000 square feet per dwelling unit
   3. Three through eight unit buildings: 3,000 square feet per dwelling unit

B. Minimum Lot Width:
   100 feet for multi unit buildings
   50 feet for single family dwelling units

C. Minimum Front Yard Setback:
   30 feet

D. Minimum Side Yard Setback:
   10 feet for multi unit buildings
   7 feet for single family dwelling units

E. Minimum Rear Yard Setback:
   30 feet

F. Maximum Height:
   50 feet

G. Maximum Land Coverage by Structures: 40 percent

H. Minimum Floor Area (two or more unit buildings):
   1. Efficiency Unit: 400 square feet
   2. One bedroom apartment: 600 square feet
   3. Two bedroom units: 750 square feet
   4. Three bedroom units: 950 square feet

I. Useable Open Space Per Dwelling Unit (two or more unit buildings):
   1. 400 square feet

607 RH High Density Residential District

1. Purpose

   This district is created to allow high density multi-family dwellings of up to 22 units per acre in buildings with nine or more units. This district is located in areas of transition, lower density residential areas and nonresidential areas.

2. Permitted Uses

   A. Single family dwelling unit
   B. Two family dwelling units and twinhomes
   C. Townhouses
   D. Apartments
   E. Essential services
   F. Home occupations
   G. Accessory uses
   H. Day care facility, in home
   I. Recreation, public

3. Permitted Accessory Uses

   A. Accessory buildings
   B. Fences
   C. Residential recreation equipment
   D. Off-street parking serving the property
   E. Nameplate and temporary signs
   F. Gardening, where no sale of products is conducted
   G. Landscaping and landscaping features
4. **Conditional Uses**

A. Manufactured/Modular home parks  
B. Educational buildings and uses including primary and secondary public and private schools and institutions for higher education  
C. Religious Institutions  
D. **Health Care Facilities and Clinics**  
E. Nursing homes and assisted living facilities  
F. Bed and breakfast homes, if lot size is 9,000 square feet or larger  
G. Bed and breakfast inns  
H. Any house or other principal structure moved onto a lot

5. **Bulk Standards**

A. Minimum Lot Area: 2,000 square feet per dwelling unit for multi unit buildings  
B. Minimum Lot Width: 7,000 square feet per unit for single and two family dwelling units  
C. Minimum Front Yard Setback: 100 feet for multi unit buildings  
D. Minimum Side Yard Setback: 50 feet for single family dwelling units  
E. Minimum Rear Yard Setback: 30 feet  
F. Maximum Height: 70 feet  
G. Maximum Land Coverage By Structures: 40 percent  
H. Minimum Floor Area (2 or more unit buildings):  
   1. Efficiency Unit: 400 square feet  
   2. One bedroom apartment: 600 square feet  
   3. Two bedroom units: 750 square feet  
   4. Three bedroom units: 950 square feet  
I. Useable Open Space Per Dwelling Unit (two or more unit buildings): 400 square feet

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**B-1 Central Business District**

1. **Purpose**

The purpose of this district is to encourage the continuation of a viable downtown area by allowing retail, service, office and entertainment facilities as well as public and semi-public uses. In addition, residential uses will be allowed to locate above the commercial establishments. Any use in this district shall not be required to provide off-street parking.

2. **Permitted Uses**

A. Automobile parking lots, parking garages, bus stations  
B. **Clinics**  
C. Day care facilities  
D. Drinking establishments  
E. Dwelling units, apartments - containing five or less units, located above the first floor of a building  
F. Entertainment and amusement facilities  
G. Essential services  
H. Hotels

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Emergency Interim Ordinance  
Page 7 of 11
I. Motels
J. Office uses
K. Physical recreation or training
L. Quasi-public organizations
M. Recreation, public
N. Restaurants, class I
O. Restaurants, class II
P. Restaurants, class III
Q. Retail establishments and service establishments
R. Seasonal produce stands
S. Brewpubs

3. Permitted Accessory Uses

A. Uses incidental to the principal uses such as off-street parking and loading and unloading areas, interior storage of merchandise.

4. Conditional Uses

A. Assisted living facilities
B. Auto repair, minor
C. Bed and breakfast inns
D. Convenience stores
E. Dwelling units, apartments - containing more than five (5) units, and located above the first floor of a building
F. Outdoor seating for food service businesses and drinking establishments
G. Recreation, commercial
H. Any principal structure moved onto a lot
I. Religious institutions
J. Small Breweries

5. Interim Uses

Other temporary uses subject to Section 506 of the Zoning Ordinance determined by the City Council to be of the same general character as the permitted uses and conditional uses above and found not to be detrimental to existing uses and the general public health, safety, and welfare.

6. Bulk Standard

A. Lot size: No requirement
B. Front side and rear yards: Each permitted or conditional use including accessory uses in the B-1 district shall have a front, side or rear yard of not less than 10 feet when such use is abutting an alley, or any railroad right of way, which yard may be used only for access to the use or for landscaping purposes.
1. **Purpose**

This district is established to accommodate the type of businesses that are oriented to the traveling public and require highway access. To minimize unmanageable strip development, common access drives and frontage roads should be integrated into site plans and platting.

2. **Permitted Uses**

   A. **Clinics**
   B. Day care facilities
   C. Drive-thru businesses
   D. Essential services
   E. Hotels
   F. Motels
   G. Office uses
   H. Physical recreation or training
   I. Recreation, public
   J. Restaurants, Class I
   K. Restaurants, Class II
   L. Restaurants, Class III
   M. Retail and service establishments
   N. Seasonal produce stands
   O. Temporary buildings/uses
   P. Brewpubs

3. **Permitted Accessory Uses**

   A. Uses incidental to the principal uses such as off-street parking and loading and unloading areas, storage of merchandise.

4. **Conditional Uses**

   A. Automobile parking lots, parking garages, bus stations
   B. Automobile repair, major
   C. Automobile repair, minor
   D. Bed and breakfast inns
   E. Boat and motorcycle repair
   F. Car washes
   G. Convenience stores
   H. Drinking establishments
   I. Dwelling unit, apartments – must be located above the first floor of a building
   J. Entertainment and amusement facilities
   K. Exterior storage
   L. Funeral homes
   M. **Health care facilities**
   N. Landscape nurseries and garden supply stores
   O. Motor vehicle and recreation equipment sales
   P. Outdoor seating for food service business and drinking establishments
   Q. Quasi public organizations and fraternal clubs
R. Recreation, commercial
S. Religious institutions
T. Retail center (strip mall)
U. Veterinary clinic
V. Any principal structure moved onto a lot
W. Small Breweries

5. Interim Uses

A. Other temporary uses subject to Section 506 of the Zoning Ordinance determined by the City Council to be of the same general character as the permitted uses and conditional uses above and found not to be detrimental to existing uses and the general public health, safety, and welfare.

6. Bulk Standards

A. Minimum Lot Area: 20,000 square feet
B. Minimum Lot Width: 80 feet
C. Minimum Front Yard Setback: 30 feet along collector and arterial roadways,
   15 feet along residential and local roadways
D. Minimum Side Yard Setback: 10 feet
E. Minimum Rear Yard Setback: 30 feet
F. Minimum Alley Setback 10 feet
G. Maximum Height: 35 feet or 3 stories
H. Maximum Land Coverage by Structures: 40 percent

Proposed Zoning Ordinance Language Revisions -

Additions and deletions

None proposed at this time.
Interim Ordinance

As noted earlier, because staff believes there may be negative consequences of not amending the zoning ordinance, an “Interim Ordinance” (also known as a moratorium) can help in situations such as this by allowing the City time to study and develop possible Zoning Ordinance changes to address the issues. Up to one year of time could be allowed to study the issue further.

The following are the options that are to be considered by the City Council:

1. Do nothing. This would potentially allow an assisted living facility in the B-1 Central Business District which may not fit the purpose of the district and may also allow a healthcare facility with in-patient care in the B-1, B-2 and all residential districts.
2. Adopt the attached interim ordinance titled “An Emergency Interim Ordinance Regarding assisted living facilities in the B-1 Central Business District as well as clinics and healthcare facilities with in-patient care in the B-1 Central Business District, B-2 Community Commercial District and all residential zoning districts; Establishing a Moratorium; and Directing that Studies of Regulations / Official Controls be Conducted” that states that the City needs to further study the topic of assisted living facilities in the B-1 District as well as clinics and healthcare facilities with in-patient care in the B-1, B-2 and all residential zoning districts. The interim ordinance would be effective immediately upon its adoption which would allow staff to start working on amendments immediately.

Recommendation

City Staff and the City Attorney would recommend option #2 listed above based on the fact that the interim ordinance would provide an immediate stop gap measure. The interim ordinance would allow time (until October 1st, 2017 as written, or could be set at another date as long as it does not exceed one year) for staff and the council to develop appropriate regulations specific to assisted living facilities in the B-1 District as well as clinics and healthcare facilities with in-patient care in the B-1, B-2 and residential districts.
ORDINANCE NO. 300
CITY OF NEW PRAGUE

AN EMERGENCY INTERIM ORDINANCE REGARDING OFFICIALS CONTROLS FOR
ASSISTED LIVING FACILITIES IN THE B-1 CENTRAL BUSINESS DISTRICT AS WELL AS
CLINICS AND HEALTHCARE FACILITIES WITH IN-PATIENT CARE IN THE B-1
CENTRAL BUSINESS DISTRICT, B-2 COMMUNITY COMMERCIAL DISTRICT, AND ALL
RESIDENTIAL ZONING DISTRICTS; ESTABLISHING A MORATORIUM;
AND DIRECTING THAT STUDIES OF REGULATIONS/OFFICIAL
CONTROLS BE CONDUCTED

WHEREAS, Chapter 153 of the New Prague City Code adopts by reference the Zoning
Ordinance of the City of New Prague; and

WHEREAS, the City has adopted official controls through the adoption of the zoning ordinance,
which regulates certain land uses within the City; and

WHEREAS, the City has recently been contacted about the possibility for an assisted living facility
to be located in the B-1 Central Business District as well as a clinic or healthcare facility with in-patient care
to be located in a commercial or residential district of the City; and

WHEREAS, the City’s Official Controls currently allow such uses as either permitted or conditional
uses in the relevant districts; and

WHEREAS, the City Council has concerns about whether an assisted living facility should be
located in the B-1 Central business district because the purpose of the B-1 Central Business District is to
courage the continuation of a viable downtown area by allowing retail, service, office, and entertainment
facilities with residential uses only allowed above such commercial establishments; and

WHEREAS, the City Council has similar concerns about whether a clinics or healthcare facilities
with in-patient care should be located in the B-1 or B-2 Commercial Districts, as well as in any residential
districts of the City, given that such uses may not be compatible with the underlying purpose of such districts;
and

WHEREAS, in the event that the City Council decides that such uses are appropriate for the
applicable districts stated herein, the Council has additional concerns that the current zoning ordinance does
not adequately address the reasonably related issues such uses may raise; and

WHEREAS, as a result of those important land use and zoning issues, the City desires to conduct a
study for the purpose of consideration of possible amendments to the City’s official controls to address issues
relating to assisted living facilities in the B-1 Central Business District as well as clinics or healthcare
facilities with in-patient care in commercial or residential districts of the City; and

WHEREAS, the City Council has authority, pursuant to Section 3.10 of the City of New Prague
City Charter and Minnesota Statutes Section 462.355, subdivision 4 to adopt an emergency interim ordinance
to study whether new or amended controls are necessary to fulfill the City’s legal obligation to adequately
protect the public health, safety and welfare and to protect the planning process; and
WHEREAS, the City Council has determined that failure to adopt this Emergency Interim Ordinance may result in irreparable harm caused to the City’s obligation to preserve the public peace, health, safety, or welfare.

NOW, THEREFORE BE IT RESOLVED:

THE CITY OF NEW PRAGUE HEREBY ORDAINS:

SECTION 1. The following Emergency Interim Ordinance is hereby adopted:

Subdivision 1. **Prohibition.** To protect the planning process under the authority of Minnesota Statutes, Section 462.355, subdivision 4, and to protect the public health, safety, and welfare of the citizens of the City of New Prague, the City Council of the City of New Prague hereby adopts this Emergency Interim Ordinance which states that during the effective period of this Emergency Interim Ordinance, the following shall apply:

a. No application for any permit or approvals related to the use of property within the B-1 or B-2 Commercial Districts, or within any residential districts of the City for an assisted living facility may be accepted, processed, or issued by the City nor shall the Planning Commission or City Council consider or grant approval of any such application; and

b. No application for any permit or approvals related to the use of property within the B-1 or B-2 or any residential district for a clinic or healthcare facility with in-patient care may be accepted, processed, or issued by the City nor shall the Planning Commission or City Council consider or grant approval of any such application; and

c. To the extent that any such use outlined herein is, at the time of adoption of this Emergency Interim Ordinance, a permitted use in any such district, such use shall be considered a prohibited use in such district until the termination of this Emergency Interim Ordinance.

For purposes of this Emergency Interim Ordinance, the definitions for assisted living facilities, clinics, and healthcare facilities from the Zoning Ordinance shall be used.

Subd. 2. **Purpose.** The purpose of this Emergency Interim Ordinance is to temporarily protect the planning process and the public health, safety, and welfare and to allow the City to conduct studies for the purpose of considering possible amendments to the City’s zoning ordinance to address concerns about allowing an assisted living facility in the B-1 Central business district and concerns about allowing clinics or healthcare facilities with in-patient care in the B-1 and B-2 Commercial Districts and residential districts of the City.

Subd. 3. **Enforcement.** The City may enforce this Emergency Interim Ordinance by injunction or any other appropriate civil remedy in any court of competent jurisdiction.

Subd. 4. **Separability.** Every subdivision, provision or part of this Emergency Interim Ordinance is declared separable from every section, provision, or part of this Emergency Interim Ordinance. If any subdivision, provision, or part of this Emergency Interim Ordinance is adjudged to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, provision or part of this Emergency Interim Ordinance.

Subd. 5. **Duration.** This Emergency Interim Ordinance shall be in effect until the date of
adoption of any new regulations and official controls pertaining to assisted living facilities in the B-1 Central Business District or clinic or healthcare facilities with in-patient care in the B-1 and B-2 Commercial Districts or residential district of the City or until October 1, 2018, whichever occurs first. Adoption of any official control related to one district shall not have an effect on the applicability of the terms of this Emergency Interim Ordinance on any other zoning district addressed herein.

SECTION 2. This Emergency Interim Ordinance is effective upon adoption, filing, and posting in accordance with Section 3.10 of the City of New Prague City Charter.

SECTION 3. Notwithstanding the provisions of Section 2 of this Emergency Interim Ordinance and in addition to the notice requirements of Section 3.10 of the City of New Prague City Charter, the following summary will also be printed in the official City newspaper in lieu of the complete ordinance:

On October 16, 2017, the City Council adopted Emergency Interim Ordinance No. 300 that establishes a moratorium on assisted living facilities in the B-1 Central Business District and clinics and healthcare facilities with in-patient care in the B-1 or B-2 Commercial Districts or any residential district in the City of New Prague for a period of time not to exceed one year. A printed copy of the ordinance is available for inspection during regular business hours at the New Prague City Hall and is available on line at the City’s web site located at www.ci.new-prague.mn.us.

Passed by the City Council of the City of New Prague, Minnesota this 16th day of October, 2017.

[Signature]

Charles L. Nickolay, Mayor

[Signature]

Michael J. Johnson, City Administrator

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